

**Comments Template on the proposal for
Guidelines on facilitating an effective dialogue between competent
authorities supervising insurance undertakings and statutory auditor(s)
and the audit firm(s) carrying out the statutory audit of those
undertakings**

**Deadline
26 April 2016
23:59 CET**

Name of Company:	Federation of European Accountants	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP16-002@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper on the proposal for implementing technical standards on special purpose vehicles.</p>		
Reference	Comment	
General Comment	1. The Federation of European Accountants (the Federation, www.fee.be) is pleased to provide you below with its comments on EIOPA's Consultation Paper on the proposal for	

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Guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those undertakings (Consultation Paper, CP).

2. We welcome the CP and we express our support for the efforts to establish guidelines for an open, effective and efficient dialogue between the competent authorities supervising insurance undertakings (supervisors) and the statutory auditors as required in Article 12(2) of Audit Regulation (EU) 537/2014.
3. This is especially critical as it indicates that going forward, in addition to currently being statutory auditors of the financial statements of insurance undertakings, the involvement of auditors with regulatory and supervisory reporting for insurance undertakings is expected to become more and more important.
4. In our view, the scope of the dialogues between supervisors and auditors will be determined by the scope of the audit. In that respect, we would like to stress the divergence that currently exists in terms of the scope of audit of insurers with respect to Solvency II requirements across different European jurisdictions and the differences in the interaction (and communication) between the supervisors and the external auditors. We published the results of our survey on the Scope of the auditor's involvement with the Solvency II regulatory reporting of insurance undertakings in the context of the EU Commission's "Call for Evidence: EU Regulatory Framework for Financial Services" (http://www.fee.be/images/publications/auditing/160129_response_EC_call_for_evidence_EU_regulatory_framework_for_FS.pdf) demonstrating the different requirements and practices across Europe. The results clearly indicate a high level of divergence in the new

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	<p>and/or proposed requirements from the national regulators which may create doubts about the reliability and quality of public disclosures across Europe. In some countries the National Competent Authorities (NCAs) are considering to expand the scope of the statutory audit, however, in some other countries the NCAs have decided to leave the decision for an audit of Solvency II reporting to the discretion of the insurance undertakings.</p> <p>5. Finally, it would be preferable if EIOPA and EBA ensure that the final forms of the guidelines regarding the communication between the supervisors and the auditors are aligned. This would assist in an effective and efficient implementation of the guidelines addressing similar issues across Europe, not least for entities with both banking and insurance activities.</p>	
Introduction		
1.1	<p>6. In our view, the final form of guidelines should be aiming at both: (i) strengthening the supervision of insurance and reinsurance undertakings and (ii) promoting a high quality audit of insurance and reinsurance undertakings. We therefore suggest that EIOPA adds a reference to a high quality audit as the CP only refers to its objective as strengthening the supervision of insurance and reinsurance undertakings.</p> <p>7. Furthermore, in order to establish an effective dialogue, the Federation believes that a “two-way communication” is needed. We find that the guidelines should equally address communication from supervisors to statutory auditors, as this will contribute to enhancing audit quality.</p>	

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1.4		
1.5		
1.6	8. We suggest that EIOPA ensures that there is adequate time between the finalisation of these guidelines and the effective date, so that the NCAs have sufficient time to implement these guidelines in the context of the national practices for the audit of insurance undertakings and dialogues in relation to them established already.	
Guideline 1	9. In order to achieve consistency with EBA's draft guidelines, we propose that the name of Guideline 1 changes to include a reference to the "framework of the communication".	
1.7		
1.8	10. We would like to emphasize the importance of the fundamental principle of confidentiality of the auditor which is included in the auditors' professional ethical standards. Any information obtained by the auditor in the course of an audit of financial statements cannot be disclosed to other parties (including supervisors), unless it is permitted or required by law. Notwithstanding the provisions foreseen in the Audit Regulation and Directive 2009/138/EC of 25 November 2009 (Solvency II Directive), the legal requirements on professional secrecy and on exchange of information between auditors and financial regulators vary across Europe and therefore we strongly suggest that EIOPA, maybe together with EBA and ESMA, coordinates with the NCAs to identify	

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	<p>those differences and assess whether or not those differences would impose any obstacles to an effective and efficient communication between auditor(s) and supervisor(s).</p> <p>11. The cooperation between European Supervisory Authorities (ESAs) and NCAs is particularly relevant in this area as the practical application of the legal requirements across Europe can lead to further discrepancies in the communication between auditor(s) and supervisor(s).</p>	
1.9		
1.10	<p>12. Paragraph 1.10 refers to a “risk based” approach that needs to be followed by the NCAs, however it does not define the factors that should be taken into account. Given how the different objectives of audit and supervision affect the assessment of risk we suggest that EIOPA better articulates this point. In addition we note that EBA’s draft guidelines only refer to “a proportionate approach” (paragraph 20) which we believe better fits such guidelines.</p>	
1.11	<p>13. We raised our comments regarding confidentiality above (paragraph 1.8).</p>	
Guidelines 2		
1.12		
1.13	<p>14. We believe that in order to enhance the effectiveness of the communication, the NCAs and the statutory auditors should agree on a list of issues for discussion. This principle has</p>	

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been proposed in paragraph 28 of the corresponding EBA Consultation Paper.

15. We would like to point out that the current framework for the statutory audit of financial statements of insurance undertakings in 25 out of the 28 EU member states is the International Standards on Auditing (ISAs) as issued by the International Auditing and Assurance Standards Board (IAASB) (http://www.fee.be/images/MA_ISA_in_Europe_overview_150908_update.pdf). As these high quality standards should be considered as the starting point for any communication between supervisors and auditors it would be worth referring to them for consistency.
16. In our view, the nature of the relevant information to be requested by the NCA from the statutory auditor should depend on the scope of the audit. However, as already mentioned above (in our general comments), we note that the divergence in the scope of audit in the new and/or proposed requirements from the national regulators might affect the scope of the communication between supervisors and auditors. For instance in those countries where the Solvency II balance sheet is not integrated in a mandatory audit, the statutory auditors cannot include any matters relating to the Solvency II balance sheet in the communication with the supervisor. To address this, we suggest that EIOPA clarifies in the CP that the scope of communication should be defined by the scope of the audit.
17. Furthermore, we have concerns regarding the reference to “audit documentation” at the end of paragraph 1.14. Audit documentation is prepared only for the purpose of forming an audit opinion on the financial statements, and therefore its use in the context of these guidelines would not be appropriate. In addition, in our view, this would create additional barriers to the communication as it might be seen as breaching the confidentiality duty between the auditor and the insurance undertaking. We strongly suggest that EIOPA removes the reference to “other audit documentation” from paragraph 1.14.
18. As already stated above, it would be preferable if EIOPA and EBA ensured that the final

1.14

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	forms of guidelines on this matter are as closely aligned as possible.	
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Guideline 3		
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1.18	19. Paragraph 1.18 refers to the need for keeping a record of the communication. In our view, if the NCAs keep written minutes of the meetings and discussion, they should share those draft minutes with the participants involved for comments and approval. This practice should ensure a mutually accepted and adequate record of the exchange of information without increasing expectations on auditors and NCAs.	
Guideline 4		
1.19		
1.20	20. We agree with the principle that the NCAs should consider the appropriate number and role of participants in the dialogue with the auditors and we suggest that the same principle is applied to the auditors. For instance the key audit partner should be able to consider whether or not any other team members, including any auditor's experts need to be present in the meetings with the NCAs.	

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1.21	21. Please refer to our comment in paragraph 1.20 above.	
1.22	<p>22. We are not convinced that the public oversight body should be part of the bilateral meetings between the supervisor and the auditor of one particular insurance undertaking. Indeed, we believe that if the public oversight body of auditors is invited to such one to one meetings, it might impair the effectiveness of such meetings, for instance in relation to access to propriety information and confidentiality. In our opinion, if at all, the public oversight body of auditors could be invited in the case the competent supervisory authorities of insurance undertakings meet the auditors collectively to discuss aggregated industry matters as described in Guideline 6 of the CP.</p> <p>23. Furthermore we suggest that EIOPA considers that the head of the internal audit function is also attending the trilateral meetings, in addition to the representatives of the audit committee.</p>	
Guideline 5	24. We would suggest that EIOPA explicitly states in the guidelines that the NCAs should inform the auditor before the completion of the audit and in any case when a significant matter has occurred or has been revealed that might affect significantly the insurance undertaking's financial statements or its ability to be a going concern. In addition, the NCAs should also communicate to the statutory auditor, on a timely basis, facts that they become aware of and might be of importance to the auditor in the conduct of the audit and to which the auditor might not otherwise have access or might not have knowledge of, e.g. non-compliance with solvency capital requirements.	

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Guideline 6		
1.26	<p>25. Finally, we reiterate our support for establishing communication between the NCAs and the auditors collectively, to discuss matters that affect the industry as a whole, the supervisor's expectations for the forthcoming audit and the auditor's concerns regarding the effects of the developments in the regulatory and macroeconomic environment. To this end, the Federation of European Accountants, being the representative of more than 875.000 professional accountants in 37 countries (including the 28 EU Member States) and in particular the Federation's Insurance working party, which represents the auditors of insurance undertakings across Europe, could be a forum where the NCAs communicate with the auditors of insurance undertakings on a collective basis.</p> <p>26. In addition, we suggest that EIOPA considers the publication of joint positions of NCAs and auditors to give more prominence to the emerging issues discussed and agreed during those meetings.</p>	
1.27		
Compliance and reporting		

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rules		
1.28		
1.29		
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Final provision on reviews		
1.32		
Annex I : Impact Assessment		
Section 1. Procedural issues and consultation of interested parties		
Section 2. Problem definition		

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Section 3. Objective pursued		
Section 4. Policy options		
Section 5. Analysis of impacts	27. Regarding the incremental costs arising from the formal communication between the NCAs and the auditor, we would like to mention that, apart from costs relating directly to the meeting, additional costs may occur from further communication and reporting. Compliance costs may therefore be higher than the mentioned € 5.400 and be in a broader range.	
Section 6: Comparison of options		
Section 7: Monitoring and evaluation	28. We explicitly express our support for this section in the CP; we believe that EIOPA should consider establishing processes to assess the effectiveness of the communication between supervisors and auditors, which may help to evaluate whether or not a review of the final text is necessary in the future.	