

SUPERVISORY CONVERGENCE PLAN FOR 2023

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1. SUPERVISORY CONVERGENCE

Convergence of supervisory practices should be built on a common interpretation of laws and regulations, and without prejudice to the application of supervisory judgment or of the proportionality principle.

Convergence of supervisory practices is not only achieved or assessed by outputs, i.e. by the number, quality and impact of supervisory tools published or assessments performed. Convergence is also about working together as a supervisory community. The process of developing common benchmarks for supervisory practices, performing reviews, engaging in challenging interactions and providing training to NCAs in itself leads to supervisory convergence and EIOPA has observed an important development in these area.

Therefore, to achieve a high, effective and consistent level of supervision across Europe, EIOPA continues to confirm supervisory convergence as one of its main strategic goal for the years to come.¹ The Covid-19 pandemic, increasing losses arising from natural catastrophes and other more recent macro-economic trends (e.g. the invasion of Ukraine by Russian Forces, the energy and cost of living crisis) have demonstrated that ensuring supervisory convergence in extreme situations is even of greater relevance. For 2023, EIOPA will continue its work on supervisory convergence as a collective effort by all NCAs and EIOPA staff.

1.1. COMMON SUPERVISORY CULTURE

As expected by any solid structure, the framework of supervisory convergence needs to be built upon clear, well-known and commonly understood foundations.

EIOPA's booklet, "A common supervisory culture — Key characteristics of high quality and effective supervision"², was the first step in building such framework and continues to be a foundation for supervisors work. The booklet defines the following five key characteristics of high-quality and effective supervision: risk-based and proportionate, forward-looking, preventive and proactive, challenging, sceptical and engaged, comprehensive and conclusive. The work developed by EIOPA on supervisory convergence always have this characteristics into account.

¹ See the Single Programming Document 2023-2025, including the Annual Work Programme 2023 and in particular the strategic objective "3. Enhancing the quality and effectiveness of supervision" ([link](#))

² https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/a_common_supervisory_culture_0.pdf

A common supervisory culture cannot however be built overnight. It is a long journey where supervisors progressively work together, adopt a focused approach and challenge each other along the way. In this way, supervisors build a strong and fair supervisory culture that promotes consumer protection and enhances the stability of the financial system for the benefit of Europe's business, economy and citizens. As processes and procedures are easier to align than behaviours, convergence will occur at different paces but evolution should be visible.

The implementation of a common supervisory culture requires constant change and evolution. This was recognised in the last amendments to the ESAs Regulations, in particular the amendments to article 29 of EIOPA Regulation, where tools such as establishing Union strategic supervisory priorities, establishing coordination groups to promote supervisory convergence and identify best practices or develop and maintain an up-to-date Union supervisory handbook have been identified. It is of utmost importance that the supervisory community has, at all levels, easy access to EIOPA tools as well as the ability and willingness to use them.

It is also important that whenever possible supervisory convergence tools are made public. For this reason EIOPA promotes supervisory convergence through the release (after the public consultation) of public supervisory convergence tools, such as Opinions or Supervisory Statements when possible. There are, however, certain contents that should be kept confidential among supervisors. Although good use of the different tools was made, EIOPA has also considered that it is important to be more transparent on its Supervisory Handbook. Following-up the the publication of the Introduction and the table of contents of its Supervisory Handbook in October 2021, EIOPA is working on a strategy towards the public disclosure of some content of the handbook.

1.2. SUPERVISORY CONVERGENCE TOOLS

To further strengthen supervisory convergence, EIOPA use different building blocks, which will each have their own specific tools to support supervisory convergence

1.2.1 BUILDING COMMON BENCHMARKS FOR SUPERVISORY PRACTICES

This is achieved through the work on supervisory guidelines and recommendations; opinions; supervisory statements; the Supervisory Handbook; questions and answers; public best practices; reports; training/networking of supervisors; and study visits between supervisors.

1.2.2 REVIEW OF PRACTICES AND COMPARISON OF COMPETENT AUTHORITIES

Thematic reviews aim at assessing market practices or gathering quantitative and qualitative data on consumer outcomes and the drivers of these outcomes.

Peer reviews aim at assessing supervisory practices of national supervisory authorities as well as the adequacy of supervisory resources and the degree of independence of those competent authorities. Although the [Peer review work plan 2023-2024](#) is published by EIOPA as a separate document, the peer reviews planned in 2023 are reported in this plan for the sake of completeness

1.2.3 EIOPA'S OWN INDEPENDENT ASSESSMENT

EIOPA's oversight work focuses on monitoring and challenging supervisory practices and supporting NCAs. The tools used include bilateral visits; cooperation platforms on cross-border business; dialogue with group supervisors; participation in colleges of supervisors; breach of European Union law investigations; and a mediation role. Furthermore, following the change of its Regulation, EIOPA identifies at least every three years [Union-Wide Strategic Supervisory Priorities \(USSP\)](#) that reflect future developments and trends. The USSP for the period 2021-2023 are business model sustainability and adequate product design. NCAs shall take those priorities into account when drawing up their work programmes and shall notify EIOPA accordingly. Follow-ups on the implementation of the USSP are performed and conclusions drawn. EIOPA coordinates the supervisory actions with the NCAs on specific topics with the aim to provide a structured and consistent response to the key risks the European Union and the individual insurance markets are exposed to.

2. SUPERVISORY CONVERGENCE PLAN FOR 2023

2.1. PRIORITY AREAS — CRITERIA

The decision on the priority areas of EIOPA's convergence work follows a risk-based approach. In this sense a risk-based approach implies identifying the depth and scale of issues and focusing priorities and resources where they matter most. The priorities that are taken into account when developing the supervisory convergence plan are grouped in the following 3 categories:

- Areas with relevant impact on policyholders and financial stability. The impact is not only about the scale or number of policyholders affected if risks materialise or the scale of the individual impact for policyholders, but also where this could have a potential effect on market reputation and on business models
- Areas that can affect fairness, the level playing field or the proper functioning of the internal market through the existence of possible supervisory arbitrage (in particular referring to cross-border business within the EU and with countries outside the EU, regarding both equivalent and non-equivalent countries)
- Key areas of supervision where practices substantially differ

Furthermore, a high level priority for the plan of 2023 is to complete as much as possible the priorities stemming from the previous plans, keeping at the same time some flexibility in order to continue monitoring and mitigating the impact from unexpected events.

2.2. SUPERVISORY CONVERGENCE PLAN FOR 2023

This plan provides, starting with the priorities identified for 2022, an update of EIOPA priorities for 2023 regarding supervisory convergence practices.

The plan also takes into account the Union-wide strategic priorities and EIOPA strategic objectives and the Peer review work plan 2023-2024. The Supervisory Convergence Plan should also contribute to “A safe and sustainable EU for citizens in time of transformation”.

In 2022, the work on supervisory convergence revealed a good degree of progress. Still, the priorities for 2023 remain mainly the same as in the last years considering the need to further develop some of the areas. However some new areas of priority have also been identified, namely: supervision of Environmental, Social and Governance risks in the insurance and pensions sector and continuous work on supervisory convergence in light of digital transformation, with several initiatives in these areas.

EIOPA Supervisory Convergence Plan will continue to address the following priorities.

Priorities for the three building blocks of supervisory convergence

1. Practical implementation of the key characteristics of the common supervisory culture and further development of supervisory tools;
2. Risks to the internal market and to the level playing field which may lead to supervisory arbitrage;
3. Supervision of emerging risks.

2.2.1. PRACTICAL IMPLEMENTATION OF THE COMMON SUPERVISORY CULTURE AND THE FURTHER DEVELOPMENT OF SUPERVISORY TOOLS

A) RISK ASSESSMENT FRAMEWORK AND APPLICATION OF PROPORTIONALITY

- Following EIOPA advice on the 2020 review of Solvency II (December 2020) and the publication of the COM Proposal amending the Solvency II Directive (September 2021), EIOPA performed some internal preparatory work to support the future implementation of the framework with the aim of issuing operational guidance for the application of the new framework on proportionality, when it will be in force, as well an updated impact assessment of the some aspect of the new proportionality framework. Considering its dependency from the finalisation of the legislative text, this work has been paused until the process on the Solvency II review is over.
- Review of EIOPA Guidelines on Supervisory Review Process (SRP) to assess if and how guidelines can be further improved to reflect the lessons learned by NCAs on the first years of supervision of Solvency II requirements as well as discuss the emerging trends of new macro-economics environment and digitalization to ensure that guidelines remains fit for the purpose of ensuring the quality, effectiveness and consistency of supervision. EIOPA will also consider the need to review the Chapter on Risk Assessment Framework of its Supervisory handbook.

B) COMMON BENCHMARKS FOR THE SUPERVISION OF INTERNAL MODELS

- IMOGAPIs (Internal Model On-Going Appropriateness Indicators): annual update and further development of the IMOGAPI tool.
- Supervisory Handbook Chapter on Calibration in Internal Models.

C) SUPERVISORY ASSESSMENT OF CONDUCT RISKS

- As follow-up of thematic review on credit protection products sold through banks distribution channel finalised in October 2022³ and the Warning issued to address risks identified in the thematic review⁴, EIOPA will monitor the implementation of follow-up measures to be taken by NCAs, providing its support to all relevant stakeholders involved in the process;
- Expand the type of work to be carried out in relation to conduct risk assessment, in particular by:
 - Launching and coordinating the first multi-countries mystery shopping exercise, following a hybrid approach⁵ focusing on the advice process and the sustainability assessment, on the basis of the common mystery shopping methodology approved in 2022. The end of mystery shopping coordinated exercise is expected at the end of 2023/beginning of 2024;
 - Continue working on developing a conduct risk-dashboard relying both on the work on the conduct risk assessment and the consumer trends work.
- Continue work on issues with exclusions and lack of clarity in insurance contracts, including specific monitoring activities in relation to the supervisory statement published in September 2022. As part of this work, EIOPA will also engage, within the broader COM dialogue, with the industry on exclusions in relation to systemic risks. The dialogue will also explore conduct aspects relating to protection gaps and cover potential demand side constraints and possible solutions to closing the protection gaps in the long run.
- Considering the work carried out in developing a draft supervisory statement and a common approach on how to concretely monitor and address value for money risks, EIOPA will continue monitoring value for money risks, including by engaging with NCAs to: i) discuss how the methodology has been implemented; ii) collect information on the product features which have been deemed not to offer value for money; and iii) determine whether the developed methodology is sufficient and effective in addressing such risks. EIOPA will also begin the work to review the methodology.
- Peer Review on the Product Oversight Governance (POG): finalisation of the Peer review assessing how NCAs supervise POG and assess practices with regard to the target market assessment, product testing and product monitoring and review phase for insurance-based investment products and ancillary products.
- Conduct of business chapter for the Supervisory Handbook on conduct risks assessment and conduct risk dashboard methodology

³ [Thematic Review on Credit Protection Insurance \(CPI\) sold via banks | Eiopa \(europa.eu\)](#)

⁴ [Warning to insurers and banks on Credit Protection Insurance \(CPI\) products | Eiopa \(europa.eu\)](#)

⁵ EIOPA coordinated mystery shopping, funded by EIOPA, as well as parallel mystery shopping exercises organised and conducted at national level.

D) SUPERVISORY APPROACH TO ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) RISKS

- Revision of EIOPA Supervisory Handbook chapter supervision of climate-related risks in Solvency II Pillar II, including assessment of content to be made public;
- Start monitoring the application of the EIOPA Opinion on the supervision of the use of climate change risk scenarios in ORSA.
- Climate risk discussions in supervisory college meetings
- Oversight activity related to the assessment of the materiality of climate-related risks, in particular natural catastrophes, and discussion on the integration of climate risk assessment in the ORSA in colleges meetings;
- As part of conduct oversight, EIOPA will continue collecting data on ESG products as part of EIOPA's Cost and Past Performance analysis and enhance the relevant analysis;
- As part of its work on the call for advice on greenwashing, EIOPA will also work on monitoring greenwashing;
- EIOPA will carry out follow up to the analysis of consumers' understanding of natural catastrophe insurance coverage (behavioural study) and identify solutions to improve clarity on contractual terms and conditions. Additionally, analysis over the integration of ESG risks on the upcoming comparative study on Life risk modelling will be initiated.

E) GROUP SUPERVISION

- Further improving the Supervisory Handbook chapters on group supervision, in particular on the treatment of own funds (also for related undertakings falling under the category of other financial sectors).

F) SUPERVISORY TECHNOLOGY (SUPTECH)

- Work on the implementation of a SupTech solution that would allow EIOPA and the other NCAs to collect the information of the PRIIPs Key Information Document of Insurance based investment products (IBIPs) products sold in the EU market
- Develop the second SupTech program and select, within the SupTech Forum, the future Suptech tools to develop in the future by first starting the analysis phase.

G) SUPERVISION OF CAPTIVES

- After the proposal for a more proportionate treatment of captives insurance and reinsurance undertakings in the context of the review of Solvency II, EIOPA will publish a document including some recommendation to NCAs on how to supervise some specificities of captives insurance and reinsurance undertakings where divergences of practices have been found, such as for example governance-related aspects for the outsourcing of key function, treatment of inter-company loans and cash pooling and prudent person principle.

H) SUPERVISORY TOOLS IN CROSS-BORDER CONTEXTS

- Conduct analysis on the use of different tools and powers in cross border contexts available to supervisors in view of assessing their effectiveness and potential improvements based on the experience gained, and further investigating how to strengthen enforcement powers at both national and EU level. Cross-border context also includes the possibility of mobility

of insurance and reinsurance undertakings across EU and the relevant authorisation process.

- The focus of the work for 2023 is on targeted EIOPA tools and powers vis-à-vis the respective NCAs' enforcement powers as well as the EIOPA roles and responsibilities, for which an NCAs' survey was launched in 2022. The analysis involves the challenges associated with the joint on-site inspections and the use of emergency powers under Article 155(4) of Solvency II, as foreseen in the EIOPA Regulation and the Solvency II Directive (including the amending COM proposal), also considering its transposition at national level where applicable.

2.2.2 RISK TO THE INTERNAL MARKET AND THE LEVEL PLAYING FIELD WHICH MAY LEAD TO SUPERVISORY ARBITRAGE

A) CALCULATION OF TECHNICAL PROVISIONS

- EIOPA will further discuss how to raise awareness to the impact of increasing inflation on the calculation of technical provisions to raise undertakings attention, depending on their business model and risk profile, to set explicit (ideally), realistic, robust and updated assumptions considering the current level of uncertainty to make sure existing reserves remain appropriate to settle future claims.⁶

B) INTERNAL MODEL OUTCOMES, MODELLING METHODOLOGIES AND SUPERVISORY PRACTICES

- Finalise the comparative studies on the outcomes of Internal Models regarding the modelling of Non-Life risks and Diversification benefits; and continue with the annual comparative study regarding Market and Credit Risk.
- Initiation of a comparative study on modelling of Life Risk.
- Initiation of an analysis over Operational Risk modelling methodologies and supervisory practices.

C) AUTHORISATIONS, FITNESS AND PROPRIETY

- In the context of the implementation of new Article 31a of the ESAs regulation, EIOPA will continue working with the other ESAs to set up a cross sectoral system for information exchanges relevant to assessments of holders of qualifying holdings, directors and key function holders of financial institutions by competent authorities; following a two-pronged approach: (1) joint Guidelines and other policy work and (2) IT solution facilitating the information exchange (consisting of a cross-sectoral common searchable database and CAs contacts list).

D) PENSION ISSUES

⁶ EIOPA published a [Supervisory Statement on inflation](#), which addresses inflation-related issues in (re)insurance from a prudential perspective, on 22 December 2022.

- EIOPA conducted work to establish and address supervisory concerns arising from the recent market development of multi-sponsor IORP providers (i.e. IORPs established by service providers and pension management companies where IORPs do not have a legal entity). Whilst multi-sponsor IORP providers have an important role to play to foster market consolidation and provide efficient, low-cost solutions in Member States seeking to develop occupational pensions, they also bring new supervisory questions in respect of the governance (e.g. conflicts of interest, sponsor involvement) and risk management (e.g. operational DC liabilities, service continuity in case of business insolvency). EIOPA engaged with NCAs supervising multi-sponsor IORP providers to better understand providers' different business models and NCAs' supervisory practices including the extent to which the proportionality principle is applied. Following from this work, EIOPA will further develop the IORPs' Supervisory Handbook, starting with a chapter on the supervision of multi-sponsor IORP providers and subsequently on risk-based supervision. Relevant findings from this work are also being considered in the context of the Commission's Call for Advice on IORP II review.

E) THIRD COUNTRY REINSURANCE IN THE EU

- Following EIOPA's work done in 2022 in the analysis of the treatment of reinsurance undertakings with the head office located in third countries EIOPA will work further on the establishment of a cooperation framework between EU and third countries supervisors e.g. guidance/recommendations on the frequency, triggers and type of exchange of information and interaction with other competent authorities as a result of entity by entity supervision and will identify the good supervisory practices out of the existing ones and assess whether they should be further disseminated through a supervisory convergence tool.

2.2.3. SUPERVISION OF EMERGING RISKS

A) IT SECURITY AND GOVERNANCE-RELATED RISKS, INCLUDING CYBER RISK

- EIOPA will work together with the EBA and ESMA via the Joint Committee on fulfilling the policy mandates under the Regulation on digital operational resilience for the financial sector (Digital Operational Resilience Act (DORA)) involving relevant stakeholders (supervisors, industry etc.) throughout the process. DORA mandates the ESAs to develop 8 Regulatory Technical Standards (RTS), 2 Implementing Technical Standards (ITS), and 2 sets of guidelines. Several ITS and RTS will need to be submitted to the European Commission 12 months after the entrance into force of DORA (i.e. by 1 March 2024 exp.), making the year 2023 a crucial year for their development.
- In addition to these 12 mandates, other policy mandates include: (i) an expected Commission call for advice for additional criteria to identify critical third-party providers, and collection of oversight fees; (ii) a feasibility report on further centralising ICT-related incident reporting (EU Hub); (iii) in relation to Article 49 of DORA, the activities in response

to the ESRB recommendation to the ESAs to set up a pan-European systemic cyber incident coordination framework (EU-SCICF) for relevant authorities ([ESRB recommendation](#)).

- In addition to the development of the Policy mandates, the ESAs will have to prepare for the new roles and tasks stemming from DORA (e.g. the oversight framework, the management of reporting of major ICT-related incident etc.). In 2023 the ESAs will start the projects to adapt their internal processes and systems to be able to cope with the new regulatory requirements.

B) DIGITAL TRANSFORMATION

- Following the publication in June 2021 of the AI governance principles report developed by EIOPA's Consultative Expert Group on Digital Ethics, EIOPA will seek to develop further sectorial work, for instance by focusing on the governance and risk management of specific AI use cases in insurance. In this regard, EIOPA will take into account the legislative developments of the Artificial Intelligence Act.;
- Moreover, following the publication of a supervisory statement on differential pricing practices for public consultation in July 2022, EIOPA will finalise this work taking into account the input from the public consultation and follow up monitoring. Furthermore, EIOPA will work to address financial inclusion in the digital age, in particular, in relation to data-biases and analytics which could lead to discrimination by conducting a study in selected Member States.
- EIOPA will collect harmonized data from the market on the use of different technologies and business models and will develop a structured monitoring and stakeholder engagement strategy.
- Participate and promote relevant discussions in the area on the insurance and pension sector in the European Forum of Innovation Facilitators (EFIF). The EFIF provides a platform for supervisors to meet regularly to share experiences from engagement with firms through innovation facilitators, to share technological expertise and to reach common views on the regulatory treatment of innovative products, services and business models, overall boosting bilateral and multilateral coordination;
- Cross-sectoral work on a procedural framework for cross-border testing has been conducted by the EFIF (under the chairmanship of EIOPA) in 2020/21/22 and work will continue in 2023. The framework is designed to set out a procedure by which firms and NCAs may share testing-related information in a structured manner across borders. This is to facilitate the scaling up of innovation across the EU, to simplify communication between NCAs cross-border and to increase transparency regarding cross-border regulatory sandbox testing. The framework allows all types of firms, which have applied for at least one regulatory sandbox in the EU, to indicate interest in invoking it. It is non-binding for NCAs and does not introduce additional eligibility criteria for access to regulatory sandboxes in the EU. In order to further support dialogue and assist NCAs in reaching common views on the treatment of innovative technologies, the framework also includes rules of procedure for the transmission of high-level testing results and lessons learned to the EFIF. Subject to the adoption by all three ESAs' Boards, it is envisaged to publish the framework on the EU Digital Finance Platform;

- EIOPA will also continue with the analysis of the opportunities and challenges of an open insurance framework, with a special focus on specific use cases such as insurance dashboards, and taking into account the upcoming open finance initiative of the European Commission.

C) CYBER UNDERWRITING

- EIOPA acknowledges the increasing exclusions of cyber risk from insurance coverage leading to protection gaps. To this end, EIOPA will conduct analysis aimed at understanding the level of access to cyber coverage for Small and Medium Enterprises (SMEs)

D) DIGITAL BUSINESS MODEL ANALYSIS

- The evolution of the technology and its uses in business processes have an impact across all steps of the value chain in the insurance, including through the emergence of start-ups. Digitalisation also leads to the emergence and consolidation of new distribution channels, new ways of engaging with customers, new kinds of competitors and potential disruptors of traditional business models (e.g. Mixed Activity Groups (MAGs) performing financial and other services) etc.
- To reflect on the ongoing changes supervisors need to better understand new technology-led business models/strategies, what risks they involve, and whether they will be sustainable in the longer term. For these reasons EIOPA will develop supervisory convergence tools to support NCAs in the performance of the business model analysis in the context of the insurance digital market.
- Assessing business models gives NCAs the opportunity to develop a more idiosyncratic and appropriate supervisory plan adapting to the reality of new digital business models such as the fragmentation of the value-chain, open insurance initiatives or use of data and artificial intelligence as well as supervision of the increased cyber risk for those entities which is crucial from a supervisory convergence perspective.

2.3. OVERSIGHT PRIORITIES

EIOPA's own Oversight work focusses on ensuring a high level of policyholder protection and equal treatment of consumers across the Internal Market. We engage with the NCAs on their day-to-day supervision to (further) develop practical tools to support supervisory convergence with a specific focus on cross-border issues. The priority for 2023 is to continue to increase our effective engagements through:

- Resolving supervisory concerns of a conduct or prudential nature that arise around the provision of insurance services in a Member state via freedom of services or freedom of establishment by establishing and coordinating cross-border cooperation platforms;
- Assessing potential cross-border risks by participating in joint-onsite inspections under the umbrella of the colleges of supervisors or via the cross-border cooperation platform, both in the area of conduct and prudential supervision;
- Monitoring the implementation of the Union-wide Strategic Supervisory Priorities by engaging with national supervisors and providing feedback and assistance;
- Provide support to NCAs in their day-to-day supervision by providing supervisory recommendations through country visits and bilateral engagement, in the area of conduct and prudential supervision as well as in the specific area of supervision of internal models;

Furthermore, EIOPA will stand ready to provide assistance to an NCA in the area of internal model applications upon request, as introduced in the recent amendment of the EIOPA Regulation, and will continue developing this tool.

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