

# EIOPA SUPERVISORY HANDBOOK INTRODUCTION

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**eiopa**

European Insurance and  
Occupational Pensions Authority

## **Title 1: Introduction**

- 1.1 The Supervisory Handbook recommends good practices to EIOPA's members and observers for the supervision of 'insurance and reinsurance undertakings and groups'<sup>1</sup> carrying on life and non-life business.
- 1.2 The purpose of the handbook is to support National Supervisory Authorities (NSAs) to deliver optimal supervisory outcomes within the framework of Directive 2009/138/EC (Solvency II)<sup>2</sup>, and also foster convergence of supervisory practices amongst EIOPA members and observers.
- 1.3 The handbook is based on Article 29(2) of the EIOPA Regulation<sup>3</sup> which allows EIOPA to develop practical instruments and convergence tools to promote common supervisory approaches and practices.
- 1.4 The main objective of supervision is the protection of policyholders and beneficiaries. A similar level of protection should be provided to policyholders and beneficiaries across European Union jurisdictions<sup>4</sup> regardless of the location of the insurance or reinsurance undertakings head office.
- 1.5 NSAs should promote the safety and soundness of insurance undertakings, focusing on the risks that they face or could face in the future. It is also an objective to duly consider the potential impact of their decisions on the stability of the broader financial system, especially in times of exceptional movements in the financial markets. These objectives should be reached in an efficient and effective manner.
- 1.6 The Solvency II framework has embedded principles, clearly laid down for the first time when EIOPA issued in 2015 the Guidelines on the Supervisory

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<sup>2</sup> Insurance and reinsurance undertakings operating within the territories of EIOPA's member and observers may be subject to other "prudential" requirements if they are, for example, part of a financial conglomerate or a designated global systemically important insurer. The handbook (currently) only considers supervisory activities stemming from the requirements of Solvency II.

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<sup>3</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>4</sup> Including European Economic Area - European Free Trade Association jurisdictions where the Solvency II framework applies.

Review Process (SRP). These principles should be considered at each step of the supervisory review process.

- 1.7 In the SRP Guidelines, EIOPA has outlined the principles and overall process to be followed by NSAs when conducting the supervisory review process. The SRP Guidelines aim at identifying the manner in which a risk-based approach may be achieved within the supervisory review process. It is the objective of these guidelines to attain consistent outcomes through the convergence of supervisory processes and practices with the supervisory review process, whilst ensuring sufficient flexibility for NSAs.

**Guideline on Supervisory review process (1-9)**

1. Three processes: Risk Assessment Framework; detailed review; supervisory measures
2. Consistency over time and across the market
3. Proportional
4. Supervisory judgement
5. Ongoing communication with undertakings
6. Ongoing communication with other supervisors
7. Inclusion of market wide risks
8. The process is well documented and easily accessible
9. The process is well governed

- 1.8 Following the introduction of Solvency II in 2016, NSAs have established risk-based supervisory approaches for the supervision of undertakings.

- 1.9 However, supervision is not only about legislation, guidelines and processes, but also about people. How do we analyse; when do we act; how do we interact; how do we react. Solvency II requires a pan-European, risk-based and proportionate, forward-looking, preventive and proactive approach to the supervision of undertakings. To achieve this in a convergent way we also need to work on the supervisory culture. The European supervisory culture can be defined as a common understanding of the way supervisors think, behave and work within their community. This culture manifests itself in processes and procedures, but also in behaviour.

- 1.10 To address this issue, at the end of 2017, EIOPA developed "A common supervisory culture - key characteristics of high- quality and effective supervision"<sup>5</sup> indicating that supervision needs to be risk-based and

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<https://eiopa.europa.eu/Publications/Speeches%20and%20presentations/A%20Common%20Supervisory%20Culture.pdf>

proportionate, forward-looking, preventive and pro-active, challenging, sceptical and engaged. It needs to be comprehensive and also conclusive.


- 1.11 The principles laid down in the SRP Guidelines and the idea behind a Common Supervisory Culture reflect the key characteristics of high-quality and effective supervision<sup>6</sup>. These are the main drivers for this Handbook as outlined in this document.
- 1.12 EIOPA and the NSAs have been working together over a number of years towards enhanced cooperation and open dialogue to promote this common supervisory culture. This ongoing dialogue and exchange of experiences between NSAs has been crucial, and EIOPA plays an important role in facilitating this dialogue. Step by step, EIOPA and NSAs work together as a team with a common duty to European policyholders. This dialogue is essential to extract the utmost added value from each key characteristic<sup>7</sup>.

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<sup>6</sup> Note that governance of the supervisory review process as defined in the document published is in line with Guidelines 2, 8 and 9 of the EIOPA Guidelines on the Supervisory Review Process.

<sup>7</sup> In line with Guideline 6 of the EIOPA Guidelines on the Supervisory Review Process.

## Risk-based and proportionate<sup>8</sup>



**RISK-BASED AND PROPORTIONATE**

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A risk-based system allows NCAs to prioritise and use their own resources efficiently and effectively.

A minimum-level of supervision supported by a proper risk assessment is essential and should apply to all insurance providers.

A risk-based regime sees the market as a whole and incorporates all developments, including distribution channels and products.

The insurance business model is based on the pooling or transfer of risks. As a result of their business models insurance undertakings are exposed not only to insurance-specific risks but also to the risk of financial market losses and operational risks, similar to other financial businesses. Risk exposures are influenced by the nature and complexity of the business, by how the risk management system of the undertaking is aligned to the risks it engages or simply by their size and interconnectedness with the rest of the financial system. This requires NSAs to recognise relevant risks and intervene at an early stage. Under a risk-based supervisory regime, supervisory efforts should focus on the market participants that pose the highest risks to the objectives of supervision.

A risk-based system allows NSAs to prioritise and use their own resources efficiently and effectively. It is important that relevant risks be kept on the radar even when identification or measurement is more complex. To achieve the objectives of supervision all insurance undertakings should be subject to a minimum level of supervision supported by a proper risk assessment and taking into account policyholder protection and any cross-border business.

A risk-based regime should be able to see the market as a whole and incorporate its developments, including distribution channels and products.

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<sup>8</sup> In line with Guidelines 1 and 3 of the EIOPA Guidelines on the Supervisory Review Process.

## Forward-looking, preventive and proactive



**FORWARD-LOOKING,  
PREVENTIVE AND  
PROACTIVE**

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**Forward-looking:** Supervisors need to be able to consider the evolution of the market to ask 'what can go wrong?' rather than 'what went wrong?'

**Preventive:** Supervisory Review Processes should adapt to emerging risks, such as new technologies, and their impact on business and risk management and internal controls.

**Pro-active:** Supervisors need to plan ahead for their Supervisory Review Process and executive supervisory actions and timely measures

Supervisors need to understand the insurance market to be able to consider the evolution of the market and allow for a forward-looking view of the risks. Supervision assesses not only the current risks but also those that could potentially arise in the future. While an understanding of the past helps in some cases, the understanding of the current and future market is more important. It is essential that supervisors focus on 'what can go wrong?' rather than only on 'what went wrong?' To enable this forward-looking perspective it is also necessary to understand an undertaking's attitude to risk management. There is a direct link between the risk culture of an undertaking and the quality of their actual risk management framework and practices.

NSAs should take into account the procyclical behaviour of insurance undertakings and the potential procyclical effects of their actions. Actions aimed at protecting policyholders and beneficiaries from losses may also inadvertently encourage behaviour that worsens movements in financial markets. NSAs should promote suitable behaviour in good times, leading to insurance undertakings being able to live through the economic cycle without jeopardising their future financial condition.



**CHALLENGING,  
SCEPTICAL AND  
ENGAGED**

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**Challenging:** Supervision needs to challenge providers' assessments, conclusions and decision-making without interfering with a provider's entrepreneurial freedom.

**Sceptical:** Supervisors should apply professional scepticism together with integrity and fairness.

**Engaged:** These approaches lead to open discussions between national supervisors and insurance providers.

## Challenging, sceptical and engaged<sup>9</sup>

Insurance undertakings are free to define their business strategy in order to create value in the long term and in line with their risk appetite. Without interfering with entrepreneurial freedom, supervision needs to question undertakings' assessments and challenge their conclusions and decision-making processes. Challenges should cover all relevant and material areas that may have an impact on an undertaking's viability, from the details on the assumptions used in the calculation of technical provisions to the business model and strategy adopted.

Such a challenge is only possible with a comprehensive and intimate knowledge of the supervised entity by supervisors ('close to the bone'). Supervisors should make use of all information available to form their own opinion on the way insurance undertakings conduct their business and manage their risks, including the sustainability of the business.

<sup>9</sup> In line with Guideline 4 and 5 of the EIOPA Guidelines on the Supervisory Review Process.

Challenging insurance undertakings in an intrusive but justified manner, while applying professional scepticism together with integrity and fairness, contributes to open discussions between NSAs and undertakings.

## Comprehensive<sup>10</sup>



**COMPREHENSIVE**

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A comprehensive view of the relevant markets, entities and products, reduces the risk that supervisors do not identify important risks, including emerging risks.

National supervisors should ensure a similar level of protection for policyholders across the Member States, regardless of the location of the insurance provider's head office.

Without a comprehensive view of the relevant markets, entities and products, supervisors are at risk of missing the identification of important developments. Supervisors must be constantly vigilant in identifying emerging risks that may have important consequences for the insurance undertakings they supervise. This is only possible if supervisors are up to date with economic markets, other sectors' developments, social phenomena, accounting and relevant regulatory developments or any other events that may impact risks. This also includes systemic risks and those arising from interconnectedness within the insurance sector and across sectors.

Ongoing dialogue and exchanges of experience between NSAs is crucial, and EIOPA plays an important role in facilitating this dialogue. The splitting of tasks and responsibilities when it comes to supervision of the cross-border activities of EU insurance undertakings has led NSAs, step by step, to work together and with EIOPA in a team environment, having in mind a common duty.

In the area of conduct of business additional areas of supervision should be considered, including product oversight/monitoring, sales and distribution processes and post-sales handling. Recent regulatory measures have reinforced the need for NSAs to consider these aspects in supervisory processes, monitor insurance products that are marketed, distributed or sold in or from their Member State and monitor their national markets for insurance-based investment products.

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<sup>10</sup> In line with Guideline 7 of the EIOPA Guidelines on the Supervisory Review Process.



## Conclusive

Supervisors must draw conclusions and follow up on matters as soon as possible and in an appropriately timely manner, following a due process through the supervisory review process. Identified issues cannot be left without a proper conclusion and action plan.

Once supervisors have drawn their conclusions these should be appropriately communicated to the insurance undertaking. This communication can take several forms and its level of formality can vary depending on the severity of the situation and on existing supervisory powers. When being conclusive, supervisors will often have to balance the need for comprehensive information

with the need to act proactively, without being fully informed, before a risk materialises.

After a detailed review performed off-site or an on-site inspection, supervisors should follow up on the final resolution of findings and recommendations by insurance undertakings within set timelines. This is critical in order to lead to changes and have an impact by leading to the mitigation of the risks identified.

Clear supervisory measures with concrete time horizons and follow-up activities should be used without any constraints.

- 1.13 The handbook is not binding and not subject to comply-or-explain mechanism, however, once approved by the Board, Members commit to considering it when implementing their Supervisory Review Process.
- 1.14 The intention is that the good practices set out in the handbook are applied by NSAs. However, when applying the recommended good practices, NSAs may need to tailor own approach. This may be at the level of the NSA, for example in order to reflect the national supervisory structure and powers<sup>11</sup>, or the specificities of the local market. It may also be at a supervisory level in order to reflect either the experience of the supervisors involved or the nature of the supervised entity, such as whether it is life or non-life, its lines of business or its business model. Furthermore, it is recognised that some of the good practices may not be appropriate in particular Member States, for example due to local administrative laws or other legal restrictions.

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<sup>11</sup> NSAs have different responsibilities and powers for example in terms of the types of financial sectors which they supervise and whether they address market conduct as well as prudential issues.



- 1.15 In general, the content of the handbook does not repeat the requirements set out in the Solvency II legal provisions<sup>12</sup>, which are widely available and accessible. However, within each chapter, either as part of the text or as an Annex, references are provided to the main articles or guidelines to assist supervisors to place the good practices within the context of the relevant Solvency II requirements.
- 1.16 A common supervisory culture includes a consistent interpretation of the laws and regulations, without prejudice to the application of the proportionality principle. As such, in some areas where different interpretations of the laws and regulations are arising this is also addressed within the chapter as long as the outcome of the application of the different interpretations is not materially different and does not raise concerns regarding supervisory arbitrage.
- 1.17 Examples and case studies are also included in the handbook to illustrate the good practices. Nevertheless, the good practices will also need to be supported by other knowledge sharing and learning mechanisms to 'bring to life' the information provided in the handbook, for example through dialogues between supervisors and EIOPA training programs.
- 1.18 The content of the handbook will be further developed and updated as needed, also based on the feedback from NSAs.

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<sup>12</sup> These texts are the Directive (2009/138/EC), delegated acts, implementing technical standards and guidelines.