Final - Public consultation on the proposal for shortening EIOPA Guidelines under Solvency II

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Contact person:	Prudential team	E-mail:	prudential@insuranceeurope.eu
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General comments

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

- The industry welcomes the opportunity to comment on this consultation paper.
- Industry supports EIOPA's efforts to simplify and streamline L3 guidance, in line with the broader EU simplification and competitiveness agenda and as highlighted in the EC's Competitiveness Compass, where competitiveness is linked to regulatory simplification and burden reduction. To deliver on this ambition, the shortening of guidelines should translate into genuine simplification and practical burden reduction for undertakings, while also improving clarity, consistency and usability and avoiding any increase in interpretative uncertainty or supervisory divergence.
- In this context, it is useful to distinguish between the removal of duplication and the deletion of guidance that provides useful explanation or context. The industry understands the rationale for removing guidelines that duplicate provisions already included in the revised Directive or Delegated Regulation (Type 1 deletions). However, where the underlying requirements remain in force at L1 or L2, deleting the corresponding guideline will not in itself reduce the regulatory burden for undertakings. If supervisory expectations, evidence requirements and compliance processes remain unchanged, the practical effect will be limited to formal streamlining and the elimination of duplication across regulatory levels, rather than meaningful burden reduction or practical relief for undertakings.
- The industry sees a need for particular care where guidance is deleted on the basis that the underlying processes are considered "well-known" (Type 2 deletions). In some cases, such guidance continues to provide practical value, particularly for smaller and less complex undertakings, new market participants, or areas where interpretation is complex. Removing explanatory or contextual elements may make the framework less accessible and could shift the interpretative burden from regulation and supervision to undertakings. This could increase compliance costs, reduce legal certainty and make consistent

Insurance Europe aisbl
Rue du Champ de Mars 23, B-1050 Brussels
Tel: +32 2 894 30 00
E-mail : info@insuranceeurope.eu
www.insuranceeurope.eu

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application across Member States more challenging. It may also require undertakings to revisit or write off previous investments in regulatory compliance and adaptation to the existing framework.

- This is particularly relevant for highly technical or interpretation-dependent areas, such as internal models, loss-absorbing capacity, the look-through approach and long-term guarantee measures. For example, the treatment of LAC TP and LAC DT remains one of the more interpretation-intensive areas of the Solvency II framework. In such areas, simplification should not lead to divergent interpretations, reduced consistency of application or increased supervisory uncertainty. Detailed, precise guidelines can provide a structured, predictable framework for long-term planning; quick simplifications, linear cuts or outright shortening may create gaps, affect operational practices and reduce operational certainty.
- The industry therefore considers that simplification of the guidelines should remain a technical, case-by-case exercise. A quantitative reduction target should not be applied mechanically. Guidance should not be removed merely to meet an objective of shortening the guidelines, especially where undertakings and supervisors rely on that guidance in practice. Where possible, simplification should focus on removing duplication, consolidating guidance, aligning terminology and improving usability, rather than deleting content that continues to provide necessary clarity. In this context, the success of simplification should be assessed primarily by its practical impact on administrative burden, clarity and usability, rather than only by counting the number of guidelines reduced or deleted.
- EIOPA should also assess whether the proposed changes generate real net benefits for undertakings. Shortening the guidelines may entail transition costs, including the need to review internal policies, procedures, documentation and supervisory engagement practices.
- The industry therefore suggests that EIOPA's assessment of the proposed shortening should be guided by the following considerations:
    1. whether the original objective of the relevant guideline remains preserved;
    2. whether the change removes genuine process frictions, duplication or inconsistencies;
    3. whether the expected reduction in burden outweighs any transition costs or increase in interpretative uncertainty; and
    4. whether the revised framework remains sufficiently clear and enforceable to support consistent supervision and robust monitoring.
- Finally, EIOPA should provide a clear mapping between the existing and revised guidelines, explaining which guidelines have been deleted, amended or consolidated, and why. This would support smooth implementation, reduce uncertainty and help undertakings and supervisors understand the practical implications of the proposed changes.

Guidelines on application of outwards reinsurance

Q5. *Do you have any other comment on the guidelines?*

- Yes
- Editorial note: Bullet point 9 in the introductory section does not have any text.

Guidelines on look-through approach

Q12. *Do you have comments on the amended and/or deleted guidelines?*

- Yes, on Guideline 2 – Number of iterations:
- To avoid losing clarity, Guideline 2 should **not** be deleted. Incidentally, the explanatory text on the new Guideline 10 in the recently published final report on the treatment of market and counterparty risk

exposures in the standard formula also refers to Guideline 2 on the look-through approach. So, it doesn't seem to provide only limited added value.

Guidelines on loss-absorbing capacity of technical provisions and deferred taxes

Q14. *Do you have comments on the amended and/or deleted guidelines?*

- Yes, on the following guidelines:
- Guideline 1 – Calculation of the Basic Solvency Capital Requirement:
  - Given that art. 83 (1) (c) of Delegated Regulation (EU) 2015/35 stays unchanged, Guideline 1 should **not** be deleted. As the legal consequence of Art. 83 (1) (c) not to rediscount future discretionary benefits (FDB) in the interest rate stress scenarios is not the most intuitive choice (and not necessarily appropriate), to avoid losing clarity about this legal requirement, Guideline 1 should not be deleted.
- Guideline 10 – Temporary nature:
  - While EIOPA considers that Guideline 10 may be redundant in light of Article 207(2a) of the Delegated Regulation, the industry suggests that **both provisions may instead be seen as complementary**. In particular, the Guideline provides additional clarification by referring to the broader possibility of offsetting against past, current or future tax liabilities, in line with the applicable tax regime, whereas the Delegated Regulation focuses on a more forward-looking approach. In this regard, maintaining the Guideline could continue to offer useful interpretative guidance and support a consistent application across jurisdictions. Therefore, Guideline 10 should **not** be deleted.
- Guideline 13 – Relief where demonstration of eligibility is burdensome:
  - To avoid losing clarity, Guideline 13 should not be deleted. To have clarity about this possible relief reduces the administrative burden much more than the deletion of this guideline. Allowing undertakings to disregard notional deferred tax assets in the calculation of the adjustment for loss-absorbing capacity where it would be too burdensome for them to demonstrate their eligibility has much merit and should be preserved.

Guidelines on the implementation of long-term guarantee measurers

Q16. *Do you have comments on the amended and/or deleted guidelines?*

- Yes, a general comment:
- While the objective of streamlining the Guidelines is understood, it is worth noting that the transitional measures on the risk-free interest rates and on the technical provisions remain applicable until YE2031. Their removal at this stage could potentially lead to misinterpretations regarding their continued applicability. In this respect, it may be more appropriate to consider their removal **closer to the end of the transitional period**.

Guidelines on classification of own funds

Q21. *Do you have any other comment on the guidelines?*

- Yes, some editorial notes:
- In the introduction, margin number 23 should also be updated to "the following definition**s have** been developed".
- The explanatory text for the deletion of Guideline 2 should refer to the Solvency II Delegated Regulation, i.e. Delegated Regulation 2015/35 instead of Delegated Regulation 2015/3.

Guidelines on own risk and solvency assessment

Q26. *Do you have any other comment on the guidelines?*

- Yes
- Simplification should preserve clarity regarding the integration of the ORSA into strategic decision-making and risk management processes and support consistent supervisory practices. It should also help ensure that the ORSA remains a proportionate and forward-looking risk management tool, with an appropriate focus on substance and risk management value.

Guidelines on system of governance

Q28. *Do you have any other comment on the guidelines?*

- Yes
- The explanatory notes to the Guidelines on the System of Governance are also partially outdated. For example, No. 2.291(e) and (f), which list (ICT-)examples of an important function. Considering DORA, the examples cited are outdated and should be revised.

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