

## Insurance Europe response on EIOPA's Guidelines on exclusions from group supervision

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Referring to:	<a href="#">Consultation on Guidelines on exclusions from scope of group supervision - Solvency II Review - EIOPA</a>		
Related documents:	<a href="#">Consultation Paper</a>		
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### General comments

**Q1.** *Do you have general comments on the consultation document?*

These guidelines are intended to fulfil EIOPA's obligation as set out in Article 214(3) of the Solvency II Directive. While Insurance Europe recognises this objective, it is important to note that certain elements of the draft guidelines appear to introduce expectations that go beyond the current requirements set out in the Directive.

Given the wide variety of group structures in practice, it is important that National Supervisory Authorities (NSAs) retain sufficient flexibility to apply the rules in a proportionate and risk-based manner. In line with Directive 2025/02 (recital 81), this includes the ability to exclude ultimate parent undertakings from group supervision where clearly defined criteria are met and the supervisory objectives are not compromised.

### Consultation paper overview and next steps

**Q2.** *Do you have comments on Section 'Consultation paper overview and next steps'?*

### Introduction

**Q3.** *Do you have comments on Subsection 'Introduction'?*

### Guidelines

**Q4.** *Do you have comments on 'Guideline 1 - Circumstances under which undertakings should not be eligible for exclusion based on Article 214(2) where exclusion would lead to non-application of group supervision' and the corresponding explanatory text?*

**Q5.** Do you have comments on '**Guideline 2** - Additional circumstances to exclude undertakings based on Article 214(2)(a) where exclusion would lead to non-application of group supervision' and the corresponding explanatory text?

**Q6.** Do you have comments on '**Guideline 3** - Additional circumstances to exclude undertakings based on Article 214(2) point (b) or (c) where exclusion would lead to non-application of group supervision' and the corresponding explanatory text?

**Q7.** Do you have comments on '**Guideline 4** - Application of group supervision at the level of an intermediate participating undertaking when excluding the ultimate parent undertaking' and the corresponding explanatory text?

There is a fundamental flaw in Guideline 4. Specifically, it refers to Guideline 1 point (a), which states that if material intragroup transactions exist between the group and the ultimate parent, the exclusion of the ultimate parent undertaking would not be permitted. However, under EIOPA's QRT S.36.05, as well as QRT S.36.01, dividends as well as bonds and loans are classified as intragroup transactions. Since it is standard practice for an ultimate parent undertaking to collect dividends from its subsidiaries or to buy bonds and grant loans, this would, by definition, always result in the presence of material intragroup transactions. As a result, the exclusion mechanism envisaged by Guideline 4 would never be applicable in practice. Therefore, and in the interest of supervisory convergence, a clarification is needed to specify that certain financial transactions commonly applicable to third parties (such as dividends, loans or bonds) are not considered intragroup transactions for the purpose of this Guideline.

A potential solution would be the condition that material intragroup transactions between the ultimate parent undertaking and the group remain subject to supervision by the group supervisor, ie the exclusion from group supervision only applies to all other aspects. This aspect is of particular importance for ultimate parent undertakings that are legal entities whose scope of activities is strictly limited by the law of a Member State (cf. recital 81 of Directive 2025/02).

Furthermore, EIOPA's mandate under Article 214(3) is to issue guidelines on exclusions of ultimate parent undertakings – including but not limited to insurance holding companies. At the same time, it is important to clarify that where a parent entity does not qualify as a parent insurance or reinsurance undertaking, insurance holding company, or mixed financial holding company, and is therefore not included at group level, this does not constitute an exclusion under Article 214, but reflects the normal application of Articles 215 and 216.

**Q8.** Do you have comments on '**Guideline 5** - Reassessment of exclusions' and the corresponding explanatory text?

As noted above, it is important to distinguish between formal exclusions under Article 214(3) and situations where group supervision does not apply beyond a certain level in accordance with Articles 215 and 216. The first paragraph of Article 214(3) only requires an annual reassessment in cases where the exclusion leads to the inapplicability of group supervision.

EIOPA is encouraged to exercise caution when introducing expectations that may go beyond the requirements set out in the Directive. For instance, paragraph 1.27 refers to it as good practice for supervisors to extend reporting obligations beyond the requirements of the regulatory framework.

Furthermore, the reference to Article 35 of the Directive is not appropriate to systematically require reporting of intragroup transactions with excluded entities. This may result in an unintended extension of the application of Article 245 on intragroup transaction supervision to entities that fall outside the perimeter of group supervision.

### **Compliance and reporting rules**

**Q9.** *Do you have comments on Subsection 'Compliance and reporting rules'?*

### **Final provision on reviews**

**Q10.** *Do you have comments on Subsection 'Final provision on reviews'?*

### **Other comments**

**Q11.** *Do you have any other comments on Section '1. Guidelines'?*

### **Annex: Impact assessment**

**Q12.** *Do you have comments on the impact assessment in the Annex?*

### **Any other comments**

**Q13.** *Do you have any other comments?*