

# **Guidelines on the supervision of branches of third-country insurance undertakings**

## Introduction

- 1.1 In accordance with Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>1</sup>, the European Insurance and Occupational Pensions Authority (EIOPA) has issued these Guidelines on the supervision of branches of third-country insurance undertakings (the 'Guidelines').
- 1.2 These Guidelines relate to Articles 162 to 171 of Directive 2009/138/EC of the European Parliament and of the Council<sup>2</sup>.
- 1.3 The purpose of these Guidelines is to ensure a consistent, efficient and effective protection of policyholders within the European Union (the 'EU'). In particular, the Guidelines aim to ensure, as a minimum, the same level of protection of policyholders of a branch of a third-country insurance undertaking (the 'branch') as that they enjoy when they are dealing with an insurance undertaking situated in the EU whether in its home Member State or through a branch under Directive 2009/138/EC.
- 1.4 These Guidelines allow for alternatively proportionate supervision methods to protect policyholders of a branch in the context of valuation, own funds and submission of information under Directive 2009/138/EC.
- 1.5 In accordance with Article 162 of the Solvency II Directive, the scope of these Guidelines covers only branches of third-country insurance undertakings, which carry out direct life and non-life insurance business.
- 1.6 The scope of these Guidelines equally covers branches, which are subject to either equivalent or non-equivalent supervision, as provided for under Directive 2009/138/EC. Notwithstanding this, supervisory authorities may have regard to specific equivalence decisions, which are relevant to assessing the solvency of the whole third-country insurance undertaking, including its branch.
- 1.7 The scope of these Guidelines does not cover third-country insurance undertakings taking on, or authorised to take on, only reinsurance business through an EU branch even if the third-country insurance undertaking carries out direct insurance business through its head-office or branches outside of the EU.
- 1.8 For reporting in relation to a branch, these Guidelines refer to the templates and log files laid down in the implementing technical standards with regard to the templates for the submission of information to the supervisory authorities in accordance with Directive 2009/138/EC of the European Parliament and of the Council, as endorsed by the European Commission

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<sup>1</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>2</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1)

(hereinafter the 'Implementing Technical Standard on the Templates for the Submission of Information').

- 1.9 Where the reporting templates on branches are different from the templates provided in the Implementing Technical Standard on the Templates for the Submission of Information, a specific template and respective instructions file are referred to in Technical Annexes III and IV to these Guidelines.
- 1.10 Unless otherwise indicated, all code references of templates and instructions refer to the templates or instructions with identical code references, as laid down in the Implementing Technical Standard on the Templates for the Submission of Information.
- 1.11 These Guidelines are addressed to the supervisory authorities under Directive 2009/138/EC.
- 1.12 These Guidelines apply from 1 January 2016.
- 1.13 The Guidelines on Reporting and Public Disclosure (EIOPA-BoS-15/109)<sup>3</sup> issued by EIOPA are also applicable with respect to a branch as indicated in those Guidelines.
- 1.14 For the purpose of these Guidelines the following definitions apply:
  - a) "branch operations" means operations effected by a branch pursuant to its authorisation under Directive 2009/138/EC.
  - b) "branch assets" means assets of the third-country insurance undertaking which are attributed to branch operations, excluding any notional book amount owing from the undertaking's non-branch operations to the undertaking's branch operations and which are available upon the winding-up of the undertaking to pay the insurance liabilities of branch policyholders in accordance with Guideline 26.
  - c) "branch liabilities" means the branch insurance claims, branch preferential claims and claims secured on branch assets.
  - d) "branch own funds" means the sum of branch basic own funds and branch ancillary own funds.
  - e) "branch basic own funds" means the excess of branch assets over branch liabilities.
  - f) "branch ancillary own funds" means items, which can be called up within winding-up proceedings with regard to the third-country insurance undertaking to pay the insurance liabilities vis-a-vis branch policyholders in accordance with Guideline 26 and which meet the requirements of Articles 89 and 90 of Directive 2009/138/EC.
  - g) "branch balance sheet" means a balance sheet showing branch assets and branch liabilities complying with the recognition and valuation principles under Article 75 of Directive 2009/138/EC.

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<sup>3</sup> <https://eiopa.europa.eu/Pages/Consultations/Public-consultation-on-the-Set-2-of-the-Solvency-II-Implementing-Technical-Standards-%28ITS%29-and-Guidelines.aspx>

- h) "branch *SCR*" means the Solvency Capital Requirement (SCR) based on the branch balance sheet and the volume measures as specified in Directive 2009/138/EC which relate to the branch balance sheet.
- i) "branch *MCR*" means the Minimum Capital Requirement (MCR) which is based on the branch balance sheet and the volume measures as specified in Directive 2009/138/EC which relate to the branch balance sheet.
- j) "branch policyholder" means a policyholder whose policy is effected by the branch. This definition includes, but is not limited to, policyholders and beneficiaries who have branch insurance claims.
- k) "insurance claim" means claims of branch policyholders within the meaning of Article 268(g) of Directive 2009/138/EC.
- l) "location of the insurance claim" means the location of either the beneficiary (including policyholders), the insured risk or the contract signed with the third-country insurance undertaking (including whether the business was transacted through the branch or through the head-office of the third-country insurance undertaking).
- m) "branch insurance claim" means insurance claim relating to branch policyholders.
- n) "branch preferential claims" means any claim which upon a winding-up of the third-country insurance undertaking ranks in priority to branch insurance claims which are:
- claims of employees of branch operations arising from employment contracts and employment relations, claims by public bodies on taxes owed with respect to branch operations,
  - claims by social security systems with regard to branch operations, or
  - claims on branch assets subject to rights in rem.
- o) "host supervisory authority" means the supervisory authority of the Member State where the branch is established and its operations occur.
- p) "home supervisory authority" means the supervisory authority of the country, which has authorised the third-country insurance undertaking to take on insurance business and where the undertaking has its head office;
- q) "reporting currency" is the currency of the country of the supervisory authority receiving the reporting information, unless otherwise allowed by this supervisory authority;

1.15 If not defined in these Guidelines, terms have the meaning defined in the legal acts referred to in the introduction.

## **Authorisation of branch of a third-country insurance undertaking**

### **Guideline 1 - Conditions for authorisation or continuing authorisation**

- 1.16 When authorising or continuing authorisation of a branch, host supervisory authorities should be satisfied that the relevant third-country insurance undertaking has an adequate solvency margin and commits to provide any information which the host supervisory authority may need for supervisory purposes and which demonstrates that the undertaking as a whole has an adequate solvency margin under the home jurisdiction rules and that the home supervisory authority confirms that those rules are met.
- 1.17 Host supervisory authorities should assess the adequacy of the solvency margin of the undertaking as a whole on the basis of the prudential requirements of the home supervisory authority, including seeking additional information where needed.

### **Guideline 2 – Scheme of operations and solvency margin**

- 1.18 The host supervisory authority should ensure that the third-country insurance undertaking includes in the scheme of operations of its branch an analysis of the differences between the home country solvency rules and the rules of Directive 2009/138/EC, including an explanation on the reasons that justify such differences.

### **Guideline 3 – Distribution of branch assets**

- 1.19 When determining whether a third-country insurance undertaking has an adequate solvency margin, the host supervisory authority should consider:
- a) the branch assets remaining after paying the insurance claims of branch policyholders which would be distributed to other claims of branch policyholders; and
  - b) the aggregate amount of claims which would rank in priority to, or equal with, claims of branch policyholders.

### **Guideline 4 – Analysis concerning the distribution of branch assets**

- 1.20 For the purpose of Guideline 6, the host supervisory authority should procure an analysis concerning the legal and practical operation of the home jurisdiction bankruptcy regime; the priority given to policyholders of the branch and of other policyholders of the third-country insurance undertaking in winding-up proceedings; and how the assets of the third-country insurance undertaking are distributed to those policyholders.
- 1.21 The host supervisory authority should, to the extent to which applicable confidentiality requirements permit, make the procured analysis available to EIOPA. EIOPA may decide to make the analysis available to other supervisory authorities in accordance with its confidentiality regime and on a need-to-know basis.
- 1.22 Where the home jurisdiction bankruptcy regime does not provide for at least the same level of protection of policyholders in winding-up proceedings as

under Directive 2009/138/EC, the host supervisory authority should procure from the relevant third-country insurance undertaking an analysis concerning the distribution of branch assets under: the home jurisdiction bankruptcy regime in relation to that undertaking; the regime of the Member State where the branch is authorised (where separate proceedings can be opened in respect of the branch); or the distribution circumstances where winding-up proceedings are initiated in both the home jurisdiction and the host Member State where the branch is established.

- 1.23 The host supervisory authority should ensure that all analyses are provided by persons suitably qualified to advise in respect of the laws and practices of the jurisdiction concerned.

#### **Guideline 5 - Determination of branch liabilities**

- 1.24 The host supervisory authority should ensure that branch insurance claims included in branch liabilities comprise technical provisions, as defined in Article 77 of Directive 2009/138/EC, associated with only those branch insurance claims.

#### **Guideline 6 – Determination of branch assets**

- 1.25 The host supervisory authority should ensure that the third-country insurance undertaking only includes in the branch balance sheet the assets that are available according to the criteria below:
- a) assets which are distributed in accordance with Article 275(1)(a) or (b) of Directive 2009/138/EC on a basis which does not differentiate between claims according to the location of the claim;
  - b) assets which are distributed to pay branch preferential claims and insurance claims of branch policyholders in priority to all other claims.
- 1.26 The host supervisory authority should ensure that in submitting information concerning the branch balance sheet, own funds and branch SCR, the third-country insurance undertaking only includes assets which are available for distribution upon winding-up of the third-country insurance undertaking to pay the insurance claims of branch policyholders.
- 1.27 The host supervisory authority should ensure that in submitting the information on the branch balance sheet, the third-country insurance undertaking shows the available assets gross of branch preferential claims and any prior security interests and report the net amount of available branch assets and the deduction of branch preferential claims and prior security interests on the template S.02.03.07 specifying additional branch balance sheet information, as laid down in Annex III to these Guidelines.

## **Supervisory powers and communication with other supervisory authorities**

### **Guideline 7 – General supervisory powers**

1.28 For the supervision of branch operations, the host supervisory authority should exercise, where appropriate, the supervisory powers laid down in Directive 2009/138/EC, in particular Articles 34, 35, 36, 37, 84, 85, 110, 118 and 119 thereof, to the same extent as they exercise such powers for the supervision of insurance undertakings with head office within the Union.

### **Guideline 8 – Assessment of the branch financial position as part of the supervisory review process**

1.29 When assessing the adequacy of the branch financial position as part of the supervisory review process, the host supervisory authority should consider the risk that branch policyholders' claims may be diluted by non-branch claims.

### **Guideline 9 – Granting advantages, including joint decisions under Article 167(3) of Directive 2009/138/EC**

1.30 Where a third-country insurance undertaking authorised in more than one Member State has applied for the advantages set out in Article 167 of Directive 2009/138/EC, the host supervisory authorities concerned should discuss whether the conditions in Guideline 1 have been met before reaching a decision to grant such advantages to that undertaking.

### **Guideline 10 – Notifying EIOPA of joint decisions in relation to Article 167 of Directive 2009/138/EC**

1.31 Where a third-country insurance undertaking authorised in more than one Member State applies for any of the advantages under Article 167 of Directive 2009/138/EC, the relevant supervisory authority should notify EIOPA of the decision taken under that article and whether it considers that the conditions in Guideline 1 are met.

### **Guideline 11 – Notification of the host supervisory authorities of branch locations**

1.32 The host supervisory authority should ensure that a third-country insurance undertaking informs it on a continuous basis of the location of the branches which that undertaking has established or intends to establish in any other Member State.

### **Guideline 12 – Single balance sheet under Article 167 of Directive 2009/138/EC**

1.33 Where any of the advantages set out in Article 167(1) of Directive 2009/138/EC is granted, the host supervisory authority who is to supervise all branches established within the Union should ensure that a single branch balance sheet is drawn up by the third-country insurance undertaking in relation to all branch operations pursued within the Union and which may, at the undertaking's discretion, eliminate any intra-branch transactions.

### **Guideline 13 – Withdrawal of advantages**

1.34 Host supervisory authorities, which withdraw the advantages granted under Article 167(1) of Directive 2009/138/EC, should promptly inform the supervisory authorities of the other Member States in which the third-country insurance undertaking operates, of the withdrawal of the advantages.

### **Guideline 14 - Supervisory review process**

1.35 The host supervisory authority should ensure that branch operations are subject to review and evaluation as part of the supervisory review process laid down in Article 36 of Directive 2009/138/EC.

### **Guideline 15 – Cooperation and communication between supervisory authorities under the supervisory review process**

1.36 Where host supervisory authorities have granted the advantages referred to in Article 167(1) of Directive 2009/138/EC, they should establish a communication process in line with the one described in the Guidelines on Supervisory Review Process (EIOPA-BoS-14/179)<sup>4</sup>.

1.37 Where the third-country insurance undertaking has branches authorised in more than one Member State but has not applied for any of the advantages under Article 167(1) of Directive 2009/138/EC, the concerned supervisory authorities should agree how to cooperate and exchange information in line with the Guidelines on Supervisory Review Process (EIOPA-BoS-14/179).

### **Guideline 16 - Communication with other supervisory authorities**

1.38 Where a host supervisory authority becomes aware of information that may undermine the position of branch insurance creditors or the availability of branch own funds, it should communicate that information to any other host supervisory authority where the third-country insurance undertaking has received authorisation to establish a branch and to EIOPA.

1.39 The host supervisory authority should consider if there are other relevant supervisory authorities with whom it should communicate, such as supervisory authorities of related insurance undertakings or branches of other members of the group to which the third-country insurance undertaking belongs.

## **Financial soundness of the branch**

### **Guideline 17 - Branch accounting**

1.40 The host supervisory authority should ensure that a third-country insurance undertaking establishes, maintains and documents the administrative and accounting procedures related to the operations of its branches in the Member States in which the branches operate.

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<sup>4</sup> Available at EIOPA's website: <https://eiopa.europa.eu/Pages/Guidelines/Guidelines-on-supervisory-review-process.aspx>.

- 1.41 The host supervisory authority should ensure that a third-country insurance undertaking keeps records: identifying the location of all branch assets; and providing sufficient information enabling any person charged with the winding-up of that undertaking to take control of those assets.
- 1.42 The host supervisory authority should ensure that a third-country insurance undertaking produces and keeps management accounts relating to the whole balance sheet of the branch – including available and non-available assets and all liabilities relating to branch operations.

#### **Guideline 18 - Location of branch assets**

- 1.43 The host supervisory authority should ensure that:
- a) the third-country insurance undertaking has sufficient assets covering the branch MCR and maintains them at any time within the host Member State;
  - b) the assets covering the branch SCR, in excess of the branch MCR, are located in the Union; and
  - c) the third-country insurance undertaking informs the host supervisory authority immediately if one of the abovementioned conditions are no longer complied with.

#### **Guideline 19 - Quality requirements for the security deposits under Article 162(2)(e) of Directive 2009/138/EC**

- 1.44 The host supervisory authority should ensure that deposits lodged as security by a third-country insurance undertaking are of low volatility under all market conditions having impact on the value of that deposit and thereby on the deposit's appropriateness as a security.
- 1.45 The host supervisory authority should ensure that a third-country insurance undertaking may only lodge a deposit with a credit institution authorised in the Union which has acknowledged that it has no rights of set-off or will not exercise any rights of set-off of any claims it may have against that undertaking against the deposit if the insurance undertaking fails or is subject to winding-up proceedings.

#### **Guideline 20 - Assessment of the quality of a security deposit under Article 162(2)(e) of Directive 2009/138/EC**

- 1.46 The host supervisory authority should ensure that a third-country insurance undertaking provides sufficient information to it so that it can assess the quality of the assets and determine if that undertaking needs to make changes to the deposit to ensure its ongoing appropriateness as security.

#### **Guideline 21 - Valuation rules**

- 1.47 The host supervisory authority should ensure that a third-country insurance undertaking calculates its branch assets, branch liabilities, branch MCR and branch SCR in accordance with the valuation rules laid down in Chapter VI of Title 1 of Directive 2009/138/EC.

## **Guideline 22 - Calculation of capital requirements for the branch**

1.48 The host supervisory authority should ensure that the branch SCR and branch MCR are calculated based on the branch balance sheet as if the branch operations constituted a separate insurance undertaking.

## **Guideline 23 - Solvency Capital Requirement**

1.49 The host supervisory authority should ensure that the branch own funds are at least equal to the branch SCR.

## **Guideline 24 - Minimum capital requirement**

1.50 The host supervisory authority should ensure that the branch basic own funds are at least equal to the branch MCR.

## **Guideline 25 - Branch own funds**

1.51 The host supervisory authority should ensure that the third-country insurance undertaking calculates its branch own funds, taking into account only assets which are available for distribution upon a winding-up of the undertaking to pay the insurance claims of branch policyholders and branch preferential claims. Such assets should only be treated as available if they would be distributed:

- a) in accordance with the provisions of Article 275(1)(a) or (b) of Directive 2009/138/EC and in a manner which does not differentiate between claims according to the location of the claim; or
- b) to pay branch preferential claims and the insurance claims of branch policyholders in priority to all other claims.

## **Guideline 26 - Assessment of available branch assets**

1.52 The host supervisory authority should ensure that the third-country insurance undertaking provides it with sufficient information allowing the host supervisory authority to assess all of the following:

- a) the steps which a liquidator needs to take to assume control of, and collect in the branch assets, and whether such steps would be effective where competing claims in relation to those assets are exercised by other creditors or another liquidator administering winding-up proceedings with regard to the third-country insurance undertaking;
- b) the speed and simplicity with which branch assets could be transferred outside the jurisdiction of the host supervisory authority and the EU prior to the commencement of winding-up proceedings;
- c) the degree to which the host supervisory authority could effectively prevent branch assets being transferred outside the EU prior to the commencement of any winding-up proceedings;
- d) the degree to which branch assets could be used to settle liabilities other than branch insurance claims prior to or in the event of the third-country insurance undertaking's winding-up;

- e) the manner in which the third-country insurance undertaking exercises control over branch operations and whether this control is exerted by persons responsible for the branch operations as distinct from persons responsible for the other operations of the undertaking;
- f) the risk that branch liabilities are not related to the claims of policyholders within the EU such that they function as a mechanism for improperly or otherwise transferring branch assets to any other creditor of the undertaking, any member of the same group, or any third-party to the detriment of policyholders within the EU;
- g) whether the contractual relationships between the third-country insurance undertaking and third parties enable the use of branch assets for purposes other than satisfying branch liabilities;
- h) the effects of specific legal requirements to use branch assets for purposes other than satisfying branch liabilities;
- i) whether failing to use branch assets for purposes other than satisfying branch liabilities might prejudice the reputation of the third-country insurance undertaking;
- j) whether there are any tax disadvantages or advantages for the third-country insurance undertaking arising upon the use of branch assets for purposes other than satisfying branch liabilities; and
- k) whether there are any exchange controls that may have an impact on the use of branch assets for purposes other than the satisfying branch liabilities.

## **Governance and risk management**

### **Guideline 27 - General governance requirements**

1.53 The host supervisory authority should ensure that the third-country insurance undertaking complies with the system of governance requirements under Articles 41 to 50 of Directive 2009/138/EC, including with the prudent person principle with regard to branch operations.

### **Guideline 28 - Application of prudent person principle to branch assets**

1.54 The host supervisory authority should ensure that the third-country insurance undertaking makes branch assets compliant with the prudent person principle under Article 132 of Directive 2009/138/EC.

### **Guideline 29 - Language and reporting of governance policies**

1.55 The host supervisory authority should ensure that the third-country insurance undertaking has written policies covering the governance arrangements to comply with Guideline 7, available in a language agreed by the host supervisory authority, and include information in its regular supervisory reporting regarding how it satisfies those governance requirements.

### **Guideline 30 - Key functions**

1.56 The host supervisory authority should ensure that the third-country insurance undertaking has put in place the risk management function, the compliance function, the internal audit function and the actuarial function with regard to branch operations regardless of whether these functions are specifically established for the branch operations or are applied by the undertaking's head-office to the branch operations.

### **Guideline 31 - Notification of fit and proper persons**

1.57 The host supervisory authority should ensure that the third-country insurance undertaking notifies it of the identity of, and any changes to:

- a) the general representative of the branch;
- b) any persons who effectively run or who may influence branch operations; and
- c) the persons who are responsible for key functions with regard to branch operations.

### **Guideline 32 - Fit and proper requirements**

1.58 The host supervisory authority should ensure that the third-country insurance undertaking provides it with all information needed to assess the fitness and propriety of the persons mentioned in Guideline 31.

### **Guideline 33 - Own risk and solvency assessment (ORSA)**

1.59 The host supervisory authority should ensure that the third-country insurance undertaking performs, at least annually, an ORSA complying with Article 45 of Directive 2009/138/EC with regard to the branch operations.

### **Guideline 34 - Material risks to be included in the ORSA**

1.60 The host supervisory authority should ensure that for the purposes of the ORSA a third-country insurance undertaking takes into account any material risk for branch operations, and any risk for other operations of the third-country insurance undertaking which may have effect on branch operations.

### **Guideline 35 - Assessment of branch assets in the ORSA**

1.61 The host supervisory authority should ensure that the third-country insurance undertaking, as part of its ORSA, assesses the permanent availability of the branch assets and addresses in its assessment:

- a) the risks to the effectiveness of arrangements to ensure that branch assets are paid only to branch insurance creditors and branch preferential creditors; and
- b) the risks to the adequacy of branch assets to cover claims of such creditors by at least the amount of the branch SCR if subparagraph (a) of Guideline 25 is not met by the undertaking.

## **Disclosure**

### **Guideline 36 - Public disclosure requirements in relation to branches**

1.62 The host supervisory authority should ensure that the third-country insurance undertakings guarantee that branch policyholders can obtain any publicly disclosed information concerning the solvency and financial condition of the whole third-country insurance undertaking, if the rules and regulations of the third-country prescribe such disclosure.

## **Structure and form of the supervisory reporting**

### **Guideline 37 - Elements of the regular supervisory reporting**

1.63 The host supervisory authority should ensure that the third-country insurance undertaking submits to it the following information in respect of branch operations at predefined periods under Article 35(2)(a)(i) of Directive 2009/138/EC:

- a) a regular supervisory report comprising the information required under Article 35 of Directive 2009/138/EC and these Guidelines, in relation to branch operations, in narrative form and including quantitative data, where appropriate;
- b) the ORSA supervisory report in respect of branch operations comprising the results of each regular ORSA performed by the undertaking in accordance with Article 45(6) of Directive 2009/138/EC and these Guidelines, and without delay following any significant change in its risk profile, in accordance with Article 45(5) of Directive 2009/138/EC;
- c) completed annual and quarterly quantitative templates in respect of branch operations, as provided for in Guidelines 44, 45 and 47, specifying in greater detail and supplementing, where appropriate, the information presented in the regular supervisory report;
- d) a copy of the supervisory reporting documentation of the whole third-country insurance undertaking;
- e) a summary of any significant concerns which the home supervisory authority has raised with the third-country insurance undertaking, in the official language of the country where the branch is located.

1.64 The requirements set out in the first paragraph of this Guideline are without prejudice to the power of the host supervisory authority to require the third-country insurance undertaking to communicate on a regular basis any other information prepared under the responsibility of, or at the request of, the administrative, management or supervisory body of these undertakings, in relation to branch operations.

1.65 The host supervisory authority should ensure that the regular supervisory report issued by the third-country insurance undertaking in respect of branch operations follows the structure set out in Annex XX of the Commission

Delegated Regulation (EU) 2015/35<sup>5</sup> and presents in a coherent and informative manner the information described in Technical Annex I to these Guidelines.

### **Guideline 38 - ORSA Supervisory Report**

1.66 The host supervisory authority should ensure that the ORSA supervisory report issued by the third-country insurance undertaking in respect of branch operations covers:

- a) the qualitative and quantitative results of the ORSA and the conclusions drawn by the third-country insurance undertaking from those results;
- b) the methods and main assumptions used in the ORSA;
- c) information on the branch's overall solvency needs and a comparison between those solvency needs, the regulatory capital requirements and the branch's own funds;
- d) qualitative information on the extent to which quantifiable risks of the branch are not reflected in the calculation of the branch SCR;
- e) where significant deviations have been identified, the quantifiable risks of the branch not reflected in the branch SCR appropriately quantified.

1.67 The host supervisory authority should ensure that the ORSA supervisory report issued by the third-country insurance undertaking in respect of branch operations also covers any risks with regard to other operations of the third-country insurance undertaking which may have a material impact on the branch operations.

### **Guideline 39 - Currency**

1.68 The host supervisory authority should ensure that the third-country insurance undertaking reports data points with the data type 'Monetary' are in the reporting currency, which requires conversion of other currencies into the reporting currency, unless otherwise stated in the instructions of Annex II of Implementing Technical Standard on the Templates for the Submission of Information or of Annex IV of these Guidelines.

1.69 The host supervisory authority should ensure that when the third-country insurance undertaking expresses the value of any branch asset or liability denominated in a currency other than the reporting currency, it converts that value into the reporting currency as if conversion had taken place at the closing rate on the last day for which the appropriate rate is available in the reporting period to which the branch asset or liability relates.

1.70 The host supervisory authority should ensure that when the third-country insurance undertaking expresses the value of any income or expense, it

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<sup>5</sup> Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.1.2015, p. 1)

converts that value into the reporting currency by using such basis of conversion as used for accounting purposes.

- 1.71 The host supervisory authority should ensure that when the third-country insurance undertaking makes a conversion into the reporting currency, it applies the exchange rate from the same source as the one used for the undertaking's financial statements in case of individual reporting.

#### **Guideline 40 - Materiality of information**

- 1.72 The host supervisory authority should ensure that third-country insurance undertakings consider as material information, information which omission or misstatement could influence its decision-making or judgement.

#### **Means of communication**

#### **Guideline 41 - Means of reporting**

- 1.73 The host supervisory authority should ensure that the third-country insurance undertaking provides it with the regular supervisory report in respect of branch operations, the ORSA supervisory report in respect of branch operations and the relevant quantitative templates in electronic form.

#### **Guideline 42 - Supervisory reporting formats**

- 1.74 The host supervisory authority should ensure that the third-country insurance undertaking provides the information referred to in these Guidelines in the data exchange formats and representations determined by the host supervisory authority or by the group supervisor and respects the following specifications:

- a) data points with the data type 'Monetary' expressed in units with no decimals with the exception of templates S.06.02, S.08.01, S.08.02 or S.11.01, which are expressed in units with two decimals;
- b) data points with the data type 'Percentage' expressed as per unit with four decimals;
- c) data points with the data type 'Integer' expressed in units with no decimals.

#### **Guideline 43 - Updates to reports**

- 1.75 Where a significant development affects the information received from a third-country insurance undertaking, the host supervisory authority should ensure that the third-country insurance undertaking submits to it an update of this information as soon as possible following the occurrence of the significant development. Such an update can take the form of amendments to the initial report.
- 1.76 The host supervisory authority should ensure that third-country insurance undertakings consider as a significant development any significant change to the winding-up regime applicable to the branch.

## **Quantitative reporting requirements for third-country insurance undertakings in relation to branch operations**

### **Guideline 44 - Annual quantitative templates for third-country insurance undertakings in relation to branch operations**

1.77 Unless otherwise decided in accordance with Guideline 48, the host supervisory authority should ensure that the third-country insurance undertakings annually submits to it the following structured information regarding branch operations, where applicable:

- a) template S.01.01.07 of Annex III to these Guidelines, specifying the content of the submission, following the instructions set out in S.01.01 of Annex IV to these Guidelines;
- b) template S.01.02.07 of Annex III to these Guidelines, specifying basic information on the branch and the content of the reporting in general, following the instructions set out in S.01.02 Annex IV to these Guidelines;
- c) template S.01.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying basic information on ring fenced funds and matching portfolios, following the instructions set out in S.01.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- d) template S.02.01.07 of Annex III to these Guidelines, specifying balance sheet information using both the valuation in accordance with Article 75 of the Directive 2009/138/EC and the valuation according to the branch management accounts value for the branch operations, following the instructions set out in S.02.01 of Annex IV to these Guidelines;
- e) template S.02.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on branch assets and liabilities by currency, following the instructions set out in S.02.02 Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- f) template S.02.03.07 of Annex III to these Guidelines, specifying additional branch balance sheet information, following the instructions set out in S.02.03 Annex IV to these Guidelines;
- g) template S.03.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying general information on off-balance sheet items, following the instructions set out in S.03.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- h) template S.03.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing a list of off-balance sheet unlimited guarantees received, following the instructions set out in S.03.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

- i) template S.03.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing a list of off-balance sheet unlimited guarantees provided, following the instructions set out in S.03.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- j) template S.05.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on premiums, claims, expenses following the valuation and recognition principles used in the branch management accounts value for the branch operations, following the instructions set out in S.05.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information for each line of business as defined in Annex I to Delegated Regulation (EU) 2015/35;
- k) template S.05.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on premiums, claims and expenses by country, applying the valuation and recognition principles used in the branch management accounts for the branch operations, following the instructions set out in S.05.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- l) template S.06.02.07 of Annex III to these Guidelines, providing an item-by-item list of assets, following the instructions set out in S.06.02 of Annex IV to these Guidelines;
- m) template S.06.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing information on the look-through of all collective investments held by the third-country branch, following the instructions set out in S.06.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- n) template S.07.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of structured products only when the amount of structured products is higher than 5%, measured as the assets classified as asset categories 5 (Structured notes) and 6 (Collateralised securities), as defined in Annex V to the Implementing Technical Standard on the Templates for the Submission of Information, divided by the sum of items C0010/R0070 and C0010/RC0220 of template S.02.01.01, following the instructions set out in S.07.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- o) template S.08.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of open positions list of derivatives, following the instructions set out in S.08.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

- p) template S.08.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of derivatives closed during the reporting period, following the instructions set out in S.08.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- q) template S.09.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on income, gains and losses in the period following the instructions set out in S.09.01 in of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- r) template S.10.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of securities lending and repurchase agreements data on and off balance sheet, only when the value of the underlying securities, on and off balance sheet, involved in lending or repurchase agreements, for contracts with maturity date falling after the reporting reference date represent more than 5% of the total investments as reported in items C0010/R0070 and C0010/R0220 of template S.02.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, following the instructions set out in S.10.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- s) template S.11.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of assets held as collateral, consisting of all types of off-balance sheet asset categories held as collateral following the instructions set out in S.11.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- t) template S.12.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information specifying information on life and health SLT technical provisions, by lines of business as defined in Annex I of Delegated Regulation (EU) 2015/35, following the instructions set out in S.12.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- u) template S.12.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on life and health SLT technical provisions by country, following the instructions set out in S.12.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- v) template S.13.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, regarding projection of best estimate future cash flows of the life business, following the

instructions set out in S.13.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

- w) template S.14.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, regarding life obligations analysis, including life insurance contracts and annuities stemming from non-life contracts, by product and by homogeneous risk group issued by the branch, following the instructions set out in S.14.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- x) template S.15.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on description of the guarantees of variable annuities by product issued by the branch under direct insurance business, following the instructions set out in S.15.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- y) template S.15.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the hedging of guarantees of variable annuities, by product issued by the branch under direct business, following the instructions set out in S.15.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- z) template S.16.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on annuities stemming from non-life insurance obligations issued by the branch under direct insurance business, following the instructions set out in S.16.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information, regarding all lines of business originating annuities as defined in Annex I to Delegated Regulation (EU) 2015/35 and additionally by currency only when the following applies:
  - i. If the best estimate for the annuity claims provisions on a discounted basis from one non-life line of business represents more than 3% of the total best estimate for all annuity claims provisions the information should be reported with the following split by currencies:
    - a) amounts for the reporting currency;
    - b) amounts for any currency that represents more than 25% of the best estimate for the annuity claims provisions on a discounted basis in the original currency from that non-life line of business; or
    - c) amounts for any currency that represents less than 25% of the best estimate for the annuity claims provisions (discounted basis) in the original currency from that non-

life line of business but more than 5% of total best estimate for all annuity claims provisions;

- aa) template S.17.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life technical provisions, following the instructions set out in S.17.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information, by lines of business as defined in Annex I to Delegated Regulation (EU) 2015/35;
- bb) template S.17.02.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life technical provisions referred to direct insurance business by country, following the instructions set out in S.17.02 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- cc) template S.18.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, regarding projection of future cash flows based on best estimate of the non-life business, following the instructions set out in S.18.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- dd) template S.19.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life insurance claims in the format of development triangles, following the instructions set out in S.19.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information, for the total of each non-life line of business as defined in Annex I to Delegated Regulation (EU) 2015/35 and additionally by currency, only when the following applies:
  - i. If the total gross best estimate for one non-life line of business represents more than 3% of the total gross best estimate of the claims provision the information should be reported with the following split by currencies:
    - a) amounts for the reporting currency;
    - b) amounts for any currency that represents more than 25% of the gross best estimate of the claims provisions in the original currency from that non-life line of business; or
    - c) amounts for any currency that represents less than 25% of the gross best estimate of the claims provisions in the original currency from that non-life line of business but more than 5% of total gross best estimate of the claims provisions in the original currency.

- ee) template S.20.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the development of the distribution of the claims incurred at the end of the financial year, following the instructions set out in S.20.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information, for each line of business as defined in Annex I to Delegated Regulation (EU) 2015/35;
- ff) template S.21.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on loss distribution risk profile of non-life business, following the instructions set out in S.21.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information, for each line of business as defined in Annex I to Delegated Regulation (EU) 2015/35;
- gg) template S.21.02.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the underwriting risks non-life, following the instructions set out in S.21.02 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- hh) template S.21.03.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life underwriting by sum insured, following the instructions set out in S.21.03 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information, by line of business as defined in Annex I to Delegated Regulation (EU) 2015/35;
- ii) template S.22.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the impact of the long term guarantees and transitional measures, following the instructions set out in S.22.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- jj) template S.22.04.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the interest rate transitional, following the instructions set out in S.22.04 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- kk) template S.22.05.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the transitional on technical provisions following the instructions set out in S.22.05 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- ll) template S.22.06.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the transitional on technical provisions following the instructions set

- out in S.22.06 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- mm) template S.23.01.07 of Annex III to these Guidelines, specifying information on own funds, following the instructions set out in S.23.01 of Annex IV to these Guidelines;
  - nn) template S.23.03.07 of Annex III to these Guidelines, specifying information on annual movements on own funds, following the instructions set out in S.23.03 of Annex IV of these Guidelines;
  - oo) template S.24.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying information on participations held by the branch and an overview of the calculation for the deduction from own funds related to participations in financial and credit institutions, following the instructions set out in S.24.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information.
  - pp) template S.25.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula, following the instructions set out in S.25.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
  - qq) template S.25.02.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula and a partial internal model, following the instructions set out in S.25.02 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
  - rr) template S.25.03.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using a full internal model, following the instructions set out in S.25.03 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
  - ss) template S.26.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on market risk, following the instructions set out in S.26.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considers the specifications described in paragraphs 1.78(a) to (c);
  - tt) template S.26.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on counterparty default risk, following the instructions set out in S.26.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);

- uu) template S.26.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on life underwriting risk, following the instructions set out in S.26.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- vv) template S.26.04.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on health underwriting risk, following the instructions set out in S.26.04 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- ww) template S.26.05.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life underwriting risk, following the instructions set out in S.26.05 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- xx) template S.26.06.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on operational risk, following the instructions set out in S.26.06 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- yy) template S.26.07.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the simplifications used in the calculation of the SCR, following the instructions set out in S.26.07 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- zz) template S.27.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life catastrophe risk, following the instructions set out in S.27.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.78(a) to (c);
- aaa) template S.28.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the MCR for branches engaged in only life or non-life insurance or reinsurance activity, following the instructions set out in S.28.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

- bbb) template S.28.02.01 of Annex I, specifying the MCR for branches engaged in both life and non-life insurance activity, following the instructions set out in S.28.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- ccc) template S.29.01.07 of Annex III to these Guidelines, specifying information on the excess of assets over liabilities during the reporting year providing a summary of main sources of this variation, following the instructions set out in S.29.01 of Annex IV of these Guidelines;
- ddd) template S.29.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the part of variation of the excess of assets over liabilities during the reporting year explained by investments and financial liabilities, following the instructions set out in S.29.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- eee) templates S.29.03.01 and S.29.04.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the part of variation of the excess of assets over liabilities during the reporting year explained by technical provisions, following the instructions set out in S.29.03 and S.29.04 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- fff) template S.30.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on facultative covers in the next reporting year, covering information on the 10 most important risks in terms of reinsured exposure for each line of business as defined in Annex I of Delegated Regulation (EU) 2015/35 for which facultative reinsurance is used, following the instructions set out in S.30.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- ggg) template S.30.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on shares of reinsurers of facultative covers in the next reporting year covering information on the 10 most important risks in terms of reinsured exposure, for each line of business as defined in Annex I of Delegated Regulation (EU) 2015/35, following the instructions set out in S.30.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- hhh) template S.30.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the outgoing reinsurance program in the

next reporting year, covering prospective information on reinsurance treaties whose period of validity includes or overlaps the next reporting year, following the instructions set out in S.30.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

- iii) template S.30.04.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the outgoing reinsurance program in the next reporting year, covering prospective information on reinsurance treaties whose period of validity includes or overlaps the next reporting year, following the instructions set out in S.30.04 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- jjj) template S.31.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the share of reinsurers data, following the instructions set out in S.31.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- kkk) template S.31.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on special purpose vehicles from the perspective of the insurance or reinsurance undertaking transferring risk(s) to the special purpose vehicles, following the instructions set out in S.31.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information.

1.78 The host supervisory authority should ensure that when the third-country insurance undertaking submits the information regarding branch operations referred to in paragraphs 1.77 (rr) to (yy), the following specifications are applied:

- a) In case of existence of ring-fenced funds or matching adjustment portfolios information referred in those paragraphs should not be reported for the branch as a whole;
- b) where a partial internal model is used the information referred in those paragraphs should only be reported in relation to the risks covered by the standard formula, unless otherwise decided on the basis of Guideline 49.
- c) where a full internal model is used the information referred in those paragraphs should not be reported.

1.79 The host supervisory authority should ensure that when the third-country insurance undertaking submits the information required under this Guideline, the undertaking uses *mutatis mutandis* the templates and instructions laid down in the Implementing Technical Standard on the Templates for the Submission of Information unless a specific paragraph or sub-paragraph of

this Guideline refers to the branch specific templates and instructions set out in Annexes III and IV to these Guidelines.

#### **Guideline 45 - Quarterly templates for third-country insurance undertakings**

1.80 Unless otherwise decided in accordance with Guideline 48, the host supervisory authority should ensure that the third-country insurance undertaking submits to it on a quarterly basis the following structured information regarding branch operations, where applicable:

- a) template S.01.01.08 of Annex III to these Guidelines, specifying the content of the submission detailing the information submitted at each reporting submission date, following the instructions set out in S.01.01 of Annex IV to these Guidelines;
- b) template S.01.02.07 of Annex III to these Guidelines, specifying basic information detailing information on the undertaking and the content of the reporting in general, following the instructions set out in S.01.02 of Annex IV to these Guidelines;
- c) template S.02.01.08 of Annex III to these Guidelines, specifying balance sheet information using the valuation of assets and liabilities in accordance with Article 75 of Directive 2009/138/EC, following the instructions set out in S.02.01 of Annex IV to these Guidelines;
- d) template S.05.01.02 of Annex I, specifying information on premiums, claims, expenses, using the valuation and recognition principles used in the branch management accounts for the branch operations, regarding each line of business as defined in Annex I to Delegated Regulation (EU) 2015/35, following the instructions set out S.05.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- e) template S.06.02.07 of Annex III to these Guidelines, specifying item-by-item list of assets, following the instructions set out in S.06.02 of Annex IV to these Guidelines;
- f) template S.06.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the look-through of all collective investments undertakings held, following the instructions set out in S.06.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information, only when the ratio of collective investments undertakings held by the branch of the third-country insurance undertaking to total investments is higher than 30%. This ratio is measured as item C0010/R0180 of template S.02.01.02, plus collective investments undertakings included in item C0010/R0220 of template S.02.01.02, plus collective investments undertakings included in item C0010/R0090 of template S.02.01.02, divided by the sum of items C0010/R0070 and C0010/RC0220 of template S.02.01.02;

- g) template S.08.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item by item list of open positions of derivatives, following the instructions set out in S.08.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- h) template S.08.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, providing an item-by-item list of derivatives closed during the reporting period, following the instructions set out in S.08.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and using the Complementary Identification codes as set out in Annex V to the Implementing Technical Standard on the Templates for the Submission of Information, and defined in Annex VI thereto;
- i) template S.12.01.02 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on life and health SLT technical provisions, following the instructions set out in S.12.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information for each line of business as defined in Annex I of Delegated Regulation (EU) 2015/35;
- j) template S.17.01.02 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life technical provisions, following the instructions in S.17.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information, for each line of business as defined in Annex I of Delegated Regulation (EU) 2015/35;
- k) template S.23.01.07 of Annex III to these Guidelines, specifying information on own funds, following the instructions in S.23.01 of Annex IV to these Guidelines;
- l) S.28.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the MCR for branch engaged in only life or non-life insurance or reinsurance activity, following the instructions set out in S.28.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- m) S.28.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the MCR for insurance undertakings engaged in both life and non-life insurance activity, following the instructions set out in S.28.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information.

1.81 The host supervisory authority should ensure that when the third-country insurance undertakings submits the information required under this Guidelines, the undertaking uses *mutatis mutandis* the templates and

instructions laid down in the Implementing Technical Standard on the Templates for the Submission of Information unless a specific paragraph or sub-paragraph of this Guidelines refers to branch specific templates and instructions set out in Annexes III and IV to these Guidelines.

#### **Guideline 46 - Simplifications allowed on quarterly reporting for individual undertakings**

- 1.82 With regard to the information referred to in paragraph 1.82(c) of Guideline 45, the host supervisory authority should allow the third-country insurance undertaking to rely for quarterly measurements on estimates and estimation methods to a greater extent than measurements of annual financial data.
- 1.83 The host supervisory authority should ensure that the that third-country insurance undertaking designs the measurement procedures for the quarterly reporting to ensure that the resulting information is reliable and complies with the standards of Directive 2009/138/EC and that all material information that is relevant for the understanding of the data is reported.
- 1.84 With regard to the information referred to in paragraphs 1.82(i) and (j) of Guideline 45, the host supervisory authority should allow the third-country insurance undertaking to apply simplified methods in the calculation of the technical provisions in respect of the branch operations. Third-country insurance undertakings may, in particular, derive the risk margin for calculations that need to be performed quarterly from the result of an earlier calculation of the risk margin without an explicit calculation of risk margin itself in each quarter.

#### **Guideline 47 - Annual quantitative templates for third-country insurance undertakings - ring-fenced funds**

- 1.85 Unless otherwise decided in accordance with Guideline 48, the host supervisory authority should ensure that the third-country insurance undertaking, annually submits to it, in respect of its branch operations, the following structured information in relation to material ring fenced funds, material matching portfolios and remaining part, where applicable:
  - a) template SR.01.01.07 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the content of the submission detailing the information submitted, following the instructions set out in S.01.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
  - b) template SR.12.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the information on life and health SLT technical provisions, following the instructions set out in S.12.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information, for each line of business as defined in Annex I to Delegated Regulation (EU) 2015/35;

- c) template SR.17.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the information on non-life technical provisions, following the instructions set out in S.17.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information, for each line of business as defined in Annex I of Delegated Regulation (EU) 2015/35;
- d) template SR.25.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula, following the instructions set out in S.25.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- e) template SR.25.02.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula and a partial internal model, following the instructions set out in S.25.02 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- f) template SR.25.03.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using a full internal model, following the instructions set out in S.25.03 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- g) template SR.26.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on market risk, following the instructions set out in S.26.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
- h) template SR.26.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on counterparty default risk, following the instructions set out in S.26.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
- i) template SR.26.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on life underwriting risk, following the instructions set out in S.26.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
- j) template SR.26.04.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on health underwriting risk, following the instructions set out in S.26.04 of Annex II to the Implementing Technical Standard on the

- Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
- k) template SR.26.05.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life underwriting risk, following the instructions set out in S.26.05 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
  - l) template SR.26.06.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on operational risk, following the instructions set out in S.26.06 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
  - m) template SR.26.07.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the simplifications used in the calculation of the SCR, following the instructions set out in S.26.07 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
  - n) template SR.27.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on non-life catastrophe risk, following the instructions set out in S.27.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information and by considering the specifications described in paragraphs 1.87-1.88 of this Guideline;
- 1.86 The host supervisory authority should ensure that the third-country insurance undertaking, annually submits to it, in respect of its branch operations in relation to each material ring fenced funds and remaining part template SR.02.01.07 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying balance sheet information using both the valuation of assets and liabilities in accordance with Article 75 of Directive 2009/138/EC and the valuation according to branch management accounts, following the instructions set out in in S.02.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information.
- 1.87 Where a partial internal model is used, the host supervisory authority should ensure that the information defined in paragraphs 1.87(g)-(n) of this Guideline is only reported in relation to the standard formula, unless otherwise decided on the basis of Guideline 49.
- 1.88 Where a full internal model is used, the host supervisory authority should ensure that the information defined in paragraphs 1.87(g)-(n) is not reported.

1.89 Unless otherwise decided in accordance with Guideline 48, the host supervisory authority should ensure that the third-country insurance undertakings annually submits to it, in respect of branch operations, in relation to each material matching portfolios the following information, where applicable:

- a) template SR.22.02.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the projection of future cash flows for the best estimate calculation by matching adjustment portfolio, following the instructions set out in S.22.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- b) template SR.22.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying information on the matching portfolios by matching adjustment portfolio, following the instructions set out in S.22.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information.

#### **Guideline 48 - Proportionality reporting**

1.90 The host supervisory authority should consider to limit or to exempt a third-country insurance undertaking from any regular supervisory reporting requirement set out in Guideline 44, 45, or 47 where the submission of that information would be unduly burdensome in relation to the nature, scale and complexity of the risks inherent in the business of the branch.

#### **Guideline 49 - Internal model**

1.91 When the third-country insurance undertaking is using an internal model for the calculation of the SCR in respect of its branch operations, the host supervisory authority should ensure that the notional SCR for each material ring fenced fund, material matching portfolio and the remaining part, is taken into account by the third-country insurance undertaking when it submits the relevant information identified in templates S.25.02.01 and S.25.03.01, as agreed with the respective national competent authority.

#### **Guideline 50 - Data checks**

1.92 The host supervisory authority should ensure that the third-country insurance undertaking complies with the validations rules, as published by EIOPA on its website when submitting information and data in relation to its branch operations.

#### **Frequency and Deadlines**

##### **Guideline 51 - Deadlines for the submission of regular supervisory report**

1.93 The host supervisory authority should ensure that the third-country insurance undertaking submits the regular supervisory report in respect of branch operations referred to in Guideline 37 for the first time in relation to

the financial year ending on, or after 30 June 2016 but before 1 January 2017 and no later than 14 weeks after the relevant undertaking's financial year end, and at least every 3 years thereafter.

#### **Guideline 52 - Supervisory authority's request for submission of the regular supervisory report**

1.94 The host supervisory authority should decide, considering Guideline 51, on the frequency for the submission by the third-country insurance undertaking of its regular supervisory report in respect of branch operations.

#### **Guideline 53 - A summary regular supervisory report**

1.95 Where the host supervisory authority does not require, in accordance with Guideline 51 and 52, a regular supervisory report in respect of branch operations to be submitted in relation to a financial year, it should ensure that the third-country insurance undertaking nevertheless submits to it a summary regular supervisory report which sets out all material changes that have occurred regarding business and performance, system of governance, risk profile, valuation for solvency purposes and capital management in respect of branch operations over the reporting period, and provides a concise explanation about the causes and effects of such changes. The host supervisory authority should ensure that the third-country insurance undertaking submits the summary regular supervisory report in relation to the financial years and within the periods referred to in Guideline 51.

#### **Guideline 54 - Deadlines for submission of the ORSA supervisory report**

1.96 The host supervisory authority should ensure that the third-country insurance undertaking submits to it the ORSA supervisory report in respect of its branch operations within 2 weeks after concluding the relevant own risk and solvency assessment.

#### **Guideline 55 - Deadlines for submission of the annual quantitative templates**

1.97 The host supervisory authority should ensure that the third-country insurance undertaking submits to it the relevant annual quantitative templates referred to in Guidelines 44 and 47 no later than 14 weeks after the relevant undertaking's financial year end.

#### **Guideline 56 - Deadlines for submission of the quarterly quantitative templates**

1.98 The host supervisory authority should ensure that the third-country insurance undertaking submits to it the relevant quarterly quantitative templates referred to in Guideline 45 no later than 5 weeks after the relevant quarter end.

## **Transitional arrangements**

### **Guideline 57 - Transitional information requirements**

1.99 In relation to the first year of application of Directive 2009/138/EC, the host supervisory authority should ensure that the third-country insurance undertaking submits to it the following information, the reference date for which should be the first day of the third-country insurance undertaking's financial year starting on, or after 1 January 2016 but before 1 July 2016:

- a) template S.01.01.09 of Annex III to these Guidelines, specifying the content of the submission detailing the information submitted at each submission date, following the instructions set out in S.01.01 of Annex IV to these Guidelines;
- b) template S.01.02.07 of Annex III to these Guidelines, specifying basic information on the branch and the content of the reporting in general, following the instructions set out in S.01.02 of Annex IV to these Guidelines;
- c) template S.01.03.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying basic information on the ring fenced funds and matching adjustment portfolios, following the instructions set out in S.01.03 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- d) template S.02.01.08 of Annex III to these Guidelines, specifying balance sheet information using both the valuation in accordance with article 75 of Directive 2009/138/EC and the valuation in the management accounts value of the branch for the branch operations, following the instructions set out in S.02.01 of Annex IV to these Guidelines;
- e) template S.23.01.07 of Annex III to these Guidelines, specifying information on own funds, following the instructions set out in S.23.01 of Annex IV to these Guidelines;
- f) template S.25.01.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula, following the instructions set out in S.25.01 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- g) template S.25.02.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using the standard formula and a partial internal model, following the instructions set out in S.25.02 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;
- h) template S.25.03.01 of Annex I to Implementing Technical Standard on the Templates for the Submission of Information, specifying the SCR for branches using a full internal model, following the instructions set out in

S.25.03 of Annex II to Implementing Technical Standard on the Templates for the Submission of Information;

- i) template S.28.01.01 of Annex I to the Implementing Technical Standard on the Templates for the Submission of Information, specifying the MCR for branches engaged in only life or non-life insurance or reinsurance activity, following the instructions set out in S.28.01 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;
- j) template S.28.02.01 of Annex I, specifying the MCR for branches engaged in both life and non-life insurance activity, following the instructions set out in S.28.02 of Annex II to the Implementing Technical Standard on the Templates for the Submission of Information;

1.100 In relation to the first year of application of Directive 2009/138/EC, the host supervisory authority should ensure that the third-country insurance undertaking also submits to it, separately for each material class of branch assets and branch liabilities, a qualitative explanation of the main differences between the figures reported in the opening valuation and those calculated according to the solvency regime previously in place.

#### **Guideline 58 - Deadline for submission of the transitional information requirements**

1.101 The host supervisory authority should ensure that the third-country insurance undertaking submits to it the information under Guideline 57 no later than 20 weeks following the reference date referred to in the Guideline.

#### **Guideline 59 - Transitional deadline for submission of the regular supervisory report**

1.102 Within the first three years of application of Directive 2009/138/EC, where the host supervisory authority requires, in accordance with Guideline 52, the submission of a regular supervisory report regarding the branch operations of a third-country insurance undertaking in a financial year, that authority should ensure that the third-country insurance undertaking submits that report within the following periods:

- a) for the regular supervisory report in respect of branch operations related to the financial year ending on, or after 1 January 2016 but before 1 January 2017, no later than 20 weeks after the undertaking's financial year end;
- b) for the regular supervisory report in respect of branch operations related to the financial year ending on, or after 1 January 2017 but before 1 January 2018, no later than 18 weeks after the undertaking's financial year end;
- c) for the regular supervisory report in respect of branch operations related to financial years ending on, or after 1 January 2017 but before 1 January 2018, no later than 16 weeks after the undertaking's financial year end.

## **Guideline 60 - Transitional deadline for the submission of the annual quantitative templates**

1.103 Within the first three years of application of Directive 2009/138/EC, the host supervisory authority should ensure that the third-country insurance undertaking also submits to it, the relevant annual quantitative templates referred to in Guideline 44 within the following periods:

- a) for the annual quantitative templates related to the financial year of the undertaking ending on, or after 30 June 2016 but before 1 January 2017, no later than 20 weeks after the undertaking's financial year end;
- b) for the annual quantitative templates related to the financial year of the undertaking ending on, or after 1 January 2017 but before 1 January 2018, no later than 18 weeks after the undertaking's financial year end;
- c) for the annual quantitative templates related to the financial year of the undertaking ending on, or after 1 January 2018 but before 1 January 2019, no later than 16 weeks after the undertaking's financial year end.

## **Guideline 61 - Deadlines for the submission of the quarterly quantitative templates**

1.104 Within the first three years of application of Directive 2009/138/EC, the host supervisory authority should ensure that the third-country insurance undertaking also submits to it, the relevant quarterly quantitative templates referred to in Guideline 45 within the following periods:

- a) for the quarterly quantitative templates related to any quarter ending on, or after 1 September 2016 but before 1 January 2017, no later than 8 weeks after the quarter end;
- b) for the quarterly quantitative templates related to any quarter ending on, or after 1 January 2017 but before 1 January 2018, no later than 7 weeks after the quarter end;
- c) for the quarterly quantitative templates related to any quarter ending on, or after 1 January 2018 but before 1 January 2019, no later than 6 weeks after the quarter end.

## **Compliance and Reporting Rules**

1.105 This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, competent authorities and financial institutions shall make every effort to comply with guidelines and recommendations.

1.106 Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.

1.107 Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.

1.108 In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

### **Final Provision on Reviews**

1.109 The present Guidelines shall be subject to a review by EIOPA.