

**Internal Governance, Supervisory Review and Reporting Expert Group
Issues Paper on ORSA - Feedback Statement**

CEIOPS would like to thank all stakeholders who have provided comments on CEIOPS' Issues Paper on the ORSA. Comments received will be taken into account in CEIOPS' ongoing work on this important element of the system of governance. They have helped to identify the areas of agreement with our approach and some issues where further explanation and consideration would be beneficial.

Stakeholders welcomed the publication of an Issues Paper setting out CEIOPS' views on the ORSA. The reaction of the respondents who took up the invitation to comment was generally positive.

The comments showed that all stakeholders generally acknowledged the ORSA as a tool at the heart of the risk management system and specifically agreed with the approach to develop ORSA principles.

Respondents highlighted a number of concerns that CEIOPS will look at further when developing Level 3 guidance:

- Will the ORSA be similar to an internal model?

Stakeholders are in part apprehensive that undertakings would at least indirectly be obliged to develop an internal model or something very similar. These concerns were conveyed despite the reference in the paper to the Explanatory Memorandum to the Framework Directive Proposal which states that the ORSA does not require an undertaking to develop an internal model. However, CEIOPS will elaborate further on what is expected from undertakings with regard to the ORSA.

- Will supervisors use the ORSA to set capital add-ons?

Some stakeholders stated that they would appreciate more detailed information on how the ORSA will impact on the solvency capital requirement. There are concerns that supervisors might frequently set capital add-ons based on ORSA results. In CEIOPS' view it is important to note that the connection between the ORSA and a possible decision to set a capital add-on is not mechanistic.

The ORSA is just a source of information in the decision-making process undertaken through the Supervisory Review Process. Supervisors will take the

decision of whether to set a capital add-on on the basis of the information at their disposal, as well as on the outcome of their dialogue with the undertaking.

- Will the ORSA be too burdensome for small undertakings?

A couple of respondents asked CEIOPS to clarify that in general the ORSA will be less complex than the SCR standard formula. CEIOPS is aware that, in particular, the requirements of Article 44(1)(c) and (2) are a source of concern that too much complexity could be introduced into the ORSA process. Hence it will focus on clarifying its views with regard to these requirements. CEIOPS believes that the amount of work and complexity of the analysis for the ORSA should be proportionate to the risks faced by the undertaking.

- What do supervisors expect from undertakings with regard to the ORSA?

Respondents further pointed out that additional guidance would be beneficial on what precisely will be expected of undertakings in the ORSA, the interaction of the ORSA with internal models, what is required of the ORSA in terms of supervisory reporting and the use supervisors will be making of the ORSA. CEIOPS' Issues Paper on the Supervisory Review Process and Undertakings' Reporting Requirements published recently already elaborates on this area to a greater extent. CEIOPS was also asked to offer more details on the application of the principle of proportionality, especially with regard to small and medium-sized undertakings. CEIOPS will further elaborate on this issue.

- What do supervisors expect from the group ORSA?

Some respondents underlined the uncertainty with regard to the expectations on the group ORSA as a matter that urgently required CEIOPS' attention. CEIOPS is aware that this issue requires further consideration as already mentioned in the Issues Paper.

- Is too much expected with regard to the forward-looking perspective?

Another area of concern was the forward-looking perspective required for the ORSA. Stakeholders agreed with this perspective but also sought reassurance that no excessive and complex modelling requirements would be imposed upon them and that demands to foresee possible future events are not unreasonable. CEIOPS will have to develop this area of the ORSA further in its Level 3 guidance. CEIOPS does not, however, envisage more complexity for the forward-looking assessment than for the current perspective of the ORSA, unless the undertaking intends to take on more significant or more complex risks in the future.

- Is an independent assessment of the ORSA process and outcome really necessary?

With regard to the independent assessment of the ORSA, stated as one of the ORSA principles, some respondents were opposed to external reviews. One

respondent also strongly objected to the ORSA outcome being included in the review. CEIOPS sees an external assessment as an (equal) alternative option to an internal review and does not intend to prescribe that an external review of the ORSA is required. CEIOPS acknowledges that the argument against the inclusion of the outcome of the ORSA in a review merits further consideration. This issue will be revisited as part of CEIOPS' future work.

- Will there be a lack of harmonisation on how supervisors will review the ORSA in different Member States?

One of the most important issues for respondents was that a high level of harmonisation of the ORSA review among supervisors should be achieved. Stakeholders considered the intended absence of Level 2 implementing measures as a drawback and a threat to a level playing field, that they want to see remedied via Level 3 guidance. CEIOPS recognises that establishing an adequate level of harmonisation for the review will be a key issue and a major challenge in its ongoing work on the ORSA. The fact that no Level 2 implementing measures are provided for indicates that the ORSA process is not supposed to be too prescriptive and should leave sufficient room for undertakings to arrange the process as they see fit to best serve their individual needs. This principles-based approach was welcomed by a number of respondents. However, Level 3 guidance will have to determine what supervisors broadly should expect of undertakings' ORSA processes. Accordingly, the upcoming Level 3 discussions should resolve any issues that might otherwise lead to an unlevel playing field.

Way forward

CEIOPS will continue its work on Level 3 guidance and will progressively seek to develop explanations and considerations on the issues that raised concerns from the respondents.

Future Level 3 guidance will necessarily include:

- Further insights into what is expected from undertakings in the ORSA process, ORSA information to be submitted to supervisors and the interaction between the ORSA, internal models and capital add-ons. The application of the principle of proportionality will be duly considered in this context;
- What supervisors should broadly expect of undertakings' ORSA processes and the development of a common understanding of the general standards supervisors would want undertakings to observe;
- Issues in connection with the group ORSA in order to supply the requested clarification about supervisory expectations.

Work on Level 3 guidance on the ORSA is scheduled to start at the end of the first quarter of 2009. Stakeholders are cordially invited to contribute any further input to CEIOPS' work.