

ABIR COMMENTS FILED WITH EIOPA AUGUST 28 2014 EIOPA CONSULTATION ON SET 1 GUIDELINES FOR SOLVENCY II

<p align="center">PILLAR 1 Guideline 1 - Scope of the group for the group solvency calculation</p>	<p align="center">1.7</p>	<p>When the group is allowed to use the deduction and aggregation method for the purpose of calculating the group solvency and provided that the Member State has implemented the option set out in paragraph 1 of Article 227 of Solvency II, the local solvency capital requirements and eligible own funds as laid down by the equivalent third-country can be used. ABIR strongly supports the ability to use the equivalent third country local solvency capital requirements and eligible own funds.</p>
<p align="center">Guideline 1 - Scope of the group for the group solvency calculation</p>	<p align="center">1.9</p>	<p>We note this guideline and others will become effective April 2015. To that end, ABIR would expect that the determination of full equivalence by the European Commission will be made in advance of the implementation of the guidelines start date.</p>
<p align="center">Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country</p>	<p align="center">1.14</p>	<p>The guideline refers to “supervisory authorities of the ultimate parent undertaking in the European Union”. This wording is inconsistent with the criteria set out in Article 247 of the Solvency II Directive for determining which EU supervisor should act as the group supervisor under the Directive. In particular, where the ultimate parent undertaking in the EU is an insurance holding company, the reference to “supervisory authorities of the ultimate parent undertaking in the European Union” has no meaning and instead, the exemption from the group supervision at the ultimate level of the EU should be granted by the EU supervisor which would be responsible for such group supervision on the basis of the criteria set out in Article 247 of the Directive.</p>
<p align="center">Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country</p>	<p align="center">1.16</p>	<p>ABIR notes that the proposed guidelines state that the waiver from the group supervision at the level of the ultimate parent undertaking in the EU should be granted “when at least the following criteria are met <...>”. This wording suggests that the three criteria for granting the waiver is the minimum. In this regard, ABIR is concerned that by qualifying the three proposed criteria as "at least", i.e. at a minimum, then this raises the potential for different EU supervisors to impose additional criteria to verify whether waiving the group supervision at the level of the ultimate parent undertaking in the EU results in a more efficient supervision of the group and, thus, to exempt the third-country group from such supervision. The current wording of the guideline therefore does not ensure legal certainty which can only be achieved if the guidelines set out an exhaustive list of clearly-drafted criteria for obtaining the exemption/waiver from the group supervision at the ultimate level of the EU. In the absence of clearly defined criteria, groups headquartered in equivalent third country jurisdictions run the risk of having inconsistent approaches to group supervision which was not the intention for the granting of and recognition of equivalence.</p>

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<p>Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country</p>	<p>1.16</p>	<p>As regards the clarity of the three criteria proposed in the guidelines, the third criterion states that, based on the exchange of information between the authorities, the EU supervisors and EIOPA “should have an adequate view of the worldwide risks of the group to enable the EEA supervisory authorities to form an opinion on the possible consequences for the EEA supervised entities, including in terms of capital allocation”. The wording of this criterion should be amended to clarify that the EU supervisors do not have to receive all information on the group that the latter provides to the third-country group supervisor to have adequate view of the worldwide risks. ABIR understands that the scope of the information to be provided will be determined in the process of “structured and appropriate information exchange”.</p>
<p>Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country</p>	<p>1.16</p>	<p>The current wording of the guideline suggests that the application of the three criteria for granting the waiver is a unilateral process undertaken by the relevant EU supervisor. The guidelines should expressly provide that the assessment of whether the criteria for granting the waiver are met is carried out in close consultation with the third-country group supervisor and discussed within the college of supervisors chaired by the third-country supervisory authority.</p>
<p>Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country</p>	<p>1.17</p>	<p>The guidelines do not provide any mechanism for resolving potential disputes between the relevant EU supervisor and the third-country group supervisor. For instance, it is not clear what options are available where the EU supervisor and the third-country group supervisor disagree as to whether the cooperation between the relevant supervisory authorities is structured and well-managed (the first criterion). In case of a comparable disagreement between the EU supervisor at solo level and the EU group supervisor, the solo EU supervisor which is dissatisfied with the cooperation within the college of supervisors can refer the matter to EIOPA pursuant to the third subparagraph of Article 248(2) of Solvency II. In contrast, the current guidelines seem to suggest that any EU supervisor dissatisfied with the cooperation arrangements established by the third-country group supervisor would have the right to simply resort to the application of group supervision at the level of the ultimate parent undertaking in the EU. Does EIOPA intend to issue guidelines to EU supervisors for dispute resolution between EU supervisors and the third-country group supervisors of equivalent jurisdictions?</p>

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<u>GOVERNANCE</u> <u>Introduction</u>	general	To accommodate the differences between one tier and two tier AMBS the introduction should allow for express delegation within the organization in the case of a single board AMBS
Introduction	1.13	Concern re: discrepancy of supervisory authorities to decide on whether to keep "responsible/appointed actuary" - may lead to unlevel playing field.
Introduction	1.14	The second sentence creates ambiguity as to what is a key function. The wording of the directive referred to four key functions of risk management, compliance, actuarial and internal audit. Can EIOPA please clarify.
Introduction	1.19	Delete "responsible entity"- not defined by Directive/omnibus. Does EIOPA set out precisely what the sanctions are against a responsible entity and what is the basis of jurisdictional authority over the responsible entity? This is superfluous to the directive.
Introduction	1.4	Delete following sentence: "Furthermore , persons are considered to be persons having key functions if they perform functions of specific importance for the undertaking in view of its business and organization". This goes beyond the legislative definition of key functions.
Guideline 5 - Allocation and segregation of duties and responsibilities	1.3	1.30: What is meant by "the mechanisms of coordination of the functions"? This seems on duty prescriptive and simply adds ambiguity rather than anything substantive.
Guideline 5 - Allocation and segregation of duties and responsibilities	2.2	Unclear as to what para 1.30 requires of the group.
Guideline 7 - Policies	2.24	Too prescriptive. Delegation to an appropriate committee should be allowed.
Guideline 9 - Scope of the remuneration policy	2.32	Delete '....collective bargaining arrangements, statutorily determined amounts of redundancy payments and other...'. As national legislation follows the removal will prevent confusion in counties with different arrangements.
Guideline 11 - Fit requirements	2.41	Delete this guideline as it is already covered by guideline 15. Concern about extension of requirements.

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Guideline 12 - Proper requirements	1.43	Concern about extension of requirements. The undertaking should consider in assessing whether a person is proper any conviction for a criminal offence or finding, judgment or order made against that person in accordance with national law and satisfy itself that the person is 'proper' and is not impaired in their ability to perform the relevant function by such conviction or finding
Guideline 13 - Fit and proper policies and procedures	1.44	Reference to GL 13,14, and 15; on circumstances in which a notification is required; expressly communicated that a notification is not a pre-approval. - List of info needed is too extensive and burdensome. - Need clarification
Guideline 15 - Notification	2.67	Re: Technical Annex overreach- For instance having to submit an extract from someone's criminal record.
Guideline 22 - Control and documentation of risk-mitigation techniques	1.58	The new paragraph b) seems unnecessary. It is a requirement to document that we have met a documentation standard that we would have to meet to get model approval. That seems excessive.
Guideline 30 - Security of the investment portfolios	2.146	Instead of: tangibility, sustainability, rarity, demand and localization are not standard investment characteristics and you would not, for example, find these described in a security master file of an investment data warehouse. Characteristics prefer objective descriptions such as the yield to maturity, first call date, coupon rate, maturity date, issuer name, market value, etc.
Guideline 31 - Profitability	2.154	Modern investment theory recommends a focus on total return, of which one component is yield and capital appreciation (or loss) is the other component. From an economic perspective, investors are indifferent in whether the total return comes from income or capital appreciation. However, from an accounting perspective, the focus on the income component is more understandable and it seems to relate more to Life companies than P&C companies. Most P&C insurers focus on a combination of the total return and yield, not exclusively the yield. The relationship to Life companies is clear in section 1.70 when they discuss interest rate guarantees as well as on (2.154) on investments with low or no yields.
Guideline 32 - Availability	1.71	This term "localization" should be further explained in the explanatory text.
Guideline 40 - Distributions	1.83	The legal basis as well as the necessity of this guideline is not evident

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Guideline 44 - Conflicts of interest within the internal audit function	1.89	Propose delete. Too prescriptive and goes beyond principles based regulation and the directive.
Guideline 61 - Oversight by the AMSB	2.264	It should be clear in the GL that evaluations are internal and it is not expected that external evaluation will be carried out.
Guideline 62 - Request to the undertaking by the supervisory authority for an external independent valuation or verification	1.115	This guideline should be deleted. In the explanatory text in paragraph 2.265 the Delegated Acts already gives the NCA the right to requesting external independent valuation or verification of the value of material assets and liabilities.