

CONSULTATION PAPER

on the proposal for revised Guidelines on the methods for determining the market shares for reporting

EIOPA-BoS-24-594
3 February 2025

TABLE OF CONTENTS

Responding to this paper	3
Consultation paper overview and next steps	4
Guidelines on methods for determining the market shares for reporting	6
1. Introduction	6
2. Guidelines	6
3. Compliance and reporting rules	8
4. Final provision on review	8
Explanatory text	9
Questions to stakeholders	14

RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper on the revised Guidelines on methods for determining the market shares for reporting [xxxx].

Comments are most helpful if they:

- ▶ respond to the question stated, where applicable;
- ▶ contain a clear rationale; and
- ▶ describe any alternatives EIOPA should consider.

Please send your comments to EIOPA via EU Survey ([link](#)) by 28 April 2025, 23:59 CET.

Contributions not provided via EU Survey or submitted after the deadline will not be processed. In case you have any questions please contact SolvencyIIreview@eiopa.europa.eu.

Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third-party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.¹

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all non-confidential information in your contribution, in whole/in part – as indicated in your responses, including to the publication of the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material.

¹ [Public Access to Documents](#)

CONSULTATION PAPER OVERVIEW AND NEXT STEPS

EIOPA carries out public consultations before issuing and amending its guidelines and recommendations in accordance with Article 16(2) of Regulation (EU) No 1094/2010.

In the context of the review of Directive 2009/138/EC (Solvency II Directive), EIOPA reviews all existing guidelines which are based on that Directive. In view of the large number of these guidelines, the review will be sequential. The main objective of the review is to ensure that the guidelines are up to date and in line with the legal framework as amended by the Solvency II review. Another objective of the review is to simplify and shorten the guidelines, in particular where the guidelines are relevant for insurance and reinsurance undertakings. The corpus of the guidelines has grown over the years, while the Solvency II review mandates EIOPA to issue additional guidelines. EIOPA believes that the *corpus* of guidelines should be limited to what is strictly necessary to ensure a sound and consistent application of Solvency II.

This consultation paper presents the draft revised Guidelines on methods for determining the market shares for the purpose of limiting supervisory reporting according to the Article 35(11) of the current Solvency II Directive.

Based on the practical application of the Guidelines since 1 of January 2016, some targeted improvements have been identified with the aim of better clarifying the process and both supervisory authorities' and undertakings' role, promoting the use of the option of the limitation/exemption from reporting².

The mandate for the Guidelines in Article 35a(6)³ of the Solvency II Directive was amended to cover also the process to be used by the supervisory authorities to inform the insurance and reinsurance undertakings about any limitation or exemption from supervisory reporting to achieve a level playing field. To reflect this, the following changes are introduced:

- Former Guideline 9 on the involvement of the group supervisor during assessment and former Guideline 5 on the treatment of both life and non-life business has been merged and elaborated upon to cover the period of assessment by the supervisor and the treatment of captives. Together they form a new Guideline 3 – Assessment process.
- Former Guideline 7 on the information to the undertakings has been further detailed on the timeline to inform the undertakings and a specification in the introduction has been added

² According to the latest statistics published by EIOPA, the exemptions/limitations from reporting is mainly used for quarterly templates by only a few supervisory authorities.

³ With the review of Directive, the article referring to the mandate has been changed from article 35(11) to article 35a(6).

concerning information to the undertaking. This Guideline is renamed to Guideline 4 - Information to undertakings.

- Guideline 8 on the Information to undertakings that are part of a group has been deleted as the relevant articles do no longer specify a separate process for undertakings of a group regarding the demonstration to the satisfaction of the supervisory authority that reporting would be inappropriate.

Furthermore, in order to simplify the Guidelines, their order of the guidelines has been revised and they have been merged per topic.

- Former Guideline 1, Guideline 4 and Guideline 6 have been bundled in a new Guideline 1 – Information to be used to determine the markets.
- Former Guideline 2 and Guideline 3 have been bundled in a new Guideline 2 – Calculation of life and non-life market.

The revisions are not expected to have a material impact on the insurance industry or supervisory authorities. The low costs expected for the formalisation of the process are expected to be outweighed by the benefits to undertakings, including their timely notification, and a better level playing field. Accordingly, this consultation paper does not include an impact assessment of the proposed changes.

Next steps

EIOPA will revise the proposal in view of the stakeholder comments received. EIOPA will publish a report on the consultation including the revised proposal and the resolution of stakeholder comments.

GUIDELINES ON METHODS FOR DETERMINING THE MARKET SHARES FOR REPORTING

1. INTRODUCTION

1. In accordance with Article 16 of Regulation (EU) No 1094/2010⁴ and [Article 35a(6)] of Directive 2009/138/EC (Solvency II Directive)⁵, EIOPA issues revised Guidelines on methods for determining the market shares for reporting. The purpose of these Guidelines is to specify the methods to be used when determining the market shares referred to in Article 35a(1) and (2) of the Solvency II Directive (as amended by the Solvency II review) and the process to be used by the supervisory authorities to inform the insurance and reinsurance undertakings about any limitation or exemption to quantitative regular supervisory reporting granted by supervisory authorities.
2. To calculate the market share, relevance is given to the type of business, i.e. life and non-life business, rather than to the authorisation granted to undertakings, i.e. life insurance authorisation or non-life insurance authorisation.
3. It should be noted that the initiative of granting of a limitation or exemption may lie with the supervisory authority, however undertakings also could request a limitation or exemption from their supervisory authority. These requests should be duly considered.
4. These Guidelines are addressed to the supervisory authorities under the Solvency II Directive.
5. These Guidelines apply from xxx. and repeal and replace the Guidelines on methods for determining the market shares for reporting (EIOPA-BoS-15-106).
6. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.

2. GUIDELINES

Guideline 1 - Information to be used to determine the markets

7. Supervisory authorities should:

⁴ 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).

⁵ 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).

- (a) ensure that the market share includes the business (regardless of the type of undertaking) underwritten by all insurance and reinsurance undertakings but does not include the business of undertakings that following Article 4 are excluded from the scope of the Solvency II Directive due to their size;
- (b) ensure where an undertaking has a different financial than calendar year, the latest annual information is considered;
- (c) consider the information reported in the annual quantitative reporting templates S.05.01 and S.12.01 as defined in the Implementing Technical Standards on Supervisory Reporting.

Guideline 2 - Calculation of life and non-life market

- 8. Supervisory authorities should ensure that the size of both the life and non-life markets are determined annually by:
 - (a) aggregating for the life insurance and reinsurance market, the gross technical provisions for the life insurance and reinsurance business, including index-linked and unit-linked insurance of the relevant insurance and reinsurance undertakings identified in Guideline 1;
 - (b) aggregating for the non-life insurance and reinsurance market, the gross written premiums of the non-life insurance and reinsurance business of the relevant insurance and reinsurance undertakings identified in Guideline 1.

Guideline 3 - Assessment process

- 9. Based on the criteria and limits set out in [Article 35a] of the Solvency II Directive, supervisory authorities should:
 - (a) consider the request of undertakings to be included in or excluded from the assessment to determine which undertakings are granted a limitation or exemption;
 - (b) consult the group supervisor and consider its opinion in relation to undertakings which are part of a group;
 - (c) based on the relevant undertakings, collectively assess which insurance and reinsurance undertakings should be granted a limitation or exception;
 - (d) consider in the contribution to the 20% threshold also business from captives that fall under the exception provided for in [Article 35a(3)] of the Solvency II Directive;
 - (e) in case an undertaking pursues both non-life and the life business, only grant a limitation or exemption in case the inclusion of their non-life and life business in the respective market shares does not result in exceeding the threshold.

Guideline 4 - Information to undertakings

- 10. Supervisory authorities should:
 - (a) inform in writing undertakings that they have been granted to use a limitation or exemptions at latest three months ahead of the relevant reporting year-end. This

notice will remain valid until further notice to the contrary from the Supervisory authority;

- (b) inform already exempted undertakings, at latest three months ahead of the relevant reporting year-end, that they can no longer use a limitation or exemption and they are required to report starting from the following reporting year. This might also be due to changes in the annually recalculated market shares even if the size of their business remains unchanged.

3. COMPLIANCE AND REPORTING RULES

- 11. This document contains guidelines issued under Article 16 of Regulation (EU) No 1094/2010. In accordance with Article 16(3) of that Regulation, competent authorities and financial institutions are required to make every effort to comply with guidelines and recommendations.
- 12. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 13. Competent authorities are to 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. Considering the changes affecting the entirety of Guidelines, competent authorities are requested to apply the 'comply or explain' process to all guidelines included in this document.
- 14. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

4. FINAL PROVISION ON REVIEW

- 15. These Guidelines will be subject to a review by EIOPA.

EXPLANATORY TEXT

AMENDED: Introduction

In accordance with Article 16 of Regulation (EU) No 1094/2010⁶ and [Article 35a(6)] of Directive 2009/138/EC (Solvency II Directive), EIOPA issues revised Guidelines on methods for determining the market shares for reporting. The purpose of these Guidelines is to specify the methods to be used when determining the market shares referred to in **Article 35a(1) and (2) 35(6) and (7) and Article 254** of the Solvency II Directive **(as amended by the Solvency II review) and the process to be used by the supervisory authorities to inform the insurance and reinsurance undertakings about any limitation or exemption to quantitative regular supervisory reporting granted by supervisory authorities.**

~~These Guidelines define the market shares corresponding to 100% of the markets that each national competent authority supervises under Solvency II Directive.~~

To calculate the market share, relevance is given to the type of business, i.e. life and non-life business, rather than to the authorization granted to undertakings, i.e. life insurance authorisation or non-life insurance authorisation.

~~The specific situation of composite undertakings and of the reinsurance market was considered due to the potential complexity of the risk profile. EIOPA considers that this should be addressed when considering the criteria defined in Article 35(8) of Solvency II Directive.~~

~~In Member States where there is a high volume of reinsurance business, the inclusion of such business in the market share may lead to different exemptions than if considering four different market shares, two for direct business (life and non-life) and two for reinsurance (life and non-life). However, as national competent authorities shall apply Article 35(8) of Solvency II Directive, it is more likely to find more situations of companies that would have to report due to the distortion of the inclusion of the reinsurance business in the market shares.~~

~~The business undertaken by insurance and reinsurance undertakings through their branches (EEA and non-EEA) and under freedom to provide services should be considered in the relevant market shares of the country where the undertaking is located.~~

~~Exempted insurance and reinsurance undertakings should be aware that they might need to report in the future due to changes in the annually recalculated market shares even if the size of their business remains unchanged.~~

It should be noted that the initiative of granting of a limitation or exemption may lay with the supervisory authority, however undertakings also could request a limitation or exemption from their supervisory authority. These requests should be duly considered.

These Guidelines are addressed to the supervisory authorities under the Solvency II Directive.

⁶ 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)

These Guidelines apply from xxx. and repeal and replace the Guidelines on methods for determining the market shares for reporting (EIOPA-BoS-15-106).

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

Explanatory text:

- The amendment aims at streamlining and improving the readability of the text by reducing the text that are evident from the guidelines. The paragraph on exempted undertakings is moved to the guidelines.

Bundled: Guideline 1, Guideline 4, Guideline 6 to: Guideline 1 Information to be used to determine the markets

~~Guideline 1 – Scope of market~~

~~National supervisory authorities~~ **Supervisory authorities** should:

- ~~a) ensure that the market share includes the business (regardless of the type of undertaking) underwritten by all insurance and reinsurance undertakings which are established according to Article 2 of Solvency II Directive; b) but does not include the business underwritten by insurance and reinsurance undertakings of undertakings that following that meet the criteria laid down in Article 4 are excluded from the scope of the~~ **ef Solvency II Directive due to their size;**

~~Guideline 4 – Inclusion of the business of insurance and reinsurance undertakings with a different financial year than the calendar year end in the market~~

- ~~National competent authorities should~~ ensure where an insurance or reinsurance undertaking has a different financial than calendar year, the latest annual information available is considered in the calculation of the non-life or life market.

~~Guideline 6 – Information to be used to determine the market~~

- ~~National competent authorities should consider the latest annual information available from the solvency regime previously in place to the maximum extent possible to apply Guidelines 1 to 5 regarding the first and second year of Solvency II Directive’s application.~~
- ~~National competent authorities should~~ consider the information reported in the annual quantitative reporting templates S.05.01 and S.12.01 as defined under the Implementing Technical Standard on Supervisory Reporting⁷ of the third and following years after the application of Solvency II Directive.

Explanatory text:

- The amendment aims at streamlining and improving the readability of the text by bundling relevant provisions. Repetition has been deleted and the reference to the first years of the S2 Directive application.

Bundled and amended Guideline 2 and guideline 3 and added reference to the reinsurance market to: Guideline 2 Calculation of life and non-life market

~~Guideline 2 — Calculation of the Life Market~~

~~National competent authorities~~ **Supervisory authorities** should ensure that the **size of both the life insurance and reinsurance and non-life** markets is **are** determined annually ~~by aggregating the amount of by:~~

(a) aggregating for the life insurance and reinsurance market, the gross technical provisions ~~of the life business~~ **for the life insurance and reinsurance business**, including ~~technical provisions for~~ index-linked and unit-linked insurance of the relevant insurance and reinsurance undertakings identified in Guideline 1;

~~Guideline 3 — Calculation of the Non-Life Market~~

~~National competent authorities~~ should ensure that the ~~non-life insurance and reinsurance market is determined annually by aggregating the amount of~~

(b) aggregating for the non-life insurance and reinsurance market, the gross written premiums ~~of the non-life business~~ **of the non-life insurance and reinsurance business** of the relevant insurance and reinsurance undertakings identified in Guideline 1.

Explanatory text:

- The amendment aims at streamlining and improving the readability of the text by bundling relevant provisions.

Supplemented and bundled Guideline 9 and guideline 5 to: Guideline 3 Assessment process

Based on the criteria and limits set out in [Article 35a] of the Solvency II Directive, supervisory authorities should:

- **consider the request of undertakings to be included in or excluded from the assessment to determine which undertakings are granted a limitation or exemption;**

~~Guideline 9 — Consultation with the group supervisor~~

- ~~When assessing the request for exemption of insurance or reinsurance undertakings that are part of a group, national competent authorities should take into account the opinion of~~ **consult** the group supervisor **and consider its opinion in relation to undertakings which are part of a group;**
- **based on the relevant undertakings, collectively assess which insurance and reinsurance undertakings should be granted a limitation or exception;**
- **consider in the contribution to the 20% threshold also business from captives that fall under the exception provided for in [Article 35a(3)] of the Solvency II Directive;**

~~Guideline 5 – Treatment of insurance and reinsurance undertakings that pursue both life and non-life insurance obligation~~

- ~~National competent authorities should ensure that an insurance or reinsurance undertaking in case an undertaking which has business in both the non-life and the life market pursues both non-life and the life business, are not exempted if its business is above the 20% threshold in one of the market shares~~ **only grant a limitation or exemption in case the inclusion of their non-life and life business in the respective market shares does not result in exceeding the threshold.**

Explanatory text:

- The amendment aims at streamlining and improving the readability of the text by bundling relevant provisions. Reference is also made to possible request of undertakings and the collective assessment of all eligible undertakings.

Amended Guideline 7 and added paragraph 1.7 8 from the introduction to: Guideline 4 - Information to undertakings

~~Guideline 7 – Information to undertakings~~

Supervisory authorities should:

- ~~National competent authorities should inform~~ **in writing undertakings that they have been granted to use a limitation or exemptions within a reasonable timeframe at latest three months ahead of the relevant reporting year-end.** ~~insurance or reinsurance undertakings that they an exemption from quarterly reporting or annually item by item reporting~~ **This notice will remain valid until further notice to the contrary from the Supervisory authority.**
- **inform already exempted undertakings, at latest three months ahead of the relevant reporting year-end, that they can no longer use a limitation or exemption and they are required to report starting from the following reporting year. This might also be due to changes in the annually recalculated market shares even if the size of their business remains unchanged.**

Explanatory text:

- The amendment aims at streamlining and improving the readability of the text by bundling relevant provisions. A timeline of at least three months has been added to allow for sufficient time for the undertaking to implement the decision ahead of the reporting period. Ensuring awareness of the potential revocation of the exemption or limitation has been moved from the introduction text to the guideline.

Deleted Guideline 8 – Information to undertakings that are part of a group

- ~~National competent authorities should inform the insurance or reinsurance undertakings that are part of a group of the process, including the timeframe, to demonstrate to the satisfaction of the supervisory authority that quarterly reporting or reporting on an item-by-item basis is inappropriate, given the nature, scale and complexity of the risks inherent to the business of the group and taking into account the objective of financial stability~~

Explanatory text:

- The deletion aims to reflect the reviewed text of Solvency 2 were the additional requirement to demonstrate to the satisfaction of the supervisory authority that reporting would be inappropriate for entities that are part of a group has been deleted.

QUESTIONS TO STAKEHOLDERS

In the public consultation stakeholders will be asked for comments on all parts of the consultation paper and in addition to respond to the following specific question.

Do you have any comments on the proposals to simplify and shorten the Guidelines and/or any other suggestions for simplifying and shortening the Guidelines, taking into account the relevance of the individual Guidelines?

Privacy statement related to Public (online) Consultations

Introduction

1. EIOPA, as a European Authority, is committed to protect individuals with regard to the processing of their personal data in accordance with Regulation (EU) No 2018/1725 (further referred as the Regulation).⁸

Controller of the data processing

2. The controller responsible for processing your data is EIOPA's Executive Director.
Address and email address of the controller:
3. Westhafenplatz 1, 60327 Frankfurt am Main, Germany
fausto.parente@eiopa.europa.eu

Contact details of EIOPA's Data Protection Officer

4. Westhafenplatz 1, 60327 Frankfurt am Main, Germany
dpo@eiopa.europa.eu

Purpose of processing your personal data

5. The purpose of processing personal data is to manage public consultations EIOPA launches and facilitate further communication with participating stakeholders (in particular when clarifications are needed on the information supplied).
6. Your data will not be used for any purposes other than the performance of the activities specified above. Otherwise, you will be informed accordingly.

Legal basis of the processing and/or contractual or other obligation imposing it

7. EIOPA Regulation, and more precisely Article 10, 15 and 16 thereof.
8. EIOPA's Public Statement on Public Consultations.

Personal data collected

⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

9. The personal data processed might include:

- Personal details (e.g. name, email address, phone number);
- Employment details.

Recipients of your personal data

10. The personal data collected are disclosed to designated EIOPA staff members.

Transfer of personal data to a third country or international organisation

11. No personal data will be transferred to a third country or international organization.

Retention period

12. Personal data collected are kept until the finalisation of the project the public consultation relates to.

Profiling

13. No decision is taken in the context of this processing operation solely on the basis of automated means.

Your rights

14. You have the right to access your personal data, receive a copy of them in a structured and machine-readable format or have them directly transmitted to another controller, as well as request their rectification or update in case they are not accurate.

15. You have the right to request the erasure of your personal data, as well as object to or obtain the restriction of their processing.

16. For the protection of your privacy and security, every reasonable step shall be taken to ensure that your identity is verified before granting access, or rectification, or deletion.

17. Should you wish to access/rectify/delete your personal data, or receive a copy of them/have it transmitted to another controller, or object to/restrict their processing, please contact [legal@eiopa.europa.eu]

18. Any complaint concerning the processing of your personal data can be addressed to EIOPA's Data Protection Officer (DPO@eiopa.europa.eu). Alternatively, you can also have at any time recourse to the **European Data Protection Supervisor (www.edps.europa.eu)**.