

CONSULTATION  
PAPER

## CONSULTATION PAPER

on the proposal for Guidelines on exclusion of  
undertakings from the scope of group  
supervision

EIOPA-BoS-25/079  
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eiopa

European Insurance and  
Occupational Pensions Authority

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# RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper on the proposal for Guidelines on the exclusion of one or more undertakings from the scope of group supervision.

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 provide your comments to EIOPA via EUSurvey ([link](#)) by 26 June 2025 23:59 CET.

Contributions not provided via EUSurvey or after the deadline will not be processed. In case you have any questions please contact [Solvencyllreview@eiopa.europa.eu](mailto:Solvencyllreview@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.<sup>1</sup>

## 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Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published.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.

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<sup>1</sup> [Public Access to Documents](#)

# CONSULTATION PAPER OVERVIEW AND NEXT STEPS

EIOPA carries out consultations in the case of Guidelines and Recommendations in accordance with Article 16 (2) of the EIOPA Regulation.

These Guidelines are developed in the context of the review of Directive 2009/138/EC.<sup>2</sup> The amended Article 214(3) requires the group supervisor to consult with EIOPA and the other supervisory authorities concerned before deciding to exclude one or more undertakings from the scope of group supervision where that would not trigger the application of group supervision under Article 213(2)(a) to (c) of Directive 2009/138/EC. These decisions can be taken in exceptional circumstances and shall then be justified to EIOPA and reassessed at least annually. This also applies for the exclusion of the ultimate parent undertaking from group supervision. The Guidelines are based on the mandate for EIOPA to further specify the exceptional circumstances where it may be justified to exclude one or more undertakings from the scope of group supervision that would not trigger group supervision or to exclude the ultimate parent undertaking.

This consultation paper presents draft Guidelines and explanatory text. The analysis of the expected impact from the proposed policy is set out in the Annex (Impact Assessment).

## 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.

The Guidelines will be applicable when the amended Directive 2009/138/EC enters into application.

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<sup>2</sup> Directive (EU) 2025/2 of the European Parliament and of the Council of 27 November 2024 amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macro-prudential tools, sustainability risks and group and cross-border supervision, and amending Directives 2002/87/EC and 2013/34/EU, OJ L, 2025/2, 8.1.2025

# 1. GUIDELINES

## INTRODUCTION

- 1.1. In accordance with Article 16 of 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 (EIOPA Regulation)<sup>3</sup> and with Article 214(3) of Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II Directive)<sup>4</sup>, EIOPA issues these Guidelines to further specify the exceptional circumstances where the exclusion of one or more undertakings from the scope of group supervision in accordance with Article 214(2) would result in a case that would not trigger the application of group supervision under Article 213(2), points (a), (b), and (c) of the Solvency II Directive and the cases where it may be justified to exclude the ultimate parent undertaking, including insurance holding companies, from the scope of group supervision. These Guidelines are addressed to supervisory authorities as defined in the Solvency II Directive.
- 1.2. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.
- 1.3. The Guidelines shall apply from 30 January 2027.

### **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**

- 1.4. The group supervisor should not exclude an undertaking from the scope of group supervision where it leads to non-application of group supervision under Article 213(2), points (a) to (c) of the Solvency II Directive in any of the following circumstances:
  - a) there are material intra-group transactions, including the provision of ancillary services, between the undertaking or its related undertakings and any insurance or reinsurance undertakings in the group;
  - b) the undertaking coordinates financial or investment decisions or exercises significant influence over the operations or processes of any other insurance or reinsurance undertakings in the group;
  - c) the application of Articles 229 or 229a of the Solvency II Directive to the undertaking would allow a better understanding of the risks that could possibly affect the other insurance or reinsurance undertakings in the group instead of non-application of group supervision.

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<sup>3</sup> 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 Pension Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48)

<sup>4</sup> 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)

## **Guideline 2 – Additional circumstances to exclude undertakings based on Article 214(2)(a) where exclusion would lead to non-application of group supervision**

- 1.5. The group supervisor should consider the exclusion of one or more undertakings from the scope of group supervision based on legal impediments to information exchange between authorities in accordance with Article 214(2)(a) of the Solvency II Directive, leading to non-application of group supervision under Article 213(2) points (a) to (c) of the Solvency II Directive, only where the following conditions apply:
  - a) the undertaking is located in a third country with no equivalence decision under Articles 227 and 260 of the Solvency II Directive;
  - b) the third country supervisory authority of the undertaking is not a party of the IAIS Multilateral Memorandum of Understanding;
  - c) based on available information the size of the undertaking in terms of total assets, and of technical provisions where applicable, taken individually and collectively, is small in comparison with that of other undertakings of the group and the group as a whole;
  - d) all risks that might be posed by the undertaking and its related undertakings, based on the available information, are adequately identified and managed at the level of the individual insurance and reinsurance undertakings of the group, in particular they are reflected in the own risk and solvency assessment and in the solvency position of those insurance and reinsurance undertakings.
- 1.6. Where the conditions listed above apply, the group supervisor should consider the possibility of signing a memorandum of understanding with the third country supervisory authority of the non-equivalent jurisdiction instead of applying Article 214(2)(a) of the Solvency II Directive.

## **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**

- 1.7. The group supervisor should consider the exclusion of one or more undertakings from the scope of group supervision in accordance with Article 214(2) points (b) or (c) of the Solvency II Directive, leading to non-application of group supervision under Article 213(2) points (a) to (c) of the Solvency II Directive only where the following conditions apply:
  - a) the undertaking fulfils the conditions set out in Guideline 2 points (c) and (d);
  - b) where the undertaking is a parent undertaking, the risks that the parent undertaking is exposed to stem almost exclusively from the risks of the insurance or reinsurance undertakings that are part of the group.

## **Guideline 4 – Application of group supervision at the level of an intermediate participating undertaking when excluding the ultimate parent undertaking**

- 1.8. The group supervisor should consider the exclusion of the ultimate parent undertaking from the scope of group supervision in accordance with Article 214(2) of the Solvency II Directive,

and apply group supervision at the level of an intermediate participating undertaking, only where the following conditions apply:

- a) the ultimate parent undertaking is not in any of the circumstances set out in Guideline 1;
- b) all the relevant group risks arising from, and interconnections and intra-group transactions with, all other undertakings that could possibly affect the insurance or reinsurance undertakings are properly captured at the level of the intermediate participating undertaking;
- c) the group supervisor has sufficient information on the intra-group transactions between the ultimate parent undertaking or its related undertakings and the other undertakings in the group, that could possibly affect the insurance or reinsurance undertakings.

#### **Guideline 5 – Reassessment of exclusions**

- 1.9. When reassessing the decision to exclude one or more undertakings from the scope of group supervision as required under Article 214(3) of the Solvency II Directive, the group supervisor should confirm whether all the conditions justifying the exclusion are still applicable.
- 1.10. For the purpose of reassessing exclusions, the group supervisor should monitor regularly the intra-group transactions between the individual insurance and reinsurance undertakings and the excluded undertakings and their related undertakings through existent or additional reporting.

#### **COMPLIANCE AND REPORTING RULES**

- 1.11. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities and financial institutions are required to make every effort to comply with guidelines and recommendations.
- 1.12. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.13. 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.
- 1.14. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

#### **FINAL PROVISION ON REVIEWS**

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

## 2. EXPLANATORY TEXT

### **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**

The group supervisor should not exclude an undertaking from the scope of group supervision where it leads to non-application of group supervision under Article 213(2), points (a) to (c) of the Solvency II Directive in any of the following circumstances:

- a) there are material intra-group transactions, including the provision of ancillary services, between the undertaking or its related undertakings and any insurance or reinsurance undertakings in the group;
- b) the undertaking coordinates financial or investment decisions or exercises significant influence over the operations or processes of any other insurance or reinsurance undertakings in the group;
- c) the application of Articles 229 or 229a of the Solvency II Directive to the undertaking would allow a better understanding of the risks that could possibly affect the other insurance or reinsurance undertakings in the group instead of non-application of group supervision.

- 1.16. The exclusion of undertakings from the scope of the group supervision resulting in a waiver of group supervision under Article 213(2) points (a) to (c) of the Solvency II Directive, should be considered only in exceptional and justifiable circumstances, as the lack of group supervision is considered in principle detrimental to policyholder protection and to level playing field.
- 1.17. To assess the circumstances set out in Guideline 1, the group supervisor should analyse the level of interconnectedness between the undertaking to be excluded, including its related undertakings, and the other undertakings in the group, as well as the level of dependence of those undertakings' operations as regards the undertaking to be excluded and its related undertakings.
- 1.18. The application of Article 214(2) of the Solvency II Directive should only be considered where the adoption of a simplified approach to participations in accordance with Article 229a of the Solvency II Directive or the deduction of the book value of the relevant related undertaking from the own funds eligible for the group solvency pursuant to Article 229 of the Solvency II Directive, are not considered to provide more relevant information on the risks that could possibly affect the insurance or reinsurance undertakings, also considering that when applying Articles 229 and 229a, reporting of group information is still required. The justification to EIOPA and, where applicable, to the other supervisory authorities concerned, required in Article 214(3) of the Solvency II Directive, should include the group supervisor's rationale for the non-application of Articles 229a and 229 of the Solvency II Directive.
- 1.19. Article 214 is not applicable to undertakings falling under Article 213(2)(d). Those undertakings are therefore not covered by this Guideline.



**GUIDELINE 2 – Additional circumstances to exclude undertakings based on Article 214(2)(a) where exclusion would lead to non-application of group supervision**

The group supervisor should consider the exclusion of one or more undertakings from the scope of group supervision based on legal impediments to information exchange between authorities in accordance with Article 214(2)(a) of the Solvency II Directive, leading to non-application of group supervision under Article 213(2) points (a) to (c) of the Solvency II Directive, only where the following conditions apply:

- a) the undertaking is located in a third country with no equivalence decision under Articles 227 and 260 of the Solvency II Directive;
- b) the third country supervisory authority of the undertaking is not a party of the IAIS Multilateral Memorandum of Understanding;
- c) based on available information the size of the undertaking in terms of total assets, and of technical provisions where applicable, taken individually and collectively, is small in comparison with that of other undertakings in the group and the group as a whole;
- d) all risks that might be posed by the undertaking and its related undertakings, based on the available information, are adequately identified and managed at the level of the individual insurance and reinsurance undertakings of the group, in particular they are reflected in the own risk and solvency assessment and in the solvency position of those insurance and reinsurance undertakings.

Where the conditions listed above apply, the group supervisor should consider the possibility of signing a memorandum of understanding with the third country supervisory authority of the non-equivalent jurisdiction instead of applying Article 214(2)(a) of the Solvency II Directive.

- 1.20. Where the undertaking(s) to be excluded is located in an equivalent third country or the third country supervisory authority is a party of the IAIS Multilateral Memorandum of Understanding (MMoU), there is a presumption that there are no legal impediments to information exchange between authorities.
- 1.21. The group supervisor should, based on the available information, identify and assess, before excluding an undertaking from the scope of group supervision, the size of the excluded undertaking(s) and the effects of the qualitative and quantitative risks stemming from all intra-group transactions including any potential contagion risks. Where the excluded undertaking(s) are considered material and/or there are significant interconnectedness or dependencies between those undertakings and the individual insurance or reinsurance undertaking(s), Article 214(2) of the Solvency II Directive should not be applied. An undertaking should be considered material where the impact of its inclusion/exclusion could influence the decision-making or the judgement of the users of group information, including the supervisory authorities.
- 1.22. Before applying Article 214(2) of the Solvency II Directive, the group supervisor should require the individual insurance or reinsurance undertaking(s) to demonstrate that any risks stemming

from the undertaking(s) to be excluded and its related undertakings are adequately identified and managed at the level of the insurance and reinsurance undertakings of the group, in particular they are captured in the own funds and SCR computation as well as properly considered in the own risk and solvency assessment.

- 1.23. Where the conditions set out in Guideline 2 apply, the group supervisor should consider the feasibility of signing a Memoranda of Understanding establishing a framework for information exchange and mutual assistance in the field of insurance regulation and supervision with the non-equivalent third country supervisory authority instead of excluding the undertaking(s) from the scope of group supervision.

**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**

The group supervisor should consider the exclusion of one or more undertakings from the scope of group supervision in accordance with Article 214(2) points (b) or (c) of the Solvency II Directive, leading to non-application of group supervision under Article 213(2) points (a) to (c) of the Solvency II Directive only where the following conditions apply:

- a) the undertaking fulfils the conditions set out in Guideline 2 points (c) and (d);
- b) where the undertaking is a parent undertaking, the risks that the parent undertaking is exposed to stem almost exclusively from the risks of the insurance or reinsurance undertakings that are part of the group.

- 1.24. The group supervisor should pay particular attention to exclusions of parent undertakings where the only subsidiary is an insurance or reinsurance undertaking. Even where the group balance sheet is very close to the balance sheet of the insurance or reinsurance undertaking, it needs to be paid attention to other factors such as high dividend payments by the subsidiary.
- 1.25. Another structure that should be considered cautiously is where the ultimate parent undertaking is a private equity firm or fund. In this case a shift in the investment strategy of the insurance or reinsurance undertakings can occur which may not be necessarily in the best interest of policyholders. Moreover, among other risks, additional pressure can be put on the liquidity of insurance or reinsurance undertakings where private equity firms use a leveraged buyout model which requires intensive cash flows to service the debt.

**GUIDELINE 4 – Application of group supervision at the level of an intermediate participating undertaking when excluding the ultimate parent undertaking**

The group supervisor should consider the exclusion of the ultimate parent undertaking from the scope of group supervision in accordance with Article 214(2) of the Solvency II Directive, and apply group supervision at the level of an intermediate participating undertaking, only where the following conditions apply:

- a) the ultimate parent undertaking is not in any of the circumstances set out in Guideline 1;
- b) all the relevant group risks arising from, and interconnections and intra-group transactions with, all other undertakings that could possibly affect the insurance or reinsurance undertakings are properly captured at the level of the intermediate participating undertaking;
- c) the group supervisor has sufficient information on the intra-group transactions between the ultimate parent undertaking or its related undertakings and the other undertakings in the group, that could possibly affect the insurance or reinsurance undertakings.

- 1.26. Before excluding the ultimate parent undertaking from group supervision, the group supervisor needs to assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group as required under Article 214(3) of the Solvency II Directive.

#### **GUIDELINE 5 – Reassessment of exclusions**

When reassessing the decision to exclude one or more undertakings from the scope of group supervision as required under Article 214(3) of the Solvency II Directive, the group supervisor should confirm whether all the conditions justifying the exclusion are still applicable.

For the purpose of reassessing exclusions, the group supervisor should monitor regularly the intra-group transactions between the individual insurance and reinsurance undertakings and the excluded undertakings and their related undertakings through existent or additional reporting.

- 1.27. The reporting of intra-group transactions is important to capture any potential increase of interconnectedness and dependencies. Some supervisory authorities currently monitor intra-group transactions of undertakings not required to report under Solvency II the quantitative reporting templates on intra-group transactions (S.36) through accounting information or have extended the scope of reporting requirements under local law.
- 1.28. The request for additional supervisory reporting can be supported by Article 35 of the Solvency II Directive which requires insurance and reinsurance undertakings to submit to the supervisory authorities the information which is necessary for the purposes of supervision, taking into account the objectives of supervision laid down in Articles 27 and 28 and the general principles of supervision laid down in Article 29 of the Solvency II Directive, in particular the principle of proportionality. The application of the principle of proportionality is considered reflected on the reduction of burden derived from the “replacement” of the application of the requirements of Articles 218 to 258 of the Solvency II Directive by only the reporting of intra-group transactions. The monitoring of intra-group transactions is considered a minimum to assess on a continuous basis the appropriateness of exclusions.
- 1.29. For the purposes of the annual reassessment, the group supervisor should consider on a case-by-case basis if additional information from the insurance and reinsurance undertakings is necessary.

## ANNEX 1 – IMPACT ASSESSMENT

### OBJECTIVES

In accordance with Article 29 of the EIOPA Regulation, EIOPA carries out, where relevant, analyses of costs and benefits during the policy development process. The analysis of costs and benefits is undertaken according to an impact assessment methodology.

This impact assessment covers EIOPA's draft Guidelines on exclusion of undertakings from the scope of group supervision. This impact assessment is based on a qualitative assessment done by EIOPA.

In drafting these guidelines, EIOPA sticks to the general objectives of the Solvency II Directive, as agreed by the legislators in 2009. These general objectives are:

- ▶ adequate protection of policyholders and beneficiaries, being the main objective of supervision;
- ▶ financial stability;
- ▶ proper functioning of the internal market.

In view of the specific purpose of this draft Guidelines, the following more specific objectives were identified:

- ▶ effective and efficient supervision of insurance and reinsurance undertakings and groups;
- ▶ ensuring a level playing field through sufficiently harmonised rules.

### POLICY ISSUES

#### POLICY ISSUE A: Reporting requirements for the reassessment of exclusions

##### Policy option A.0: No change

This option means that no guidelines are in place. It is a hypothetical baseline that is only introduced as a benchmark against which the impact of the other policy options is compared.

Under option A.0, the guidance defined in Article 214 the Solvency II Directive is considered sufficient to specify the exceptional circumstances where the exclusion of one or more undertakings from the scope of group supervision in accordance with Article 214(2) of the Solvency II Directive would result in a case that would not trigger the application of group supervision under Article 213(2) points (a), (b), and (c) of the Solvency II Directive and the cases where it may be justified to exclude the ultimate parent undertaking including insurance holding companies from the scope of group supervision.

This option is not considered as a viable option given the specific mandate to EIOPA in Article 214(3) of the Solvency II Directive.

### Policy option A.1: The group supervisor should request at least annually that undertakings report an own assessment on the compliance with the Guidelines 1 to 4

On the basis of Article 214(3) of the Solvency II Directive, the group supervisor shall reassess at least annually whether the exclusion's decision remains appropriate.

Under option A.1, in order to perform such reassessment, the group supervisor shall always request that undertakings provide a comprehensive assessment of their compliance with the Guidelines 1 to 4.

Option A.1 provides for a fully harmonised approach, where all group supervisors would review the undertakings' own assessment. However, considering that the group supervisor monitors regularly the intra-group transactions between the individual insurance or reinsurance undertaking(s) and the excluded undertaking(s) and its related undertakings through existent or additional reporting, requiring always the reporting of a full reassessment may in certain cases be a duplication of the regular reporting and put unnecessary burden on the industry.

### Policy option A.2: The group supervisor requires on a case-by-case basis undertakings to report an own assessment for the annual reassessment

Under option A.2, when reassessing the appropriateness of exclusions as required under 214(3) of the Solvency II Directive, the group supervisor decides on a case-by-case basis in which cases it is necessary to request the undertakings to perform an own assessment.

While these may reduce the burden in some cases where the only changes are captured in the regular reporting of the intra-group transactions, it risks creating different supervisory practices across jurisdictions.

## POLICY OPTIONS

### Policy option A.0: No change

The current Level 1 text is considered sufficient guidance to ensure convergence in case of the exclusion of one or more undertakings from the scope of group supervision in accordance with Article 214(2) of the Solvency II Directive resulting in the non-application of group supervision under Article 213(2) points (a), (b), and (c) of the Solvency II Directive and in case of application of group supervision at the level of an intermediate participating undertaking.

Policy option A.0		
Costs	Policyholders	Risks to policyholder protection due to potential lack of guidance on exclusions leading to non-application of group supervision or on non-application of group supervision at the ultimate parent level.
	Industry	Risk of different supervisory practices across jurisdictions.
	Supervisors	Different supervisory practices across jurisdictions.
	Other	No material impact.

<b>Benefits</b>	Policyholders	No material impact.
	Industry	Neutral impact. Industry applies the rules in the Directive.
	Supervisors	No benefits as supervisors will continue facing uncertainties.
	Other	No material impact.

**Policy option A.1: The group supervisor should request at least annually that undertakings report an own assessment on the compliance with the Guidelines 1 to 4**

The group supervisor shall request at least once a year that undertakings provide a comprehensive assessment of their compliance with the guidelines 1 to 4 for the purposes of reassessing the appropriateness of exclusions, in addition to the regular reporting on intra-group transactions.

Policy option A.1		
<b>Costs</b>	Policyholders	No material impact.
	Industry	Eventual burden if no relevant changes in circumstances and criteria considering the regular reporting on intra-group transactions.
	Supervisors	Eventual burden if no relevant changes in circumstances and criteria considering the regular reporting on intra-group transactions.
	Other	No material impact.
<b>Benefits</b>	Policyholders	No material impact.
	Industry	Harmonised supervisory practices across jurisdictions.
	Supervisors	Harmonised supervisory practices across jurisdictions.
	Other	No material impact.

**Policy option A.2: The group supervisor requires on a case-by-case basis undertakings to report an own assessment for the annual reassessment**

The group supervisor shall decide on a case-by-case basis in which cases the undertakings need to perform a comprehensive own assessment.

Policy option A.2		
<b>Costs</b>	Policyholders	No material impact.
	Industry	Risk of different supervisory practices across jurisdictions.
	Supervisors	Different supervisory practices across jurisdictions.
	Other	No material impact.
<b>Benefits</b>	Policyholders	No material impact.

	Industry	Proportional approach as undertakings are only required to provide additional information on specific cases considered relevant by the supervisors.
	Supervisors	Proportional approach as supervisors have discretion to decide in which cases additional reporting is necessary.
	Other	No material impact.

## COMPARISON OF POLICY OPTIONS

The effectiveness and efficiency of the different policy options are compared in the following tables.

### POLICY ISSUE A: REPORTING REQUIREMENTS FOR THE REASSESSMENT OF EXCLUSIONS

EFFECTIVENESS (0,+,++)		
	Effective group supervision	Ensuring a level playing field
Policy option A.0: No change	0	0
Policy option A.1: The group supervisor should request at least annually that undertakings report an own assessment on the compliance with the Guidelines 1 to 4	++	++
Policy option A.2: The group supervisor requires on a case-by-case basis undertakings to report an own assessment for the annual reassessment	++	+
EFFICIENCY (0,+,++)		
	Effective group supervision	Ensuring a level playing field
Policy option A.0: No change	0	0
Policy option A.1: The group supervisor should request at least annually that undertakings report an own assessment on the compliance with the Guidelines 1 to 4	+	+
Policy option A.2: The group supervisor requires on a case-by-case basis undertakings to report an own assessment for the annual reassessment	++	++

## PREFERRED OPTION

Policy option A.2, compared to policy option A.1, does not require undertakings to always report on an annual basis an own assessment on the compliance with the guidelines. The group supervisor is expected to request an own assessment from undertakings only in relevant cases where the regular reporting on the intra-group transactions between any individual insurance or reinsurance undertaking(s) part of the group and the excluded undertaking(s) and its related undertakings, is not considered sufficient for performing the annual reassessment of the appropriateness of exclusions.

Policy options A.1 and A.2 will result to similar outcomes, nevertheless policy option A.2 will avoid an additional administrative burden on the industry.

Therefore, policy option A.2 is the preferred option as the draft Guidelines enhance efficient group supervision and convergence while ensuring proportionality since it prevents overly burdensome and costly requirements on the industry.



## ANNEX 2 – PRIVACY STATEMENT RELATED TO PUBLIC ONLINE CONSULTATIONS AND SURVEYS

### Introduction

1. The European Insurance and Occupational Pension authority (EIOPA) is committed to protecting individuals' personal data in accordance with Regulation (EU) 2018/1725<sup>5</sup> (further referred as "the Regulation").
2. In line with Article 15 and 16 of the Regulation, this privacy statement provides information to the data subjects relating to the processing of their personal data carried out by EIOPA.

### Purpose of the processing of personal data

3. Personal data is collected and processed to manage online public consultations EIOPA launches, and to conduct online surveys, including via online platform EUSurvey<sup>6</sup>, and to facilitate further communication with participating stakeholders (e.g., when clarifications are needed on the information supplied or for the purposes of follow-up discussions that the participating stakeholders may agree to in the context of the consultations or surveys).
4. The 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 of personal data and/or contractual or other obligation imposing it

5. The legal basis for this processing operation are the following :
  - Regulation (EU) 1094/2010, and notably Articles 8, 10, 15, 16, 16a and 29 thereof
  - EIOPA's Public Statement on Public Consultations
  - EIOPA's Handbook on Public Consultations
6. In addition, in accordance with Article 5(1)(a) of the Regulation, processing is lawful as it is necessary for the performance of a task carried out in the public interest.

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<sup>5</sup> 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, OJ L 295, 21.11.2018, p. 39–98.

<sup>6</sup> For more information on the processing of personal data in EUSurvey, please see the [dedicated privacy statement](#)

### **Controller of the personal data processing**

7. The controller responsible for processing the data is EIOPA's Executive Director.
8. Address and email address of the controller:

Westhafen Tower, Westhafenplatz 1

60327 Frankfurt am Main

Germany

[fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)

### **Contact detail of EIOPA's Data Protection Officer (DPO)**

9. Westhafenplatz 1, 60327 Frankfurt am Main, Germany

[dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)

### **Types of personal data collected**

10. The following personal data might be processed:
  - Contact details (name, email address, phone number).
  - Employment details (company and job title).

### **Recipients/processors of the personal data collected**

11. Data will be collected and disclosed to the relevant staff members part of the Department/Unit in charge of the consultation/surveys and also to other EIOPA's staff on a need-to-know basis (e.g. IT staff, security officer).

### **Retention period**

12. Personal data collected are kept by until the finalisation of the project the public consultation or the survey relate to.
13. The personal data collected in EUSurvey are deleted from EUSurvey as soon as the period to provide answers elapsed.

### **Transfer of personal data to a third country or international organisations**

14. No personal data will be transferred to a third country or international organisation. The service provider is located in the European Union.

#### **Automated decision-making**

15. No automated decision-making including profiling is performed in the context of this processing operation.

#### **What are the rights of the data subject?**

16. Data subjects have the right to access their 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. Data subjects also have the right to request the erasure of their personal data, as well as object to or obtain the restriction of their processing.
17. Where processing is based solely on the consent, data subjects have the right to withdraw their consent to the processing of their personal data at any time.
18. Restrictions of certain rights of the data subject may apply, in accordance with Article 25 of Regulation (EU) 2018/1725.
19. For the protection of the data subjects' privacy and security, every reasonable step shall be taken to ensure that their identity is verified before granting access, or rectification, or deletion.
20. Should the data subjects wish to exercise any of the rights provided in paragraphs 16 and 17 above, please contact EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).

#### **Who to contact if the data subjects have any questions or complaints regarding data protection?**

21. Any questions or complaints concerning the processing of the personal data can be addressed to EIOPA's Data Controller ([fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)) or EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).
22. Alternatively, the data subjects can have recourse to the **European Data Protection Supervisor** ([www.edps.europa.eu](http://www.edps.europa.eu)) at any time, as provided in Article 63 of the Regulation.