

SUPERVISORY CONVERGENCE PLAN FOR 2022

EIOPA-21/619
09 February 2022



eiopa

European Insurance and
Occupational Pensions Authority

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1. SUPERVISORY CONVERGENCE

Convergence of supervisory practices should be built on a common interpretation of laws and regulations, and without prejudice to the application of supervisory judgment or of the proportionality principle.

Convergence of supervisory practices is not only achieved or assessed by outputs, i.e. by the number, quality and impact of supervisory tools published or assessments performed. Convergence is also about working together as a supervisory community. The process of developing common benchmarks for supervisory practices, performing reviews, engaging in challenging interactions and providing training to NCAs in itself leads to supervisory convergence and EIOPA has observed an important development in these area.

Therefore, to achieve a high, effective and consistent level of supervision across Europe, EIOPA confirmed supervisory convergence as one of its main strategic goal for the years to come.¹ The Covid-19 pandemic has demonstrated that ensuring supervisory convergence in extreme situations is even of greater relevance, reason why EIOPA work on supervisory convergence in 2021 was also focused on supervisory expectations and reactions in such situations. For 2022, EIOPA will continue its work on supervisory convergence as a collective effort by all NCAs and EIOPA staff.

1.1. COMMON SUPERVISORY CULTURE

As expected by any solid structure, the framework of supervisory convergence needs to be built upon clear, well-known and commonly understood foundations.

EIOPA's booklet, "A common supervisory culture — Key characteristics of high quality and effective supervision"², was the first step in building such framework and continues to be a foundation for supervisors work. The booklet defines the following five key characteristics of high-quality and effective supervision: risk-based and proportionate, forward-looking, preventive and proactive, challenging, sceptical and engaged, comprehensive and conclusive. The work developed by EIOPA on supervisory convergence always have this characteristics into account.

¹ See the Single Programming Document 2021-2023, including the Annual Work Programme 2021 and in particular the strategic objective "Leading supervisory convergence to ensure high-quality prudential supervision across Europe" ([link](#))

² https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/a_common_supervisory_culture_0.pdf

A common supervisory culture cannot however be built overnight. It is a long journey where supervisors progressively work together, adopt a focused approach and challenge each other along the way. In this way, supervisors build a strong and fair supervisory culture that promotes consumer protection and enhances the stability of the financial system for the benefit of Europe's business, economy and citizens. As processes and procedures are easier to align than behaviours, convergence will occur at different paces but evolution should be visible.

The implementation of a common supervisory culture requires constant change and evolution. This was recognised in the last amendments to the ESAs Regulations, in particular the amendments to article 29 of EIOPA Regulation, where tools such as establishing Union strategic supervisory priorities, establishing coordination groups to promote supervisory convergence and identify best practices or develop and maintain an up-to-date Union supervisory handbook have been identified. It is of utmost importance that the supervisory community has, at all levels, easy access to EIOPA tools as well as the ability and willingness to use them.

It is also important that whenever possible supervisory convergence tools are made public. For this reason EIOPA promotes supervisory convergence through the release (after the public consultation) of public supervisory convergence tools, such as Opinions or Supervisory Statements when possible. There are, however, certain contents that should be kept confidential among supervisors. Although good use of the different tools was made, EIOPA has also considered that it is important to be more transparent on its Supervisory Handbook. The Handbook is now mature enough and allowed EIOPA to publish its Introduction and contents in October 2021. EIOPA will now entail in additional efforts to review and re-assess the level of confidentiality of different parts of the Handbook.

1.2. SUPERVISORY CONVERGENCE TOOLS

To further strengthen supervisory convergence, EIOPA use different building blocks, which will each have their own specific tools to support supervisory convergence

1.2.1 BUILDING COMMON BENCHMARKS FOR SUPERVISORY PRACTICES

This is achieved through the work on supervisory guidelines and recommendations; opinions; supervisory statements; the Supervisory Handbook; questions and answers; public best practices; reports; training/networking of supervisors; and study visits between supervisors.

1.2.2 BUILDING COMMON BENCHMARKS FOR SUPERVISORY PRACTICES

Thematic reviews aiming the assessment of market practices or the gathering of quantitative and qualitative data on consumer outcomes and the drivers of these outcomes.

Peer reviews aiming the assessment of supervisory practices of national supervisory authorities as well as the adequacy of supervisory resources and the degree of independence of those competent authorities. Although the [Peer review work plan 2020-2022](#) was published by EIOPA as a separate document, the peer reviews planned in 2022 are once more reported in this plan for the sake of completeness

1.2.3 COMMON BENCHMARKS FOR SUPERVISORY PRACTICES

EIOPA's oversight work focuses on monitoring and challenging supervisory practices and supporting NCAs. The tools used include a.o. bilateral visits; cooperation platforms on cross-border business; dialogue with group supervisors; participation in colleges of supervisors; breach of European Union law investigations; and a mediation role. Furthermore, following the change of its Regulation, in 2021 EIOPA has published for the first time the [Union-Wide Strategic Supervisory Priorities](#). For the next years, EIOPA has identified business model sustainability and adequate product design as two Union-wide strategic supervisory priorities relevant for national competent authorities (NCAs). NCAs shall take those priorities into account when drawing up their work programmes and shall notify EIOPA accordingly. EIOPA will coordinate the supervisory actions with the NCAs on specific topics with the aim to provide a structured and consistent response to the key risks the European Union and the individual insurance markets are exposed to.

2. SUPERVISORY CONVERGENCE PLAN FOR 2022

2.1. PRIORITY AREAS — CRITERIA

The decision on the priority areas of EIOPA's convergence work follows a risk-based approach. In this sense a risk-based approach implies identifying the depth and scale of issues and focusing priorities and resources where they matter most. The priorities that are taken into account when developing the supervisory convergence plan are grouped in the following 3 categories:

Areas with relevant impact on policyholders and financial stability. The impact is not only about the scale or number of policyholders affected if risks materialise or the scale of the individual impact for policyholders, but also where this could have a potential effect on market reputation and on business models

Areas that can affect fairness, the level playing field or the proper functioning of the internal market through the existence of possible supervisory arbitrage (in particular referring to cross-border business within the EU and with countries outside the EU, regarding both equivalent and non-equivalent countries)

Key areas of supervision where practices substantially differ

Furthermore, a high level priority for the plan of 2022 is to complete as much as possible the priorities stemming from the previous plans, keeping at the same time some flexibility in order to continue monitoring and mitigating the impact from the Covid-19 pandemic.

2.2. SUPERVISORY CONVERGENCE PLAN FOR 2022

A number of already existing activities promote regularly supervisory convergence such as the work under the Supervisory Technology (SupTech) Strategy or the use of data and dissemination of data analysis, sharing of knowledge and experiences in the area of SupTech or other activities in the context of EIOPA Oversight work. EIOPA works continuously on delivering and improving them. This plan provides, starting with the priorities identified for 2021, an update of EIOPA priorities for 2022 regarding supervisory convergence practices.

The plan also takes into account the Union-wide strategic priorities and EIOPA strategic objectives and the Peer review work plan 2020-2022. The Supervisory

Convergence Plan should also contribute to “A safe and sustainable EU for citizens in time of transformation”.

In 2021, the work on supervisory convergence revealed a good degree of progress. Still, the priorities for 2022 remain mainly the same as in the last years considering the need to further develop some of the areas. However some new areas of priority have also been identified, namely: supervision of Environmental, Social and Governance risks in the insurance and pensions sector and continuous work on supervisory convergence in light of digital transformation, with several initiatives in these areas.

EIOPA Supervisory Convergence Plan will continue to address the following priorities.

Priorities for the three building blocks of supervisory convergence

1. Practical implementation of the key characteristics of the common supervisory culture and further development of supervisory tools;
2. Risks to the internal market and to the level playing field which may lead to supervisory arbitrage;
3. Supervision of emerging risks.

2.2.1. PRACTICAL IMPLEMENTATION OF THE COMMON SUPERVISORY CULTURE AND THE FURTHER DEVELOPMENT OF SUPERVISORY TOOLS

A) Risk assessment framework and application of proportionality

- Following the publication of the COM Proposal amending the Solvency II Directive, EIOPA continues conducting internal preparatory work to support the future implementation of the framework with the aim of issuing operational guidance for the application of the new framework on proportionality when it will be in force, in general and regarding specific points such as outsourcing rules or guidance to undertakings on how to assess material and immaterial changes in the risk profile. Considering the dependency of this work from the legislative changes being discussed under the Solvency II review this work is planned as preparatory work with low priority.

B) Common Benchmarks for the supervision of Internal Models

- IMOGAPIs (Internal Model On-Going Appropriateness Indicators): further development of the IMOGAPI.

C) Supervisory Assessment of conduct risks

- Conclusion of the follow-up on the thematic review on travel insurance and the warning to the industry on high commissions to finalize the analysis on outliers (high commissions and low claims ratio) and based on results, coordinated discussion of potential supervisory measures. In light of issues emerged because of the COVID-19 pandemic, a Guidance will be issued to travel insurers focusing on product design/review and application of POG rules;

- Finalisation of the thematic review on mortgage protection insurance and other credit protection insurance products sold through banks. The aim would be to take measures to address identified risks and issues for poor consumer outcomes;
- Expand the type of work to be carried out in relation to conduct risk assessment, in particular further work on developing tools by:
 - Developing a common mystery shopping methodology;
 - Continue working on developing a conduct risk-dashboard relying both on the work on the conduct risk assessment and the consumer trends work;
- Continue work on issues with exclusions and lack of clarity in insurance contracts emerged from the COVID-19 pandemic. EIOPA will engage, as part of the broader COM dialogue, with the industry on exclusions in relation to systemic risks. The dialogue will also explore conduct aspects relating to protection gaps. The dialogue will aim to discuss the lessons learned from the pandemic from a consumer and conduct perspective, so as to address such issues in a forward looking manner. It will also cover potential demand side constraints and possible solutions to closing the protection gaps in the long run;
- Considering the work carried out in developing a draft supervisory statement and a common approach on how to concretely monitor and address value for money risks, EIOPA will finalise the methodology to address value for money risks and will continue monitoring value for money risks, including by assessing whether the developed methodology is sufficient and effective in addressing such risks;
- Peer Review on the Product Oversight Governance (POG): in line with Peer review work plan 2020-2022, assess how NCAs supervise POG and assess practices with regard to the target market assessment, product testing and product monitoring and review phase for insurance-based investment products and ancillary products.

D) SUPERVISORY APPROACH TO ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) RISKS

- Conclusion of the work on EIOPA Supervisory Handbook addressing the supervision of climate-related risks in Solvency II Pillar II, including assessment of content to be made public;
- Following the publication of EIOPA's Opinion on the supervision of the use of climate changes risk scenarios in ORSA in 2021 and the incorporation in the Solvency II 2020 Review proposal of the requirement for long-term climate change scenario analysis, EIOPA will publish application guidance aiming at facilitating implementation by undertakings (especially SMEs). A pilot exercise to test the application of the guidance with volunteering undertakings and NCAs will be conducted by the first half of 2022;
- Oversight activity related to the assessment of the materiality of climate-related risks, in particular natural catastrophes, and discussion on the integration of climate risk assessment in the ORSA in colleges meetings;
- As part of conduct oversight, EIOPA will collect data on ESG products as part of EIOPA's Cost and Past Performance analysis;
- Concerning internal models, conclusion of the analyses performed in the comparative studies on the integration of climate risk in the modelling of non-life and market risk.

E) GROUP SUPERVISION

- Conclusion of the chapter of EIOPA Supervisory Handbook on the supervision of intra-group transactions and risk concentrations, and assessment of content to be made public;
- Further improving the Supervisory Handbook chapters on group supervision, in particular on the treatment of own funds (also for related undertakings falling under the category of other financial sectors).

F) SUPERVISORY TECHNOLOGY (SUPTECH)

- Launch the assessment of the feasibility of the implementation of a SupTech solution that would allow EIOPA and the other NCAs to collect the information of the PRIIPs Key Information Document of Insurance based investment products (IBIPs) products sold in the EU market

G) SUPERVISION OF CAPTIVES

- After the proposal for a more proportionate treatment of captives insurance and reinsurance undertakings in the context of the review of Solvency II, EIOPA will continue the discussion of some specificities of the supervision of captives raised by the industry as areas where divergences of practices have been found, such as for example treatment of inter-company loans and cash pooling or interpretation of prudent person principle.

H) TRAINING

- With regard to training to 17 NCAs on insurance supervision under Solvency II, completed by EIOPA in 2021 and provided via the Directorate General for Structural Reform Support (DG REFORM), EIOPA will provide a final Training on Solvency II, open to all supervisors that would like to join the training.

2.2.2 RISK TO THE INTERNAL MARKET AND THE LEVEL PLAYING FIELD WHICH MAY LEAD TO SUPERVISORY ARBITRAGE

A) CALCULATION OF TECHNICAL PROVISIONS

- Publish (new and amended) Guidelines on Best Estimate Valuation and Guidelines on Contract boundaries, following the public consultation, during the first half of the year;
- Finalise the revision of the technical provisions chapter of EIOPA Supervisory Handbook during the first half of the year, including also a section on supervision of negative Best estimate.

B) ASSESSMENT OF INTERNAL MODEL OUTCOMES

- Continue with the three comparative studies on the outcomes of Internal Models regarding the modelling of Non-Life Risks, Market and Credit Risk and the modelling of Diversification Benefits.

C) AUTHORISATIONS, FITNESS AND PROPRIETY

- In the context of the implementation of new Article 31a of the ESAs regulation, EIOPA will continue working with the other ESAs to set up a cross sectoral system for information exchanges regarding assessments of AMSB members, Qualifying shareholders and other Key Functions Holders;
- In line with Peer review work plan 2020-2022 and Article 30 of EIOPA Regulation³, EIOPA will conduct the follow up on the peer review on propriety of administrative, management or supervisory body (AMSB) members and qualifying shareholders. The deliverable of the follow up exercise is the assessment on the fulfilment of the recommended actions as published in January 2019.

D) PENSION ISSUES

- EIOPA will initiate work to establish and address supervisory concerns arising from the recent market development of multi-sponsor IORP providers (i.e. IORPs established by service providers and pension management companies where IORPs do not have a legal entity). The IORP II Directive provides minimum prudential requirements focusing largely on the traditional image of non-commercial purpose IORPs set up by a single sponsor or multiple sponsors of the same sector⁴. Whilst multi-sponsor IORP providers have an important role to play to foster market consolidation and provide efficient, low-cost solutions in Member States seeking to develop occupational pensions, they also bring new supervisory questions in respect of the governance (e.g. conflicts of interest, sponsor involvement) and risk management (e.g. operational DC liabilities, service continuity in case of business insolvency). This work will include fieldwork to better understand providers' different business models and NCAs' supervisory practices in respect of these IORPs and will take into consideration the proportionality principle.

³ Requiring that a follow-up of a peer review should be performed two years after the publication of the peer review report.

⁴ Recital 32 explains that IORPs should not be treated as purely financial service providers.

E) THIRD COUNTRY REINSURANCE IN THE EU

- EIOPA has identified inconsistencies in the way National Competent Authorities treat reinsurance undertakings with the head office located in third countries. EIOPA will further analyse the issue, identify potential risks to the internal market and, if any, develop adequate tools. Considering that this is an area not fully regulated by the Solvency II Directive, legislative amendments may also be identified.

2.2.3. SUPERVISION OF EMERGING RISKS

A) IT SECURITY AND GOVERNANCE-RELATED RISKS, INCLUDING CYBER RISK

- Following the publication in September 2020 of European Commission's proposal for the Digital Operational Resilience ACT (DORA), EIOPA will continue preparatory work, in close contact with the other two ESAs and the COM on the implementation of DORA, namely:
 - Work on a system for the exchange between Competent Authorities (NCAs and ESAs) of information regarding cybersecurity and cyber-attacks;
 - Monitor the implementation of the EIOPA Guidelines on ICT Security and Governance to identify concrete proportionate implementation aspects i.e. with a view of informing the work on the DORA Technical standards;
 - Contribute to the establishment of a Digital Operational Resilience Framework with special focus to the cyber incident reporting and cyber resilience testing and on the implementation of proportionality principle, in particular when developing the technical standards addressing the further harmonisation of ICT risk management tools, methods, processes and policies and content of the policies, procedures and plans foreseen in the Regulation (e.g. ICT security policies and procedures, ICT Business Continuity Policy, ICT business continuity plans, ICT Disaster Recovery Plan).

B) DIGITAL TRANSFORMATION

- Following the publication in June 2021 of the AI governance principles report developed by EIOPA's Consultative Expert Group on Digital Ethics providing guidance to promote an ethical and trustworthy artificial intelligence in the European insurance sector, EIOPA will seek to leverage on this work to develop further sectorial work, for instance by focusing on specific AI use cases in insurance or assessing the topic of financial inclusion in the digital age. In this regard, EIOPA will take into account the legislative developments of the Artificial Intelligence Act and the implementation of the European Commission's Digital Finance Strategy;
- Participate and promote relevant discussions in the area on the insurance and pension sector in the European Forum of Innovation Facilitators (EFIF). The EFIF provides a platform for supervisors to meet regularly to share experiences from engagement with firms through innovation facilitators, to share technological expertise and to reach common views on the regulatory treatment of innovative products, services and business models, overall boosting bilateral and multilateral coordination;

- Cross-sectoral work on a procedural framework for cross-border testing has been conducted by the EFIF (under the chairmanship of EIOPA) in 2020/21 and work will continue in 2022. The framework is designed to set out a procedure by which firms and NCAs may share testing-related information in a structured manner across borders. This is to facilitate the scaling up of innovation across the EU, to simplify communication between NCAs cross-border and to increase transparency regarding cross-border regulatory sandbox testing. The framework allows all types of firms, which have applied for at least one regulatory sandbox in the EU, to indicate interest in invoking it. It is non-binding for NCAs and does not introduce additional eligibility criteria for access to regulatory sandboxes in the EU. In order to further support dialogue and assist NCAs in reaching common views on the treatment of innovative technologies, the framework also includes rules of procedure for the transmission of high-level testing results and lessons learned to the EFIF. Subject to the adoption by all three ESAs' Boards, it is envisaged to publish the framework on the EU Digital Finance Platform;
- EIOPA will develop supervisory convergence tools to support NCAs in the performance of the business model analysis in the context of the insurance digital market. Assessing business models gives NCAs the opportunity to better understand the factors that create the opportunities and vulnerabilities in an undertaking's business and therefore, develop a more idiosyncratic and appropriate supervisory plan. As such the conclusions reached through Business Model Analysis will be a useful input to the risk assessment. Adapting such activities to the reality of new digital business models such as the fragmentation of the value-chain, open insurance initiatives or use of data and artificial intelligence as well as supervision of the increased cyber risk for those entities is crucial also from a supervisory convergence perspective is crucial also from a supervisory convergence perspective.

C) SUPERVISION OF RUN-OFF UNDERTAKING

- Finalisation of a statement on supervision of run-off addressing some specificities of run-off undertakings.⁵

D) CYBER UNDERWRITING

- Following the objectives and goals set out in the EIOPA Cyber Underwriting Strategy, EIOPA will focus on the drafting and issuance of a supervisory convergence tool on Cyber Underwriting, with particular focus on the undertakings risk management of silent-cyber underwriting.

⁵ E.g. authorisation process, business model analysis, assessment of assumptions for calculating technical provisions, change in the investment/reinsurance strategy, role of private equity entities, etc.

E) OUTSOURCING AND THIRD PARTY PROVIDERS

In line with the Peer Review work plan 2020-2022, EIOPA will finalise the Peer review on Outsourcing. The area of outsourcing by insurance or reinsurance undertakings can potentially be important and significant in any Member State.

2.3. OVERSIGHT PRIORITIES

EIOPA's own Oversight work focusses on ensuring a high level of policyholder protection and equal treatment of consumers across the Internal Market. We engage with the NCAs on their day-to-day supervision to (further) develop practical tools to support supervisory convergence with a specific focus on cross-border issues. The priority for 2022 is to continue to increase our effective engagements through:

- Resolving supervisory concerns of a conduct or prudential nature that arise around the provision of insurance services in a Member state via freedom of services or freedom of establishment by establishing and coordinating cross-border cooperation platforms;
- Assessing potential cross-border risks by participating in joint-onsite inspections under the umbrella of the colleges of supervisors or via the cross-border cooperation platform, both in the area of conduct and prudential supervision;
- Monitoring the implementation of the Union-wide Strategic Supervisory Priorities by engaging with national supervisors and providing feedback and assistance;
- Provide support to NCAs in their day-to-day supervision by providing supervisory recommendations through country visits and bilateral engagement, in the area of conduct and prudential supervision as well as in the specific area of supervision of internal models;

Furthermore, EIOPA will stand ready to provide assistance to an NCA in the area of internal model applications upon request, as introduced in the recent amendment of the EIOPA Regulation, and will continue developing this tool.

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