

Insurance Europe response to EIOPA consultation on revised Guidelines on supervisory review process

Our reference:	ECO-SLV-25-380	Date:	23-09-2025
Referring to:	Consultation on the proposal for revised Guidelines on supervisory review process		
Related documents:	Consultation paper		
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Pages:	2	Transparency Register ID:	33213703459-54

Q1. Do you have general comments on the consultation paper?

- Article 51a of the revised Solvency II Directive requires an external audit of the balance sheet published in the Solvency and Financial Condition Report (SFCR) and allows Member States to extend this audit to other elements of the SFCR.
- The guidelines could clarify that the authority relies on this audit work and avoids any unjustified duplication with audits carried out by its own teams, so as not to place an unnecessary burden on the entities concerned.
- This is particularly relevant to the review of the calculation of technical provisions and actuarial models, when these have already been reviewed by external auditors under Article 51a.

Q2. Do you have comments on Section I on 'Overall supervisory review process'?

- **Comments on Guideline 4:**
 - Insurance companies recognise the rationale for supervisory judgment but remain concerned about its potential to override quantitative assessments without sufficient transparency. Any deviation from scoring-based outcomes should be subject to appropriate internal governance within the supervisory authority, supported by objective evidence, and clearly justified and documented.
 - An example might be the classification of insurers as systemic without detailed and reasoned evidence provided by National Supervisory Authorities (NSAs). Such a designation carries substantial implications, including heightened supervisory expectations and resource demands for both the authority and the insurer. Where supervisory judgment leads to outcomes that diverge from scoring-based results, it is essential that these decisions are subject to appropriate internal governance, supported by objective evidence, and clearly justified and documented.
- **Proposed amendment to Guideline 4:**
 - *"Guideline 4 – Supervisory judgment in the supervisory review process: The national supervisory authority should ensure that supervisors use supervisory judgment at each*

*stage of the supervisory review process, while keeping the process flexible. **Any override based on supervisory judgment should be subject to appropriate internal governance, supported by objective evidence, and clearly justified and documented.***

Q4. Do you have comments on Section III on 'Risk assessment framework'?

- Regulatory intervention has significantly intensified in recent years, accompanied by a continuous increase in reporting requirements. It is important to ensure that the scope and frequency of reviews do not disrupt the proper functioning of supervised entities, particularly during production periods.
- Consistent with our concerns on supervisory judgment (see Question 2), Insurance Europe is concerned that excessive reliance on supervisory overrides without sufficient transparency could undermine consistency and accountability. Any such overrides should therefore be subject to internal governance, supported by objective evidence, and clearly justified and documented
- Against this background, Insurance Europe proposes the following amendments to Guidelines 15, 16, 17, and 20:
 - **Guideline 15: Explanatory note** - (...) and clearly justified and documented.
 - **Guideline 16: Explanatory note** - (...) and clearly justified and documented.
 - **Guideline 17: Explanatory note** - (...) Any override should be subject to appropriate internal governance, supported by objective evidence, and clearly justified and documented.
 - **Guideline 20: Explanatory note** - (...) Any override should be subject to appropriate internal governance, supported by objective evidence, and clearly justified and document.

Additionally, the existing text for Guideline 20 should be amended for clarity, for example:

"The supervisory authority should define minimum engagement levels for each undertaking, considering the size, complexity, and intrinsic riskiness, and conduct at least every three years a ~~complete supervisory review~~ a risk assessment process for all undertakings under its scope of supervision, to determine if an inspection or further supervisory review is appropriate ."

- Insurance Europe also stresses that **EIOPA should explicitly incorporate proportionality into Guideline 19a**, with expectations kept high-level and reliance on existing reporting frameworks (e.g. ORSA, SFCR, RSR) to avoid duplication and unnecessary burden.

Q5. Do you have comments on Section IV on 'Detailed Review'?

Guideline 32a – Joint on-site inspections:

- It should be noted that EIOPA may only be requested to join "joint on-site inspections" in a cross-border context, in line with Solvency II Directive Recital 74 and Article 152ab (4)-(5).

Q6. Do you have comments on Section V on 'Supervisory Measures'?

Regarding Guideline 33d, early intervention measures in case of a risk of non-compliance with the Solvency Capital Requirement (SCR). The early intervention of the supervisor, before any critical thresholds have been reached or even objectively identified, appears excessive.

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