

FOLLOW-UP ON PEER REVIEW OF PROPRIETY OF AMSB MEMBERS AND QUALIFYING SHAREHOLDERS

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EXECUTIVE SUMMARY

It is important that national competent authorities (NCAs) take a consistent approach when assessing the propriety of the persons owning and running the undertakings. Supervisory convergence helps to ensure that there is the same level of oversight across the European Economic Area (EEA), which in turn protects consumers and contributes to the stability of the financial system. It will also improve the efficiency and effectiveness of the supervision of these institutions in a key area such as propriety of the persons owning and running the undertakings, which is one of the key objectives of the European Insurance and Occupational Pensions Authority (EIOPA).

Peer reviews assess the application by NCAs represented in EIOPA's Board of Supervisors (BoS) of EU directives, regulations, technical standards, EIOPA guidelines and recommendations and supervisory practices. Following finalisation of the peer review, EIOPA undertakes a follow-up pursuant to Article 30(6) of Regulation (EU) No 1094/20101 (EIOPA Regulation) two years after the publication of the peer review report to monitor the fulfilment of the issued recommended actions.

Methodology

This report describes to what extent the National Competent Authorities (NCAs) have implemented the recommended actions addressed to them as a result of the peer review on propriety of Administrative Management and Supervisory Body (AMSB) members and qualifying shareholders in 2019. In addition, it addresses the monitoring of how the best practices, as identified in that past peer review, have been taken into consideration, implemented or further developed by the NCAs. It identifies the progress made, up to January 2022, against the recommended actions of the peer review on propriety of AMSB members and qualifying shareholders.

Main findings

The follow-up of the peer review on propriety assessment of AMSB members and qualifying shareholders across the European Economic Area (EEA) revealed that out of the total 78 recommended actions issued to 28 NCAs only 47 were fully fulfilled. This represents slightly more than half of the recommended actions. A number of reasons were mentioned as background for the non fulfillment of the recommended actions: lack of internal resources to work on the issue, the difficult social and political situation in the past two years triggering additional tasks for supervisors or doubts expressed with regard to the clear requirement within Solvency II Regulation to perform the changes required. It should also be mentioned that almost one fourth of all recommended actions have been only partially implemented in particular due to the length of the

process to implement legislative changes or due to initiating improvements just before the start of the follow-up exercise.

Looking to the NCAs, sixteen NCAs have fully implemented their recommended actions while one NCA has fully implemented more than half of the recommended actions. Another six NCAs are graded with moderate implementation of the recommendations which means they have worked on implementing 50 % of the prescribed actions to them. Five competent authorities have implemented less than 50 % of the recommended actions, out of which one has not worked at all on the follow-up of the peer review.

If we consider the type of recommended actions as defined in the peer review report and split them into three main groups – fulfilled, partially fulfilled and not fulfilled, the picture is as follows.

Total statistics by type of RA	fulfilled	partially fulfilled	not fulfilled
<i>Ongoing assessment of propriety of qualifying shareholders</i>	54%	25%	21%
<i>Ongoing assessment of propriety of AMSB members</i>	42%	42%	17%
<i>Propriety assessment questionnaires</i>	100%	0%	0%
<i>Internal/ external guidance</i>	64%	9%	27%
<i>Supervisory records</i>	78%	22%	0%
<i>Insurers own assessment</i>	0%	100%	0%
<i>Strengthening regulatory framework</i>	89%	11%	0%
<i>Amending national legislation</i>	43%	43%	14%
<i>Supervisory Process</i>	100%	0%	0%
<i>Propriety Assessment of Holding Companies</i>	100%	0%	0%

The recommended actions in the area of **guidance and supervisory records** were issued to eleven competent authorities to develop or improve their internal or external guidance in relation to propriety assessment of AMSB members or qualifying shareholders and to nine NCAs to improve supervisory records to limit the risk of important supervisory concerns not being considered. Around 64 % of the competent authorities have fulfilled the recommended actions by developing internal guidance or external communication towards the market. Supervisory records have been improved in 78 % of the cases – this recommended action has been considered by NCAs as one of the important milestone towards proactive supervision of AMSB members and qualifying shareholders propriety.

The changes performed by NCAs in response to the peer review recommended actions in the area of **national legislation or regulatory framework** were related to strengthening the scope of the propriety assessment or enhancing the NCAs’ legal powers to take necessary actions in relation to AMSB members and qualifying shareholders. A number of competent authorities (43 % of the recommendations) are still on their way to finalise the legislative changes however in all cases where the NCA is also a legislative body this has been already settled. Some NCAs still lack the

power to assess non-executive AMSB members or take timely action in relation to AMSB members such as power to remove AMSB members when considered not proper, however 89 % of the actions desired with regard to strengthening the regulatory framework to consider ongoing and risk-based assessment of both AMSB members and qualifying shareholders has been finalised.

Initial assessment at appointment and ad-hoc or triggered assessment of AMSB members and qualifying shareholders has been complemented with supervisory practices including **ongoing assessment of the propriety** as part of NCAs' supervisory activities using a risk-based and proportionate approach. In this context more than half of the recommended actions in the area of ongoing assessment of qualifying shareholders have been implemented without seeking to replicate the acquiring transaction review process. The level of fulfilment with regard to AMSB members ongoing assessment is slightly lower (42 %) due to the fact large number of NCAs are on their way changing the recent 'well established' practices.

Two NCAs have been recommended and **amended their propriety assessment questionnaires** to incorporate specific questions in relation to tax and consumer protection offences, respectively, involvement in bankruptcies, AML, financial soundness of the applicant and doing business without a license.

The so-called 'tailor made' recommended actions (very specific ones prescribed to single NCA) are fulfilled at 100 % (on **Supervisory process, Insurers own assessment or Propriety assessment of Holding Companies**).

Almost all **eight best practices**¹, apart from one - NCA's regulatory framework allowing insurers to exchange information for propriety assessment - as identified in the peer review report have been implemented by NCAs or have inspired NCAs to develop their supervisory approach to some extent. Among the reasons for the non-implementation is also specificity of the local regime resulting in limitation of the supervisory approach which does not allow to incorporate the spirit of the particular best practice. It should be noted however that best practices could be used as inspiration but are not recommended actions.

¹ **BP1** - NCAs regulatory framework ensuring accountability of individuals and allowing it to take timely action in case of supervisory breaches; **BP2** - Supervisory assessment of AMSB members taking records into account that are comprehensive in their nature and scope; **BP3** - NCA's regulatory framework allowing insurers to exchange information for propriety assessment; **BP4** - The legislation providing a framework that explicitly requires NCAs within the same Member State to share information with each other; **BP5** - NCAs developing a database that ensures (fitness and) propriety information is readily available, persons requiring in depth propriety assessment based on historical supervisory breaches or other concerns are identified, information in relation to withdrawals and refusal of applications by the supervisory authority is recorded for future assessment or sharing of information with other supervisory authorities; **BP6** – NCAs having the ability to suspend or put the assessment on hold; **BP7** - NCAs developing a well-structured framework allowing appraisal or verification the propriety of qualifying shareholders on a continuous basis; **BP8** – The legal and regulatory framework implementing a structured approach for ensuring that the AMSB members meet (fit and) proper requirements at all times.

1. INTRODUCTION

Following up on peer reviews, and more specifically assessing the adequacy and effectiveness of the implementation measures enacted to address the recommended actions set out in the peer review report, is an integral part of EIOPA's supervisory role as it fosters supervisory convergence. Indeed, according to Article 30(6) of the EIOPA Regulation, 'the Authority shall undertake a follow-up report after two years of the publication of the peer review report'. The follow-up report shall be prepared by the peer review committee and adopted by the Board of Supervisors in accordance with Article 44(4). When drafting that report, the peer review committee shall consult the Management Board in order to maintain consistency with other follow-up reports.

METHODOLOGY

The follow-up report on the peer review of propriety of Administrative Management and Supervisory Body members and qualifying shareholders consists of key findings per area of recommended action and key findings regarding the implementation of best practices. The follow-up report also includes individual progress reports that, on a named basis, identify the progress made against the recommended actions.

The follow-up was conducted through the collection of NCAs' self-assessments. The analysis of the NCA's self-assessment was focused on the following:

- Progress attained following the specific recommended actions and assessment of the adequacy and effectiveness of the action undertaken by NCAs;
- European overview of the effects of the adjusted supervisory practices and actions taken;
- Use of best practices and their possible further development by NCAs.

The report has been compiled from data submitted by the NCAs responding to customised (i.e. NCA-specific regarding the recommended actions issued to the relevant NCA) questionnaires issued by EIOPA. Where deemed necessary, and in order to better assess the self-assessment submitted, additional information has been requested. In the majority of the cases, follow-up interaction in the form of calls or exchange of e-mails between members of the ad hoc PRC and the NCA have been set up.

The follow-up was conducted by the ad hoc PRC chaired by an EIOPA staff member. The ad hoc PRC was composed of experts on the supervision of propriety of AMSB members and qualifying

shareholders from France, Italy, Slovakia, and EIOPA.

2. SCOPE, REFERENCE PERIOD, AND ASSESSMENT CRITERIA

This follow-up covered the peer review on propriety of AMSB members and qualifying shareholders performed in 2019. The full list of the recommended actions issued in the peer review can be found in Annex I and they cover the following areas:

- Guidance and supervisory records;
- Insurers' own assessment;
- National legislation or regulatory framework;
- Ongoing assessment of propriety of qualifying shareholders and AMSB members;
- Propriety assessment at holding companies;
- Propriety assessment questionnaires;
- Supervisory records.

The follow-up conducted was addressed to all the NCAs² which had been issued recommended actions during the conduct of the peer review with the main objective being the assessment of the level of fulfilment.

Furthermore, all NCAs³ were addressed regarding the implementation of the best practices. The areas for which the best practices have been identified are:

- Legal and regulatory framework (source: UK);
- Access to sources of information/cooperation with other authorities (source: DE);
- Access to sources of information/cooperation with other authorities (source: UK);
- Exchange of information/cooperation with other authorities (source: NL);
- Supervisory database (source: IE);

² Since the follow-up was conducted post Brexit it did not address the recommended actions issued to PRA (UK).

³ The NCA which was the source of the best practice was not addressed as it was excluded from the scope of the best practice. The follow-up addressed the implementation of the two best practices identified in PRA (UK), although the PRA (UK) was not included in the addressees.

- Possibility to stay assessment (or put assessment on hold) in case of pending investigations (source: LI);
- Ongoing verification of operating condition in relation to propriety of qualifying shareholders (source: IT);
- Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members (source: SK).

The follow-up assessed whether the recommended actions have been addressed and what activities regarding regulatory framework and/or organisational structure and/or supervisory practice(s)/supervisory guidance have been undertaken by individual NCAs to fulfil the recommended action(s) issued to them.

The **evaluation criteria** (full list can be found in Annex VI) used in this follow-up were:

- Legal and regulatory framework: Articles 26(3), 29(1), 31(1) and 41 of the SII Directive, Article 30(2)b of the EIOPA Regulation, Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01) (Joint Guidelines), Articles 1.45, 1.49, 13 - 15 of the EIOPA Guidelines on the System of Governance (EIOPA-BoS-14/253);
- Practical process of the propriety assessment: Articles 26(3), 29(1), 34, 36, and 42 of the SII Directive, Articles 23 to 38 of the Joint Guidelines, Article 273 of the Delegated Regulation (EU) 2015/35 and General Protocol, Part II, art 4.1 and 4.2, Paragraphs 1.45, 1.49, 13 - 15 of the EIOPA Guidelines on System of Governance and the technical annex to these guidelines;
- Sources of information: Articles 34 and 42 of the SII Directive, Article 273(4) of the Delegated Regulation (EU) 2015/35;
- Questions on qualifying shareholders: Article 59 of the SII Directive, Joint guidelines, page 10- 16, annex 2, particularly pages 33 -36;
- Questions on groups: Article 257 of the SII Directive;
- Cross-border cooperation: Article 42 of the SII Directive for AMSB, Article 24, 26(3) and 59 of the SII Directive for qualifying shareholders, Article 34 of the SII Directive for general supervisory powers;
- Cooperation with EEA authorities: Decision of the Board of Supervisors on the cooperation of the competent authorities of the Member States of the European Economic Area with

regard to Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance⁴ distribution (paragraphs 1.2 to 1.8., 3.1. to 3.3.);

- Cooperation with non-EEA Authorities: Articles 34 and 42 of the SII Directive and IAIS Insurance Core Principle⁵.

The evaluation criteria were identical to the assessment criteria used for the peer review on propriety of AMSB members and qualifying shareholders with the exception of those which have been replaced by new decisions/updated text.

In addition to the peer review report and the letters with the recommended actions, **implementation expectations** have been set (please refer to Annex VI) i.e. actions required from the competent authorities (how) to achieve substantive goals of the relevant recommended actions and what measures taken by the relevant competent authority would be suited to achieve that objective provided. Furthermore, the ad hoc PRC agreed on the **fulfilment criteria** (how action/inaction would be graded) (please refer to Annex VI).

The assessment of the ad hoc PRC took into consideration the following:

- The quality of the answers, evidence and explanations provided and their relevance as summarised by the NCAs;
- In several cases the NCAs were asked for some documentation (in English if available) or a more precise description. In doing so, the team ensured there was a clear understanding of every NCA's position; if further clarification was deemed necessary the team members requested clarification from respondents (e.g. by email or conference call).

As the reference period of this follow-up exercise was January 2019 to January 2022, all activities of the NCAs completed by January 2022 have been taken into account. The self-assessment questionnaire on the follow-up on the peer review on propriety of AMSB members and qualifying shareholders was launched on 10 January 2022 with the deadline for submitting responses by 4 February 2022.

The self-assessment questionnaires were addressed to 28 NCAs in 28 Member States (including EEA). The questionnaires were tailor-made for each supervisory authority, mentioning the specific recommended action(s) and the best practices. During the assessment by peers, 16 NCAs were asked to submit additional information. The ad hoc PRC conducted conference calls with six NCAs in order to clarify certain open points for the final outcome of the result.

⁴https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/aaadecision_on_the_cooperation_of_competent_authorities.pdf?source=search

3. PROGRESS IDENTIFIED PER AREA OF RECOMMENDED ACTIONS

The follow-up of the peer review on propriety assessment of AMSB members and qualifying shareholders across the European Economic Area (EEA) revealed that out of the total 78 recommended actions issued to 28 NCAs only 47 were fully fulfilled. This represents slightly more than half of the recommended actions. The area of great concern is however, the recommended actions which were not fulfilled, 14 % of all. A number of reasons were mentioned as background for the non fulfillment of the recommended actions: lack of internal resources to work on the issue, the difficult social and political situation in the past two years triggering additional tasks for supervisors, or doubts expressed with regard to the clear requirement within Solvency II Regulation to perform the changes required. It should also be mentioned that almost one fourth of all recommended actions have been only partially implemented in particular due to the length of the process to implement legislative changes, or due to initiating improvements just before the start of the follow-up exercise. Table 1 below is summarising the results:

Table 1

Total statistics by RA	fulfilled	partially fulfilled	not fulfilled
Total 78 RA	60%	26%	14%

In the course of the follow-up exercise EIOPA has identified five major groups of NCAs in terms of progress of fulfilment of the recommended actions. More than half of the NCAs (AT, BE, CZ, DE, EE, FI, FR, HR, HU, IE, IT, LI, LV, PL, PT, SI) have fulfilled 100 % of their recommended actions. One NCA (EL) has fulfilled more than 50 % of its recommended actions due to the difficulty to improve the supervisory practice with regard to qualifying shareholders without clear Solvency II provision to amend the local legislation currently in force. Six NCAs (DK, IS, LT, LU, NL, SK) compose the group of moderate fulfilment of recommended actions with 50 % of them closed. The main reason for the moderate result in this group is, primarily, still ongoing work with regard to the fulfilment of the recommended actions in various areas – introducing/improving the ongoing risk-based and proportionate supervision of AMSB members and qualifying shareholders, developing internal/external guidance in the area of propriety, amending local legislation in the context of propriety. Four NCAs (BG, CY, ES, NO) have fulfilled less than 50 % of their recommended actions and it has been clearly stated in the follow-up peer review report that more dedicated work is needed to be done by these NCAs in the corresponding areas in order to achieve the convergence desired across EEA. There is one NCA (SE) which reported unavailability of resources to perform the

changes required in the form of the recommended actions. Summary of these results can be found in Table 2 below:

Table 2

RAs Implementation status by NCA		
Implemented at 100%	57%	AT, BE, CZ, DE, EE, FI, FR, HR, HU IE, IT, LI, LV, PL, PT, SI
Implemented at 50% or more	4%	EL
Moderate implementation	21%	DK, IS, LT, LU, NL, SK
Not implemented at 50% or more	14%	BG, CY, ES, NO
Not implemented at 100%	4%	SE

3.1. GUIDANCE AND SUPERVISORY RECORDS

Eleven NCAs (BG, CZ, DE, DK, EE, FI, IT, LV, LU, PT, SE) had to develop or improve their internal or external guidance in relation to propriety assessment of AMSB members or qualifying shareholders. External guidance ensures that insurers and proposed acquirers are aware of the NCAs' expectations and the process to follow, whereas the internal guidance contributes towards consistent process and outcomes. Nine NCAs (BE, DK, EE, ES, FR, EL, IT, LU, SK) were recommended to develop or improve their supervisory records or databases in relation to propriety assessment, as information in relation to the nature and circumstances pertaining to withdrawn applications was not captured, particularly when applications are withdrawn on foot of NCAs' concerns. A lack of proper supervisory records increases the risk of important supervisory concerns not being considered during future assessments, or shared with other NCAs resulting in approval at a future date or in a different country.

3.2. NATIONAL LEGISLATION OR REGULATORY FRAMEWORK

The changes performed by NCAs in response to the peer review recommended actions were related to strengthening the scope of the propriety assessment, or enhancing the NCAs' legal powers to take necessary actions in relation to AMSB members. A number of national regulatory frameworks still does not provide for consideration of pending investigations of criminal offences, administrative sanctions or personal bankruptcy. Similarly, certain NCAs still lack the power to assess non-executive

AMSB members or take timely action towards them such as power to remove them when considered not proper. The improvements in this area have supported NCAs (EE, EL, HR, HU, IT, LV, LU, NL, SI) in achieving more robust propriety assessment and have limited the exposure of the internal market to the risk of different outcomes across countries (e.g person considered proper in one EEA country but not proper in another or not proper person who can be removed in one country but not in another).

3.3. ONGOING ASSESSMENT OF PROPRIETY OF QUALIFYING SHAREHOLDERS AND AMSB MEMBERS

Initial assessment at appointment and ad-hoc, or triggered assessment of AMSB members and qualifying shareholders were already receiving sufficient attention from NCAs at the time of the peer review. The frequency of ad-hoc or triggered assessment generally, depends on new evidence or facts brought to NCAs' attention by insurers. (Fitness and) propriety assessment was not reviewed or examined as part of the NCAs' ongoing supervisory activities using a risk-based approach. In this context 24 NCAs (AT, BE, BG, CY, CZ, DE, DK, ES, FI, FR, EL, HR, HU, IE, LI, LV, LT, LU, NL, NO, PL, SE, SI, SK) received recommended actions to carry out such an assessment in the area of qualifying shareholders and 12 NCAs (CY, DE, DK, ES, FI, FR, LI, LU, NL, NO, SE, SI) in the area of AMSB members as part of the NCAs' supervisory activities without seeking to replicate the acquiring transaction review process i.e. completion and submission of forms by the shareholders and/or supervised insurers and review by the NCAs.

3.4. PROPRIETY ASSESSMENT QUESTIONNAIRES

Two NCAs (BE, PL) needed to amend their questionnaires to incorporate specific questions in relation to tax and consumer protection offences (BE), respectively, involvement in bankruptcies, AML, financial soundness of the applicant and doing business without a license (PL). Both countries already had the legal basis in place to consider the five bases of propriety assessments; however, inclusion of explicit and specific questions in their questionnaires had strengthened their legal and regulatory frameworks.

In order to streamline the assessment of the progress made by NCAs the ad-hoc Peer Review Committee has formed **ten groups of recommended actions** (merged into the main areas above) **depending on the level of fulfilment**.

Table 3

Number of RAs	Total statistics by type of RA	fulfilled	partially fulfilled	not fulfilled
24	Ongoing assessment of propriety of qualifying shareholders	54%	25%	21%
12	Ongoing assessment of propriety of AMSB members	42%	42%	17%
2	Propriety assessment questionnaires	100%	0%	0%
11	Internal/ external guidance	64%	9%	27%
9	Supervisory records	78%	22%	0%
2	Insurers own assessment	0%	100%	0%
9	Strengthening regulatory framework	89%	11%	0%
7	Amending national legislation	43%	43%	14%
1	Supervisory Process	100%	0%	0%
1	Propriety Assessment of Holding Companies	100%	0%	0%

The analysis reveals that the so-called ‘tailor made’ recommended actions (very specific ones prescribed to a single NCA) are fulfilled at 100 % (on Supervisory process – HR or Propriety assessment of Holding Companies - SI).

The recommended actions in the area of ongoing assessment of AMSB members and qualifying shareholders (in total 36 recommended actions) are fulfilled at around 50 % with slight dominance of the ones targeting qualifying shareholders prescribed to 24 NCAs and completed by 13 NCAs. This has been highlighted as a significant result given the fact that a number of NCAs have expressed their doubts in the relevance of Solvency II Regulation with this regard and whether there is merit in working towards supervisory convergence in the area of ongoing assessment of qualifying shareholders without ‘clear legal basis’ in their opinion. The follow-up exercise revealed also the fact that the recommended actions of the peer review actually triggered NCAs to work towards implementation of the Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01) in their day-to-day supervisory work.

Another large group of NCAs has concluded the amendment of the national legislation (IT, LU, SI) or strengthened the regulatory framework in the area of propriety (EE, EL, HR, HU, IT, LV, NL, SI) allowing them to enable ongoing risk-based assessment of propriety of AMSB members and qualifying shareholders.

Significant amount of work has been done towards the preparation/ finalisation of internal/ external guidance in the area of propriety which has been completed by 7 NCAs (CZ, DE, EE, FI, IT, LV, PT) and kicked off, in addition, by one more (LU).

Improvement of the supervisory database was completed by 7 NCAs (BE, DK, EE, FR, EL, IT, SK) out of 9 and is on its way to be finalised in the other 2 NCAs (ES, LU) being prescribed with this recommended action. The importance of having structured database as a ground for effective supervision of AMSB and qualifying shareholders assessment has clearly been recognised as an advantage by Members. Further details on the fulfillment of recommended actions by type of recommended action (RA) can be found in Table 3 above.

Table 4

Total statistics by type of RA	fulfilled		partially fulfilled		not fulfilled		Total No
	%	No	%	No	%	No	
Policy related RA of which	69%	20	17%	5	14%	4	29
<i>Amending national legislations</i>	43%	3	43%	3	14%	1	7
<i>Strengthening regulatory framework</i>	89%	8	11%	1	0%	0	9
<i>Internal/external guidance</i>	64%	7	9%	1	27%	3	11
<i>Propriety assessment questionnaires</i>	100%	2	0%	0	0%	0	2
Supervisory related RA of which	55%	27	31%	15	14%	7	49
<i>Ongoing assessment of propriety of AMSB</i>	42%	5	42%	5	17%	2	12
<i>Ongoing assessment of qualified shareholders</i>	54%	13	25%	6	21%	5	24
<i>Supervisory records</i>	78%	7	22%	2	0%	0	9
<i>Insurer's own assessment</i>	0%	0	100%	2	0%	0	2
<i>Supervisory processes</i>	100%	1	0%	0	0%	0	1
<i>Propriety assessment of holding companies</i>	100%	1	0%	0	0%	0	1
							78

The recommended actions fulfilled can be split also into **two main groups – policy related recommended actions and supervisory related recommended actions** (see Table 4 above).

The majority of the recommended actions prescribed as a result of the peer review were focused on supervisory practices – more than two thirds of all 78 recommended actions. This category, which includes actions such as ongoing assessment of AMSB and qualifying shareholders as well as creating/improving supervisory records and enhancing supervisory processes, has slightly lower fulfillment rate – 55 % towards 69 % for policy related recommended actions, referring to amending legislation, strengthening regulatory framework, issuing internal/external guidance and amending questionnaires. It should, however, be mentioned that supervisory related recommended actions have almost double amount of recommended actions which are partially fulfilled compared to policy related recommended actions. The reason for this significant difference is the fact that supervisory recommended actions are easier to be processed also for NCAs which are not the

legislative body in the Member State. The high percentage of non-fulfilled recommended actions for policy related ones is the fact that in a number of countries NCAs have not worked yet on internal guidance to enhance their supervisory work or have not initiated the work on external communication to set the expectations towards the market in the area of propriety. The non-fulfilled recommended actions with regard to supervisory issues are mainly due to doubts/ inability of a number of NCAs to process the ongoing assessment of qualifying shareholders based on the current Solvency II Regulation.

Detailed overview of the level of fulfilment of recommended action by NCA and by type can be found in Annex II of this report.

3.5. FOLLOW-UP STEPS FOR EIOPA

The following actions were identified for EIOPA:

- EIOPA to assess the need to develop explicit questions for NCAs to incorporate in their assessment to ensure that the supervisory processes to gather information are comprehensive and differences in criminal and civil laws of countries are not resulting in gaps in terms of information gathering and assessment. EIOPA to develop some guiding principles and a template for cross-border cooperation.
- In complex cross-border cases, sharing all relevant information in an effective and timely manner is a challenge leading to the risk that some important information is not shared between NCAs or the propriety assessment is not robust. EIOPA to encourage NCAs to undertake joint interviews to ensure robust and timely propriety assessments.
- In the context of strengthening the legal powers of NCAs, EIOPA to consider if an improvement in the legal basis in the SII Directive is needed (e.g. Article 19 of the SII Directive) and whether this could be included as part of the Solvency II 2020 Review.

EIOPA has proposed to the COM amendments to Article 19 on the on-going assessment of qualifying shareholders and Article 26 on the prior consultation of the authorities of other Member States in EIOPA Opinion on the 2020 Review of Solvency II. Further work will be assessed once the Solvency II Review is finalised.

EIOPA, together with the other ESAs is also working on the implementation of a system for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions by competent authorities as required in article 31a of EIOPA Regulation.

4. NCA PROGRESS REPORTS REGARDING RECOMMENDED ACTIONS

4.1. AUSTRIA

Main findings

The recommended action issued to FMA was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

FMA was recommended to appraise or verify using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Solvency II Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis using a risk-based approach will ensure that one of the underlying operating conditions for insurance business is met.

FMA has implemented a process that ensures a risk-based and proportionate selection. The process is linked to the general risk assessment of all supervised insurance undertakings, which includes quantitative and qualitative elements (also referring to group structure). As a second step the companies are clustered according to their ownership structure which links every undertaking to a certain risk score. Based on this process, the (indirect) owners of 3-5 undertakings are subjected (risk-based and proportionate) to a proactive review, which has a focus on ongoing suitability of the qualified shareholder(s) (QS) and the operating conditions of the undertaking. Data from other supervisory procedures/actions is used in this process when appropriate.

The assessment is carried out as part of the FMA's supervisory activities and does not replicate the acquiring transaction review process, i.e. completion and submission of forms by the shareholders and/or supervised insurers reviewed by the Authority.

Conclusion

FMA has implemented a risk-based and proportionate approach regarding the assessment of suitability of qualifying shareholders, distinguishes companies among others by their ownership structure and takes proactive approach focusing on suitability of qualifying shareholders (3 undertakings a year).

Based on the assessment of the information provided, **EIOPA considers the recommended action as fulfilled.**

4.2. BELGIUM

Main findings

The first recommended action issued to NBB was in the context of ‘Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders’.

NBB was recommended to strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer protection offences in relation to the assessment of AMSB members. Such strengthening would ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

NBB has, in line with the recommended action, been strengthening its framework by broadening the definition and scope of the propriety assessment to include questions in relation to tax and consumer protection offences as part of the assessment of AMSB members. To this purpose, NBB has implemented and published in September 2018, a new ‘Handbook fit & proper’ where Section 4.4.3 provides broader information for the integration of such aspects. NBB in its latest template asks entities to fulfill questions regarding bankruptcies, AML and financial soundness of a new AMSB member and to notify prior to the approval.

The second recommended action issued to NBB was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

NBB was recommended to appraise or verify the suitability of qualifying shareholders on a continuous basis using a risk-based and proportionate approach as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

NBB’s ongoing supervision on the suitability of the qualifying shareholders leverages on the ongoing information provided by the insurance undertaking. In particular, the requirements to notify NBB immediately of any new information that could have a material impact on the initial/latest assessment by the competent authority. Since 2018, a series of several forms/templates are available on NBB’s website to obtain a set of information on the qualifying shareholders on a standardised basis. Among these templates, one is specifically dedicated to the notification of any material changes regarding information on qualifying shareholders, NBB has also in place an internal procedure to assess the suitability of the qualifying shareholders at stage of initial assessment or in case of material changes. Additionally, in the context of group supervision, the NBB keeps assessing the suitability of qualifying shareholders on a continuous basis, through the cooperation with the Group supervisor (via bilateral dialogues or during supervisory colleges).

The assessment is carried out as part of NBB's supervisory activities and does not replicate the acquiring transaction review process, i.e. completion and submission of forms by the shareholders and/or supervised insurers reviewed by the Authority.

The third recommended action issued to NBB was in the context of 'Supervisory database'.

NBB was recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

In the context of this recommended action NBB has published a communication to the financial institutions under its supervision informing them on the new secured digitalised process (starting March 2021) for the submission of fit and proper forms regarding persons subject to a fit and proper assessment. This allows NBB to receive all fit and proper (F&P) documents via a unique secured channel developed and to keep record [on all new appointments requested, reappointments, new elements and end of terms] even in the case it is withdrawn before a decision by NBB is taken. For the use of the off-site supervisory department, a dedicated sharepoint site is in place gathering all information on persons subject to an NBB's approval process, to be appointed in AMSB – key function in Belgian (re)insurance undertakings over the last ten years. All information is stored in a database updated by the Authority's off-site team on an ongoing basis.

Conclusion

NBB, in addition to the legal basis in place considering the five bases⁵ of propriety assessments has included the required explicit and specific questions in the questionnaires to strengthen the legal and regulatory framework available.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

NBB has implemented a risk-based and proportionate approach regarding the assessment of suitability of qualifying shareholders, based on ongoing information provided by the (re)insurance undertakings and takes proactive approach focusing on material changes with regard to suitability of qualifying shareholders. Furthermore, NBB is continuously putting efforts on assessing the suitability in case of group structures supervised.

⁵ The five bases are including: 1. criminal offences and administrative sanctions for non-compliance with provisions governing financial activities; 2. pending investigations for criminal offences or administrative sanctions; 3. bankruptcy or insolvency of an insurer where the candidate was previously a director; 4. personal bankruptcy or inclusion on a list of unreliable debtors; and 5. matters of transparency or honesty, rejection of an application, exclusion or limitation to conduct operations which requires authorisation or dismissal from employment.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

NBB has implemented a new secured digitalised process for the submission of fit and proper forms, also applicable for withdrawn files. There is a sharepoint site developed in NBB where full inventory of withdrawals and refusals is kept in a single database updated on ongoing basis. With this, the Authority has improved their supervisory records/database in relation to propriety assessment as recommended.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.3. BULGARIA

Main findings

The first recommended action issued to FSC was in the context of 'Internal Guidance'.

FSC was recommended to develop internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.

FSC has provided information on the actions taken after the peer review mainly concerning the adoption and implementation of external guidelines. More in detail, Ordinance - No 71 of 07.02.2022 - on Requirements to the System of Governance of the Insurers and the Reinsurers was issued by FSC and a 6-months transitional period of time was set in order to ensure the compliance of the undertakings with the new regulatory framework. With the adoption of such Ordinance, FSC has implemented into the national regulatory framework some of the EIOPA guidelines⁶, mainly on governance, and empowered FSC to request information or to conduct on-site inspections to assess the compliance with the fit and proper requirements set for the AMSB members and the key functions holders. With regard to assessment of acquisitions and increases of qualifying holdings on 11.07.2017 FSC adopted a decision for the application of the Joint Guidelines on qualifying shareholders in its supervisory practice. The newly adopted Ordinance No. 71 has been reflected in the supervisory manuals of the On-Site Inspections Department, as well as in the newly prepared inspections plan for the current year. In addition to that some organisational changes have been adopted by FSC to pursue the goal of assessing on a continuous basis the compliance with the implemented regulatory framework.

⁶ Guidelines on Management System (EIOPA-BoS-14/253 EN) together with the Technical Annex to them; Guidelines for Assessing Own Risk and Solvency (EIOPA-BoS-14/259 EN); Guidelines on the handling of complaints by insurance undertakings (EIOPA-BoS-12/069 EN); Guidelines for the award of activities to cloud service providers (EIOPA-BoS-20-002); Guidelines for Security and Management of Information and Communication Technologies (EIOPA-BoS-20/600).

The second recommended action issued to FSC was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

FSC was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

FSC has not implemented the recommended action, as it deems that there is no legal basis to require and carry out an ongoing assessment of the qualifying shareholders suitability. According to its interpretation, the current legislation, both at European and at national level, does not provide with a clear legal/judicial ground. Following the revision of the Solvency II Directive, FSC would re-evaluate such issue in order to assess the need to adopt a different approach.

Conclusion

The external guidance implemented by FSC ensures that insurers and proposed acquirers are aware of the NCAs' expectations and the process to follow; however, the recommended action issued was focused on internal guidance contributing towards a consistent process within FSC and the outcomes achieved. EIOPA acknowledges the progress made by the Authority in the context of setting the scene for robust supervisory processes and consistent outcomes based on Articles 29 and 59 of the Directive. However, further work is needed in setting up clear internal guidance elaborating on practical procedural aspects of AMSB propriety assessment, besides the organisational changes adopted, and its integration in the on-site inspection department work.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as partially fulfilled.**

With regard to the second recommended action EIOPA would like to clarify that the wording of the initial peer review report and in particular of the recommended actions is in line with ESAs 'Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector' (see Guideline 10 in Chapter 3).

The assessment of qualifying shareholders should be carried out as part of the NCAs' supervisory activities and should not seek to replicate the acquiring transaction review process, i.e. completion and submission of forms by the shareholders and/or supervised insurers and review by the NCAs. Annex 3 of the original peer review report outlines some examples of how an ongoing propriety assessment of qualifying shareholders can be implemented by using a risk-based and proportionate approach and without replicating the process used for initial or ad-hoc assessments.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as not fulfilled.**

4.4. CROATIA

Main findings

The first recommended action issued to HANFA was in the context of ‘Supervisory process’.

HANFA was recommended to develop a specific form/questionnaire to be completed by the proposed acquirer. The questionnaire, when issued, would assist HANFA to conduct its tasks in a transparent and accountable manner as required by Article 31 of the Directive.

HANFA developed a questionnaire for the proposed acquirer to complete (questions about personal debt/insolvency procedure, dismissal from a former employer or conducting a business without a license, etc.) and this questionnaire is an integral part of the approval process. HANFA requires qualifying shareholders to provide notification and details of any material changes to the information previously provided to the supervisory authority. This obligation is also stated in the questionnaire. The abovementioned questionnaire is contained in the Ordinance on the acquisition of qualifying holdings in insurance undertakings or reinsurance undertakings. According to the internal procedure the Licensing Office cooperates with the Insurance, Leasing and Factoring Supervision Division about the information relating to the qualifying shareholders and the target insurance undertaking. HANFA has defined clear tasks within the Insurance Supervision Division and the Licensing Office for cooperation during the creation of the abovementioned questionnaire.

The second recommended action issued to HANFA was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

HANFA was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis, would ensure that one of the underlying operating conditions for insurance business is met.

Based on its annual report HANFA is monitoring on a continuous basis the fulfilment of fit and proper requirements, especially for qualifying shareholders. HANFA has clear definition of roles and responsibilities within HANFA’s Insurance Supervision Division and Licensing Office, with continuous cooperation and information exchange. HANFA is monitoring on a continuous basis the fulfilment of the conditions stipulated by the provisions of the Insurance Act, on which basis the acquisition of the qualifying holding was approved, and has the power to revoke or annul such decision.

The third recommended action issued to HANFA was in the context of ‘Definition or scope of propriety of AMSB members and suitability of qualifying shareholders’.

HANFA was recommended to align and conform the propriety definition for supervisory board members with the definition for management board members; and strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment in relation to qualifying shareholders by extending the scope of assessment to consider personal debt/insolvency procedure, dismissal from a former employer, or conducting a business without a license.

HANFA aligned and conformed the propriety definition for supervisory board members with the definition for management board members (articles 51 and 59 of Ordinances under the Insurance Act (Official Gazette 30/15, 112/18, 63/20 and 133/20). HANFA also extended scope of assessment in relation to qualifying shareholders and is considering personal debt/insolvency procedure, dismissal from a former employer, or conducting a business without a license (questions listed in the questionnaire that is an integral part of the approval process). According to the internal procedure, Licensing Office cooperates with Insurance, Leasing and Factoring Supervision Division about the information relating to the candidate and insurance undertaking they are nominated by, or about potential qualifying shareholder and the target insurance undertaking. HANFA continuously monitors the fulfilment of all abovementioned criteria and ensures conforming to all requirements prescribed by the Insurance Act.

The fourth recommended action issued to HANFA was in the context of 'Propriety Assessment at Holding Companies'.

HANFA was recommended to fully implement provisions of Article 257 of the Directive, with respect to holding companies.

Clear tasks were defined within HANFA's insurance supervision division for monitoring the fulfilment of the abovementioned criteria. At the moment, on the Croatian insurance market there are no insurance holding companies or mixed financial holding companies. Nevertheless, HANFA is monitoring the insurance market in order to detect, in a timely manner, establishment of such companies and react upon their establishment.

Conclusion

The questionnaire developed by HANFA, to be completed by the proposed acquirer, is supporting HANFA to conduct its supervisory tasks in a transparent and accountable manner as envisaged in Article 31 of the Directive.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

HANFA has implemented a risk-based and proportionate approach regarding the assessment of suitability of qualifying shareholders, based on clear definition of roles and responsibilities within

HANFA's Insurance Supervision Division and Licensing Office, with continuous cooperation and information exchange.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

HANFA has overcome the shortcomings in the definition and scope of propriety of AMSB members and suitability of qualifying shareholders which were exposing the Authority to a less robust propriety assessment and also the internal market to the risk of different outcomes compared to other countries (e.g. a person considered proper in one EEA country but not proper in another or an improper person who can be removed in one country but not in another).

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

The application of (fit and) proper requirements at holding company level, as established by Article 42 of the SII Directive, for insurers has been implemented by the Authority.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended action as fulfilled.**

4.5. CYPRUS

Main findings

The first recommended action issued to ICCS was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

ICCS was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

The general position of ICCS is that the continuous assessment of propriety of AMSB and qualified shareholders should be done by the compliance functions of the undertakings in accordance with their fit and proper policies, not only by the NCAs as Solvency II suggests. ICCS has implemented the Solvency II Directive and transposed it in the National Law in a way that ICCS has legal powers only for the assessment of a potential acquisition or additional acquisition of a shareholding. This is the reason why ICCS has not initiated any other change in the legislation. In this context, ICCS is requesting a list of shareholders once a year and expects the insurance undertakings to alert about

any changes in the propriety of shareholders. The only action available for ICCS in case of non-propropriety is to restrict the voting rights of the shareholders as per the Solvency II Directive.

The second recommended action issued to ICCS was in the context of ‘Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members’.

ICCS was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the ICCS.

ICCS has revised the application form for the assessment of prospective AMSB members and has strengthened the requirements with additional information. ICCS has also included in the assessment form the ‘obligation’ to notify the Authority of any changes that may occur after the approval in the status of the member. In addition to that, in November 2021, ICCS organised a seminar titled ‘Board Members, roles and responsibilities’ highlighting the importance of having an effective Board and the input of this Board to the insurance undertaking, its strategy, its overall direction and the ORSA process. As part of continuous training seminar, ICCS has recently sent a self-assessment questionnaire to all insurance undertakings for the members of the AMSBs to complete it. The replies of the AMSBs should have been submitted to the Authority by the end of March 2022. ICCS has also asked, with this questionnaire, for information such as the Fit and Proper Policy of the undertaking, the Policy on the Evaluation of the Board and the members’ assessment.

ICCS is planning to prepare a schedule with appraisal frequency of the requirement of Article 42(1) of the Solvency II Directive asking undertakings for a signed statement (signed by the Compliance Function Officer and reviewed by the Audit Committee) to be submitted to the Authority annually/bi-annually. The collected information would serve as a basis for dedicated on-site inspections in the area of AMSB propriety.

Conclusion

ICCS argues that the legislative framework does not give the Authority powers over shareholders, ICCS has not initiated a change of the local legislation and is not planning initiating a change in the legislation.

With regard to the first recommended action EIOPA would like to clarify that the wording of the initial peer review report and in particular of the recommended actions is in line with ESAs ‘Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector’ (see Guideline 10 in Chapter 3).

The assessment of qualifying shareholders should be carried out as part of the NCAs’ supervisory activities and should not seek to replicate the acquiring transaction review process, i.e. completion

and submission of forms by the shareholders and/or supervised insurers and review by the NCAs. Annex 3 of the original peer review report outlines some examples of how an ongoing propriety assessment of qualifying shareholders can be implemented by using a risk-based and proportionate approach and without replicating the process used for initial or ad-hoc assessments.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as not fulfilled.**

EIOPA acknowledges the efforts made by ICCS in the context of implementing ongoing risk-based and proportionate assessment of AMSB members of supervised (re)insurance undertakings. It should be noted however, that part of the activities performed by ICCS in this context had not been finalised at the time of assessment. Furthermore, the Authority still has in the pipeline the preparation of the schedule with appraisal frequency of the requirement of Article 42(1) which outcome would serve as a basis for dedicated on-site inspections.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as partially fulfilled.**

4.6. CZECHIA

Main findings

The first recommended action issued to CNB was in the context of 'Internal guidance'.

CNB was recommended to finalise internal guidance for the propriety assessment of AMSB members to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.

In response to this recommended action, CNB updated its official information which refers to propriety of AMSB in detail and the current version is publicly available on the website of CNB since August 2020. The supplementary internal guidance from April 2018 ('Manual for supervisors on Fitness and Propriety assessment') has been updated as well, and in the current version the assessment is referring to internally and externally used official Information of the Czech National Bank. The manual, further elaborates on practical procedural aspects of AMSB propriety assessment.

In addition to that, in April 2020 CNB issued a new supervisory communication focusing on ensuring the suitability of persons in the sectors of credit institutions, insurance companies, reinsurance companies and pension companies. The purpose of this supervisory communication is to inform about the expectations and approach of CNB in supervising the setting up and functioning of the system of governance of financial service providers in the credit institutions, insurance companies,

reinsurance companies and pension companies in the process of assessment of the suitability of the persons concerned in these sectors.

The second recommended action issued to CNB was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

CNB was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

CNB has stressed, in an internal methodology, the need to evaluate all available information relating to the propriety of the qualified shareholder(s) on a regular basis (at least annually), where regular assessments of this area are part of the ongoing Risk assessment system (RAS). CNB assesses all quantitative and qualitative information available related to the financial stability and reputation of the shareholder, the performance of the shareholder's roles and support provided to the supervised entity, if relevant. This assessment is based on publicly available information and information that is shared between NCAs (e.g. within colleges, or via ad-hoc communication and on all information obtained in the course of the supervisory activities). In case of concerns CNB launches further supervisory activities appropriate for the particular situation. In addition to the annual assessment, the information is evaluated also on an ad-hoc basis during on-going supervision. In this context, the internal Supervisory Manual on Fitness and Propriety assessment has also been updated. (December 2021).

Conclusion

The external guidance implemented by CNB ensures that insurers and proposed acquirers are aware of the NCAs' expectations and the process to follow in the area of system of governance. With regard to the internal guidance update, EIOPA acknowledges the progress made by the Authority in the context of implementing robust supervisory processes and consistent outcomes based on Articles 29 and 59 of the Directive. The setup of clear internal guidance elaborating on practical procedural aspects of AMSB propriety assessment, besides communication of expectations in this regard, are key for the successful implementation of this recommended action.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

CNB has implemented a risk-based and proportionate approach regarding the assessment of suitability of qualifying shareholders, based on annual assessment of all quantitative and qualitative information available related to the financial stability and reputation of the shareholders and the performance of the shareholder's roles. In response to the recommended action CNB has also

updated the Supervisory Manual on Fitness and Propriety assessment in order to capture this aspect.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

4.7. DENMARK

Main findings

The first recommended action issued to DFSA was in the context of 'External guidance'.

DFSA was recommended to issue external guidance for qualifying shareholders explicitly referencing to the CEIOPS/CEBS/CESR guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by the Directive 2007/44/EC (CEIOPS-3L3-19/08) to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the obligation for the qualifying shareholders for ongoing compliance with suitability requirements.

DFSA is currently revising the regulation regarding qualifying shareholders, including the existing external guideline. The existing external guidelines in the area were issued in 2010 (revised in 2011) and are no longer relevant, hence will be repealed. The scheduled time for implementation is currently 1 July 2022. With the implementation the DFSA's external guidelines will no longer be relevant and therefore the reference to ESA guidelines and other relevant legislation will be incorporated into the application form on www.virk.dk.

The second recommended action issued to the DFSA was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

DFSA was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

DFSA considers that the Solvency II regulation does not include an obligation to make proactive supervisory assessments of the propriety/suitability of qualifying shareholders on an ongoing basis. DFSA further supports this position by referring to the Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector.

DFSA currently assess the propriety of qualifying shareholders upon initial appointment, ad hoc during on-site investigations, when receiving external information regarding possible lack of

propriety/suitability and in case of 'triggers' from the undertakings (e.g. poor management, complex structure, bad publicity). Furthermore, DFSA performs a yearly off-site risk assessment of each insurance undertaking which includes assessment of governance aspects. If there are circumstances that require special attention or action, DFSA is obligated to take action immediately according to the DFSA's internal guidelines. In addition to that, DFSA verifies on a continuous basis the proper operations of the insurance business and of compliance with supervisory provisions.

The third recommended action issued to DFSA was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

DFSA was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the DFSA.

DFSA carries out a propriety assessment upon initial appointment of an AMSB-member, other key function or key function holder. When carrying out on-site inspections DFSA always investigates the well-functioning of the governance system of the specific undertaking including the fitness and propriety of AMSB members, other key functions and key function holders, especially in case of regulatory breaches. Furthermore, DFSA reacts upon any external information (e.g. the undertakings, journalists, whistle-blowers, etc.) regarding possible propriety issues of AMSB members, other key functions or key function holders of any insurance undertaking. On a regulatory level, DFSA has in place regulation incorporated into the financial business act which requires both the insurance undertaking and the AMSB member, other key function or key function holder concerned to inform DFSA if criteria regarding fitness and/or propriety are no longer met.

The fourth recommended action issued to DFSA was in the context of 'Insurers own assessment'.

DFSA was recommended to receive, together with the appointment notification, and subsequently review, using a risk-based and proportionate approach, insurers' own assessment, as required by Article 42(2) of the Directive.

In line with Art. 42 of the SII Directive, the undertakings under DFSA's supervision have the primary responsibility of assessing (fitness) and propriety of the AMSB members and key persons. In response to the recommended action, in the course of 2018 and 2019 only minor technical changes were performed in the Financial business act (§ 64 and § 64). All AMSB members and key persons are notified by the undertaking and assessed by DFSA at appointment. DFSA is assessing the undertakings own propriety assessment in this process on a risk-based approach based on the information received together with the appointment application. The insurance undertakings have

the duty to notify DFSA of any change in the circle of key persons, including changes as a result of a key person no longer meeting the suitability and integrity requirements.

The fifth recommended action issued to DFSA was in the context of 'Supervisory database'.

DFSA was recommended to maintain a database that captures information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

DFSA operates with a digitalised platform called 'KMD Workzone' in which it is possible to search, all material (e.g. internal/external e-mails, internal notes, statements received, etc.), for all cases processed within DFSA. A withdrawal would be stored on the relevant case/subcase, thus allowing DFSA to maintain knowledge regarding the nature and circumstances of a withdrawal. In addition to the digital platform, DFSA is in the process of compiling an overview of decisions regarding complex fit and proper evaluations, in order to ensure a uniform and consistent practice.

Conclusion

EIOPA acknowledges the work to put the revision of the existing external guidelines in the pipeline of DFSA projects; however, the subject of this recommended action is not sufficiently advanced in terms of implementation.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as not fulfilled.**

With regard to the second recommended action, EIOPA would like to clarify that the wording of the initial peer review report and in particular of the recommended actions is in line with ESAs 'Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector' (see Guideline 10 in Chapter 3).

EIOPA acknowledges the progress made on DFSA's side in the context of ongoing supervision of suitability of qualified shareholders; however, the assessment of qualifying shareholders should be carried out as part of the NCAs' supervisory activities and should not seek to replicate the acquiring transaction review process, i.e. completion and submission of forms by the shareholders and/or supervised insurers and review by the NCAs. EIOPA considers there is room for improvement in DFSA's practice with this regard. Annex 3 of the original peer review report outlines some examples of how an ongoing propriety assessment of qualifying shareholders can be implemented by using a risk-based and proportionate approach and without replicating the process used for initial or ad-hoc assessments.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as partially fulfilled.**

EIOPA acknowledges the efforts made by DFSA in the context of implementing ongoing risk-based and proportionate assessment of AMSB members of supervised (re)insurance undertakings. It should be noted however, that the risk-based activities performed by DFSA are sourced primarily from on-site inspections or following external triggers. Annex 3 of the original peer review report outlines some further examples of how an ongoing propriety assessment of AMSB members can be implemented by using a risk-based and proportionate approach and without replicating the process used for initial or ad-hoc assessments.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as partially fulfilled.**

EIOPA acknowledges the efforts made by DFSA in the context of receiving and subsequently reviewing using risk-based and proportionate approach insurers' own assessment as required by Article 42(2) of the Directive. It should be noted however, that major amendment of the corresponding local legislation is on its way to be made which would enable more effective implementation of this recommended action.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended action as partially fulfilled.**

DFSA has built a digitalised platform serving as a storage for supervisory records. Based on the assessment of the information provided, **EIOPA considers the fifth recommended action as fulfilled.**

4.8. ESTONIA

Main findings

The first recommended action issued to EFSA was in the context of 'External guidance'.

EFSA was recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.

The Guidelines were approved in September 2018. They provide explanations on the processes to subjects of financial supervision conducted by EFSA and specify EFSA's main expectations when conducting suitability assessments. The guidance is applicable to all supervised undertakings, i.e. AMSB members and qualifying shareholders (to the extent appropriate) accordingly. The Guidelines meet the transparency and accountability obligations contained in Article 31 of the Solvency II Directive and reiterate the primary responsibility of the undertakings and qualifying shareholders for ongoing compliance with propriety requirements. In addition to that, in 2019 and 2021 EFSA carried out off-site inspections and examined internal rules and procedures for the assessment of

AMSB members in selected supervised undertakings, including insurance undertakings. As a result, supervised undertakings amended their internal rules and procedures to eliminate deficiencies revealed by EFSA.

The second recommended action issued to EFSA was in the context of 'Internal guidance'.

EFSA was recommended to develop internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.

EFSA has adopted internal guidelines (Handbook on Fit and Proper Assessment, hereinafter Handbook) which defines the minimum requirements for carrying out the fit and proper assessment, which must be used as a rule by the person conducting the procedure, and describes detailed operations of the person conducting the procedure in carrying out the fit and proper assessment. The Handbook is reviewed by EFSA annually; the last version of the Handbook was approved in May 2021. In addition to that, an internal structural reorganisation took place in EFSA in 2020, and a Corporate Governance Department was established as a result thereof. With regard to the tasks, the Corporate Governance Department is focused on corporate governance topics, and the Legal Department, with no changes, is liable for conducting assessment of AMSB members.

The third recommended action issued to EFSA was in the context of 'Definition or scope of propriety of AMSB members'.

EFSA was recommended to strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment in relation to AMSB members. Such strengthening will ensure full implementation of Articles 42, 59 and 26 as well as the relevant European guidelines.

Besides the Guidelines for Fit and Proper Assessment, EFSA has worked out extensive Fit and Proper questionnaires (hereinafter Questionnaire), consisting of questions related to different aspects that have to be taken into account for verifying compliance with the requirements, including the propriety assessment. In addition to that, according to the article 228 of the Insurance Activities Act (IAA) EFSA is entitled to issue a precept and: a) demand changing the system of governance of an insurance undertaking to ensure compliance thereof with the requirements provided in the IAA; b) demand that the supervisory board of an insurance undertaking or an intermediary remove a member of the management board; c) make a proposal to the general meeting of an insurance undertaking or an intermediary for removal of a member of the supervisory board. EFSA has also taken active steps for more precise provision of criteria for assessment of propriety of a person appointed, or to be appointed to the AMSB, as part of an assessment of impeccable business reputation, the term 'impeccable reputation' is defined in the Guidelines, that also provide characteristics and indications for interpretation of this term. It is important to highlight that the Estonian market is very small and EFSA has frequent communication with all market participants.

EFSA asks undertakings for AMSB meeting minutes at least biannually, or even more often if risks of the undertaking were once assessed as a bit critical.

Conclusion

In response to the recommended action EFSA has issued external guidance applicable to all supervised undertakings meeting the transparency and accountability obligations contained in Article 31 of the Solvency II Directive and reiterate the primary responsibility of the undertakings and qualifying shareholders for ongoing compliance with propriety requirements.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

EFSA has developed internal guidance defining the minimum requirements for carrying out the fit and proper assessment which is being reviewed on annual basis. In addition to that, new internal structure has been created focusing on corporate governance topics. With that, EFSA has achieved robust supervisory processes and aims to achieving consistent outcomes in line with Articles 29 and 59 of the Directive.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

In response to the recommended action EFSA has been working on improving the regulatory and framework in general, including also broadening the definition or scope of the propriety assessment in relation to AMSB members. With that EFSA has achieved full implementation of Articles 42, 59 and 26 as well as the relevant European guidelines.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.9. FINLAND

Main findings

The first recommended action issued to FIN-FSA was in the context of 'External guidance'.

FIN-FSA was recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.

Both internal and external processes and guidance have been under extensive development by FIN-FSA. As part of the Authority's proactive supervisory activities public blog posts have been published on FIN-FSA's website. Two relevant blog posts were published in 2021 - one regarding the reason

the fit and proper requirements for AMSB members are important, and the other regarding who can be a shareholder of an insurance undertaking. FSA-FIN has also published a Supervision release on December 2021 to draw undertakings' attention to the fact that the supervised entities are obliged to make sure that the fit & proper declaration process is ongoing.

The second recommended action issued to FIN-FSA was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

FIN-FSA was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

FIN-FSA's regulation and guidelines (6/2015) regarding the fit and proper requirements and notification procedure was updated in November 2019; however, they are of a general nature and do not specifically address the issue of propriety of qualifying shareholders. This dimension of the propriety of shareholders is in a regulatory sense tackled through the acquiring transaction review process. In 2021, the Authority cross-checked its fit and proper supervision registers seeking to find missing information and gaps. FIN-FSA has made a user query for all life and non-life insurance undertakings concerning their experience in using the new fit and proper form in 2021. FIN-FSA will take advantage of this feedback in developing supervisory projects on risk basis in 2022. FIN-FSA has further asked supervised entities to provide examples about their own processes with regard to ongoing assessment of AMSB members and qualifying shareholders and reminded the importance and necessity of continuous assessment. If FIN-FSA becomes aware of deficiencies, or doubts arise that the supervised entities' process (between AMSB member and supervised entities or supervised entities and FIN-FSA) is not working, the matter is immediately taken for processing. In addition to that, FIN-FSA has established an internal process regarding exchange of information across all financial sectors on ongoing investigations, sanctions, penalties and other supervisory measures related to fitness and propriety. FIN-FSA has also, during 2021, introduced a new supervisory interface to authority registers (VAPI), through which it is possible to run background checks on relevant aspects related to the fit and proper assessments. Access to this information is on a need-to-know basis and in accordance with General Data Protection Regulation (GDPR) requirements. Furthermore, the national legislation also provides a framework for sharing information with other relevant authorities (for example police, tax authorities). The insurance undertakings are obliged to report annually on the changes of qualifying shareholders. In the case of breaches, the national legislation provides FIN-FSA a legal authority to take actions (e.g. in the event of changes in conditions for granting the authorisation or a failure to notify the acquisitions of qualifying holdings).

The third recommended action issued to FIN-FSA was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

FIN-FSA was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to FIN-FSA.

Besides the updated regulation and guidelines on fit and proper requirements and notification procedure also the updated fit and proper notification form for life and non-life insurance undertakings was enabled, including extensive practical guidance for supervised entities. The new form will also be usable in the planned electronic services of FIN-FSA in the beginning of 2023. The team of insurance supervisors has, during 2021, established an internal working process and a case register for fit and propriety supervision which is under continuous review. Furthermore, the department and FIN-FSA has cross sectoral working groups for information exchange in fit and proper matters, also covering issues related to AMSB member propriety. Similarly to the work done with regard to qualifying shareholders' propriety follow-up, FIN-FSA is following an internal process regarding exchange of information on ongoing investigations, sanctions, penalties and other supervisory measures related to fitness and propriety also for AMSB members. The 2022 annual supervisory plan for FIN-FSA insurance supervision includes several activities regarding the fit and proper process. The objectives for 2022 are internal educational efforts on the internal process regarding fit and proper assessments, as well as review of the internal processes and guidelines, also in the light of the new 'Guidelines on internal governance BA/GL/2021/05'. As part of quarterly themes FIN-FSA monitors quality of supervised entities RSR-reports, changes of RSR-reports and companies instructions and processes to fulfil the recommended action.

Conclusion

In response to the recommended action FIN-FSA has worked externally to set expectations towards the supervised entities but also internally to improve the supervisory practice with regard to compliance with propriety requirements.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

FIN-FSA has put further effort on on-going risk-based and proportionate supervision of qualifying shareholders by improving the internal supervisory practices in terms of collecting additional information from supervised entities. The Authority has also further developed internal tools to achieve better level of risk-based supervision in the area of propriety of qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

FIN-FSA has put further effort on on-going risk-based and proportionate supervision of AMSB members by improving the internal supervisory practices in terms of collecting additional information from supervised entities. The Authority has also further developed internal tools to achieve better level of risk-based supervision in the area of propriety of AMSB members.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.10. FRANCE

Main findings

The first recommended action issued to ACPR was in the context of ‘Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members’.

ACPR was recommended to carry out ongoing assessment for non-executive AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to ACPR.

ACPR issued a specific statement n°2019-P-01 in December 2019 which after referring to and quoting the relevant provisions of French and EU Law, makes it clear that insurers are responsible for continuously ensuring that AMSB members do comply with propriety requirements referring to final or ongoing proceedings involving the AMSB Member, evidence that the Member was not transparent and cooperative with a sectoral supervisory authority, the Member's financial strength (any difficulties in meeting debts, risky investment practices, taking on disproportionate debt, etc.). The Statement further provides that insurers must regularly, and at least annually, assess the propriety of AMSB Members. The assessment procedure must be documented in the insurer's written policies and procedures, as provided by Article 273 (Art.273.1) of the Delegated Regulation. Updated application forms for nomination, or renewal of members of the executive management or key function holders have been published and are available on the website of ACPR with the list of information and documentation expected. In case of any major change or interruption, undertakings must warn ACPR. In July 2020, a communication, via the publication of a Report on Governance, was made to undertakings on the expectations in terms of governance. The internal guideline was updated and adopted in December 2020. It was additionally referred to the fact that AMSB members' fit and proper must be assessed on a regular basis by undertakings. In the context of ongoing supervision, supervisory teams refer to internal documents of undertakings to check the

assessment procedure on a continuous basis. They rely on SFCR, RSR and internal documents such as minutes of the board or committees.

The second recommended action issued to ACPR was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

ACPR was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

In light of the regulatory and supervisory background described, ACPR has not undertaken specific, new actions to conduct a permanent assessment of qualifying shareholder's propriety (and suitability). Qualifying shareholders are already assessed in the framework of acquisition or extension of a qualifying shareholding, according to articles R 322-11-1 and R.322-2 of the Insurance Code, and in line with article 59 of the Solvency II Directive. More specifically, Article R-322-11-2-III of the Insurance Code states that ACPR must assess the reputation of the acquiring shareholder, of their experience (in case they will manage activities of the undertaking) and of their financial soundness. Qualifying shareholders are also assessed in the framework of a licensing or extension of license (Article L 321-10 of Insurance Code). ACPR has the power to require all information that may be necessary to supervise the compliance of fit and proper requirements on a continuous basis. Indeed, Article 612-24, 2nd para, of the French Financial and Monetary Code states that '[ACPR] may require insurers to provide any information, documents, clarifications... necessary to carry out its mission'. This additional assessment would be relevant only for 7 % of the insurance companies under the scope of ACPR's supervision, i.e. those which are incorporated as 'société anonyme' (limited liabilities companies). Further to this, in the very vast majority of cases, qualifying shareholders are Members of the Insurer's Board; in this case, there is a specific procedure to assess their propriety and suitability on a continuous basis.

The third recommended action issued to ACPR was in the context of 'Supervisory database'.

ACPR was recommended to capture in the database, information in relation to nature and circumstances of withdrawals for future assessments including those relating to non-executive AMSB members in accordance with Article 42 and/or cross border information requests in accordance with Article 26(3) of the Directive.

An authorisation portal was launched by ACPR in 2019 (fully operational for fit and proper topics in 2020). This digital tool allows for a close follow-up of application files by supervisors. The applications are submitted on this online portal, which is divided into two parts: one for applicants (with information on the application process and submission of document), and one internal work

space for ACPR (where all files are tracked and stored). This tool enables a follow-up of the applications, and if they are complex: minutes of meetings or any additional information can be added to the file, including information in relation to nature and circumstances of withdrawals. The information concerns executive and non-executive ASMB members. Communication towards undertakings to inform them of the development of this new tool was performed as well.

Conclusion

In response to the recommended action ACPR has put further effort on implementing on-going supervision of AMSB members by improving the supervisory practices in place in terms of issuing a number of statements towards the market reminding to insurers about their responsibility for continuously ensuring that AMSB members comply with propriety requirements. The Authority has also further improved internal supervisory efforts in order to achieve better level of on-going supervision in the area of propriety of AMSB members.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

ACPR has not worked towards implementing the recommended action with regard to appraising or verifying, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. ACPR considers the relevant provisions of the Directive are already in place, in addition also the supervisory practice within the Authority to continuously monitor the propriety of qualifying shareholders is based around requiring all information that may be necessary to supervise the compliance of fit and proper requirements on a continuous basis. Considering the information provided for the original peer review as well as for the follow-up exercise EIOPA considers that the approach already in place within ACPR complies with the spirit of ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

In response of the recommended action ACPR has developed a digital tool which serves for supervisory purposes as a database in relation to nature and circumstances of withdrawals for future assessments including those relating to non-executive AMSB members in accordance with Article 42 and/or cross border information requests in accordance with Article 26(3) of the Directive.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.11. GERMANY

Main findings

The first recommended action issued to BaFin was in the context of 'External Guidance'.

BaFin was recommended to finalise the update of the external guidelines for qualifying shareholders to be compliant with the new German Insurance Supervision Act (VAG) Insurance Act as well as the Joint guidelines on the prudential assessment of acquisitions and increases of 38/65 qualifying holdings in the financial sector (JC/GL/2017/27) and take into account that the Holder Control Regulation and the Guidance Notice on Holder Control should be updated to be compliant with the new VAG Insurance Act that implemented Article 31 of the Directive.

The VAG has been amended especially to clarify that a notification is required even in cases of an involuntary acquisition or increase of a qualifying holding. BaFin has prepared the update of the Holder Control Regulation to be compliant with the new Insurance Supervision Act and the Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector. The amended Holder Control Regulation is expected to enter into force during the first half-year of 2022 after having been passed by the German Federal Ministry of Justice and the Federal Ministry of Finance.

The second recommended action issued to BaFin was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

BaFin was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

BaFin has developed a detailed concept for assessing the suitability of qualifying shareholders on a continuous basis, following a risk-based and proportionate approach and has implemented a new process. Qualifying shareholders with a higher risk of a potential lack of integrity or financial soundness shall be identified by using several different criteria like relevant incidents in the past. Examples for criteria on integrity are: poor management, abuse of surpluses (especially in run-off business), the percentage of the share (in case of qualified shareholders), in case of more owners – comparable influence, in case of domination agreement, in case of complicated group or public listed company. Examples for criteria on financial soundness are: focus on private equity, non-regulated areas – captive, risk concentration. BaFin has legal powers to perform withdrawal of licence in case of non-propriety of AMSB/qualified shareholders.

A new process was implemented for the assessment of propriety – not to wait for external trigger but to act proactively on a risk-based approach. Supervisors shall assess the propriety and the financial soundness and can request current information on the reliability or financial background

(e.g. certificate of conduct (criminal record) or balance sheets). The results of the assessment are considered in BaFin's risk classification of the undertakings.

The third recommended action issued to BaFin was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

BaFin was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the BaFin.

BaFin has developed a detailed concept for assessing the propriety of AMSB members on a continuous basis. In this connection, BaFin follows a risk-based and pro-proportionate approach and has implemented a new process. AMSB members with a higher risk of a potential lack of propriety shall be identified by using different criteria like relevant past incidents and specific business models of the respective undertakings like run-off or an opaque group structure. Supervisors request current information on their reliability (e.g. a current certificate of conduct). Supervisors can also send information requests to the Finance Intelligence Unit (FIU) and foreign supervisory authorities. The results of the assessment are considered in BaFin's risk classification of the undertakings.

Conclusion

In response to the recommended action BaFin has finalised the update of the external guidelines for qualifying shareholders to be compliant with the new VAG Insurance Act as well as the Joint guidelines on the prudential assessment of acquisitions and increases of 38/65 qualifying holdings in the financial sector. BaFin has further updated the Holder Control Regulation and the Guidance Notice on Holder Control to be compliant with the new VAG Insurance Act that implemented Article 31 of the Directive.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

BaFin has developed a detailed concept for assessing the suitability of qualifying shareholders on a continuous basis, following a risk-based and proportionate approach and has implemented a new process. The Authority has also worked on a new concept for supervising propriety of qualifying shareholders which is not based on waiting for triggers for assessment but on proactively assessing the propriety of persons.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

BaFin has developed a detailed concept for assessing the suitability of AMSB members on a continuous basis, following a risk-based and proportionate approach and has implemented a new process. The Authority has also worked on a new concept for supervising propriety of AMSB members which is not based on waiting for triggers for assessment but on proactively assessing the propriety of persons.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.12. GREECE

Main findings

The first recommended action issued to the BoG was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

BoG was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

The Authority did not perform any activities in the regulatory context arguing that currently SII does not provide enough ground for implementing any change with regard to ongoing assessment of qualified shareholders. It is acknowledged that the SII 2020 review is accommodating the change needed and once in force the local regulation will be amended accordingly. BoG’s current risk assessment framework takes into account, on a risk-based and proportionate approach, all the information available in order to perform such assessment on a continuous basis for the insurance undertakings representing at least 70 % of the market share (owing to the specificities/structure of the insurance market in Greece) as follows:

- As far as insurance undertakings mainly owned by members of a single family (representing 17 % of the market share in terms of gross written premiums) are concerned, the family members are also AMSB members, thus are subject to propriety assessment on a continuous basis under their second capacity.
- Regarding insurance undertakings which are subsidiaries of EU insurance groups (representing more than 50 % of the market share) and thus supervised under SII, the Bank of Greece bases its continuous assessment of their qualifying shareholders to the respective assessments of the group supervisors in the framework of colleges of supervisors.

The second recommended action issued to BoG was in the context of 'Definition or scope of propriety of AMSB members'.

BoG was recommended to broaden the definition or scope of the propriety assessment in relation to AMSB members by extending the scope of the questionnaire to the pending criminal proceedings and any administrative convictions related to the corporate law area. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

The Questionnaire annexed to Executive Committee Act 60/12.2.2016 was amended by Executive Committee Act 170/1/20.5.2020 with a view to addressing issues that needed to be further and more thoroughly clarified. In this context, the query 3.1. (Annex II/Section 3- Propriety of natural person) was redrafted/recast so as to broaden its scope and specifically seek information on any judgements or proceedings of administrative nature. The relevant supervisory Handbook has been updated in this respect. In assessing the propriety of AMSB members, line supervisors take into account the responses of the persons concerned to the queries of the Questionnaire mentioned above in relation to judgements or proceedings of administrative nature and pending criminal proceedings.

The third recommended action issued to BoG was in the context of 'Supervisory database'.

BoG was recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 or/and cross-border information requests in accordance with Article 26(3) of the Directive.

BoG has developed a database/Register ('MIDAS') operating for the last two years. The database records useful information for the insurance undertakings operating in Greece. In terms of persons subject to assessment (AMSB members or qualifying shareholders), MIDAS provides the line supervisors with historical data relating to their positions, tasks and duties. In particular, there is a tab for every person (natural or legal) in a special section in the Register. On this tab, a new table has been inserted/added where, on a name basis, one can open a list displaying, historically, all positions/tasks/responsibilities/capacities of the person concerned. In case a person has or had various positions/roles/capacities, these are displayed in different rows. On the same tab, a dedicated free text field is also available including details, regarding the assessment, from consultation or information exchange with other authorities.

Conclusion

In response to the recommended action BoG has not implemented any regulatory change awaiting Solvency II 2020 amendments with regard to propriety of qualifying shareholders. Thus, the Authority is performing ongoing risk-based and proportionate supervision for 70 % of the undertakings on the market using the information available but not being able to process any

further information requests with regard to propriety of qualifying shareholders due to the missing legal hook. EIOPA acknowledges the risk-based and proportional spirit of the practice in place within BoG supervisory entities which sets the scene for achieving full implementation of the recommended action after the necessary legal changes are performed by the Authority. EIOPA still recognizes the need for BoG to work on implementing the Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01) in order to achieve full convergence in the areas of ongoing assessment of propriety of qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as partially fulfilled.**

BoG has broadened the definition or scope of the propriety assessment in relation to AMSB members by extending the scope of the questionnaire to the pending criminal proceedings and any administrative convictions related to the corporate law area. The Authority has further also amended the Supervisory Handbook in this respect.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

BoG has developed a database/register recording useful information for the insurance undertakings operating in Greece providing supervisors with information to nature and circumstances of withdrawals for future assessments in accordance with Article 42 or/and cross-border information requests in accordance with Article 26(3) of the Directive.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.13. HUNGARY

Main findings

The first recommended action issued to MNB was in the context of 'Legal and regulatory framework'.

MNB was recommended to strengthen the legal and regulatory framework to the effect that the insurers are required to notify material changes in relation to AMSB members to MNB, and as such comply with Article 42(3) of the Directive.

Art. 267(1)(f) of Act LXXXVIII of 2014 on the Business of Insurance (B'it.) was amended with effect from 29 December 2018, according to which Insurance and reinsurance companies shall inform (notify) MNB within two working days regarding the appointment, employment or delegation of

any senior executive or non-management officer, including when such appointment, employment or delegation is terminated, in the latter case indicating the reason as well, if the reason for termination is non-compliance with fit and proper requirements.

The second recommended action issued to MNB was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

MNB should appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis would ensure that one of the underlying operating conditions for insurance business is met.

MNB considers their current methodology (MNB's Methodological Manual for Risk-Based Supervision, 'Manual'), applicable from 1 December 2017 to be sufficient to cover a risk-based and proportionate approach with regard to the assessment of propriety of qualifying shareholders. The reporting obligations related to the change in the names of qualifying shareholders and the size of the interest provide an opportunity for MNB to enforce the licensing requirements including the fit and proper requirement. The corporate governance system – as part of the risk menu described in the Manual – is assessed both within the framework of ongoing supervision and during on-site inspections. The assessment covers the risks arising from the exercise of ownership right, in particular, the areas of ownership structure, ownership control, and ownership relations. Regardless of whether the source is public or confidential (e.g. notification, annual report, college of supervisors), all available fit and proper relevant information is taken into account during the assessment.

Conclusion

In response to the recommended action the relevant local regulation was amended with effect from December 2018 which asks insurers to notify material changes in relation to AMSB members to MNB, and as such comply with Article 42(3) of the Directive.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

MNB has not worked towards implementing the recommended action with regard to appraising or verifying, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. MNB considers their current methodology applicable from December 2017 to be sufficient to cover a risk-based and proportionate approach with regard to the assessment of propriety of qualifying shareholders. Considering the information provided for the original peer review as well as for the follow-up exercise EIOPA considers that the approach already in place

within MNB complies with the spirit of ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

4.14. ICELAND

Main findings

The recommended action issued to IS-FSA was in the context of 'Legal and regulatory framework'.

It was recommended that the Icelandic legislation be strengthened for assessing qualifying shareholders, as required by Article 59 of the Solvency II Directive, to bring it at par with the definition and scope for the propriety assessment of AMSB members as required by Article 42 of the Directive.

According to IS-FSA's legal understanding, the national relevant provision (Article 41, paragraph 1, of Act no. 100/2016 on Insurance Activities) sets a non-exhaustive list of offenses that have to be taken into account when conducting an AMSB member's propriety assessment (e.g. amongst others, good repute; for fitness, for instance, possess sufficient knowledge, skills and experience). Such a provision should be read as a complementary rule with the assessment required in accordance with chapter 10.13 of Joint Guidelines. In order to ensure an overall assessment covering both the elements laid down by national law and those set by the Joint Guidelines, the national legislation should not set an exhaustive list of all convictions and prosecutions of a criminal offense. A different approach would prevent IS-FSA from taking into account all the relevant information to carry out a proper assessment.

Conclusion

In response to the recommended action IS-FSA did not take any steps to amend the relevant local regulation due to the fact currently IS legislation is referring to more broader assessment of qualifying shareholders propriety than the one existing in the Directive (non-exhaustive list). Any amendment in this regard would in fact limit the scope of the assessment currently performed by IS-FSA. The Authority has however, stated that there is ongoing work on bringing in alignment the provision in the local legislation for assessment of AMSB with the one of qualifying shareholders (considering any criminal convictions or prosecutions).

Based on the assessment of the information provided, **EIOPA considers the recommended action as partially fulfilled and expects to receive further information once the on-going work is finalised.**

4.15. IRELAND

Main findings

The recommended action issued to CBI was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

CBI was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

In response to this recommended action CBI showed a more structured approach regarding the assessment of qualifying shareholders on a continuous basis. The Authority has updated and amended the Core Risk Assessment and the internal Guidance on Qualifying Shareholdings in order to set a clear guidance for on-site and off-site inspection procedures. It would enhance the supervision of the effective monitoring on a continuous basis on the undertakings compliance with the qualifying shareholders’ fit and proper requirements through on-site, off-site and thematic inspections. The approach adopted pursued the goal of implementing systematic checks, in line with the proportionality principle and a risk-based approach, on the insurance companies’ compliance with the regulatory requirements. To this aim undertakings are required to adopt documented policies and adequate procedures to ensure that ‘all individuals who effectively run the firm, who have qualifying shareholdings in it, or who have other key functions, are at all times vetted for fitness and propriety appropriate to their status or to the roles they have been appointed to perform’.

Conclusion

CBI has developed a detailed and more structured concept regarding the assessment of qualifying shareholders on a continuous basis, following a risk-based and proportionate approach and has implemented a new process. The Authority has also worked on a new concept for supervising propriety of qualifying shareholders which based on implementing systematic checks, in line with the proportionality principle and a risk-based approach, on the insurance companies’ compliance with the regulatory requirements.

Based on the assessment of the information provided, **EIOPA considers the recommended action as fulfilled.**

4.16. ITALY

Main findings

The first recommended action issued to IVASS was in the context of 'External Guidance'.

IVASS was recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.

IVASS adopted Regulation on governance, No. 38 of 3th July 2018. According to Art. 25 of this Regulation the undertaking has to follow the detailed procedure in order to assess the AMSB members' ongoing compliance with the fit and proper requirements. In case of appointment or renewal, the undertaking shall attest that it has carried out the checks on the existence of the requirements and the absence of impediments, providing adequate justification for the assessment made. IVASS may, if deemed appropriate, request from the undertaking the documentation evaluated, supporting the assessment. IVASS also issued a Letter to the market on 5 July 2018, providing its supervisory expectations concerning the application of proportionality principle to the system of governance. With regard to the fit and proper requirement, undertakings should carry out an assessment on the suitability of an AMSB member, consistent with their dimension and risk profile in order to ensure a strengthening and wider assessment in case of high risk undertaking. In addition, IVASS Supervisory Handbook provides detailed internal procedures in order to assess the ongoing compliance with the fit and proper provisions.

The second recommended action issued to IVASS was in the context of 'Definition or scope of propriety of AMSB members'.

IVASS was recommended to strengthen its legal and regulatory framework in relation to AMSB members by arranging the definition of 'good repute' mentioned in the Ministerial Decree n° 220 to be broadened in order to integrate the five bases according to Article 59 of the Directive for definition or scope of the assessment for insurers as well as the supervisory authorities. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

The current drafting of the Italian Code of Insurance, as modified in 2020 (by the Legislative decree issued on 14 July 2020, No. 84), strengthened the primary legislative framework with regard to AMSB members assessment on the good repute. According to Art. 76 of the Italian Insurance Code, as amended, a broader definition of good repute is provided. Pursuant to the new legal framework, the undertaking is now required to evaluate the propriety requirement (which is mandatory/exhaustive) and the fairness criteria (which are more discretionary) in order to carry out a more comprehensive assessment concerning both the good repute and integrity profiles. In addition, IVASS has provided as well its technical contribution to the Economic Development Ministry in order to issue the Ministerial Decree on fit and proper requirements to be adopted in accordance to Art. 76 of the Insurance Italian Code in order to implement in detail the primary

legislative framework. The new provisions, once adopted by the relevant Ministry, will update the current Ministerial Decree No. 220/2011. The legislative process is still pending. IVASS issued the Regulation on governance, No. 38 on July 2018 providing the detailed procedure to be followed by the undertakings with the aim of assessing the AMSB members' (and Key Function Holders') fit and proper requirements.

The third recommended action issued to IVASS was in the context of 'Power to revoke'.

IVASS was recommended to seek necessary changes to the national insurance legislation to be provided with the power to revoke membership of an AMSB member as envisaged by Article 34(2) of the Solvency II Directive.

The current drafting of the Italian Insurance Code, as amended in 2020 (by the Legislative decree issued on 14 July 2020, No. 84), provides, according to Art. 188, par. 3a, letter e), IVASS with the power to revoke the AMSB member. The regulatory framework, as amended, is consistent with the Solvency II Directive and fully compliant with the EIOPA recommended action. IVASS may take preventive or corrective measures in relation also to the individual insurance and reinsurance undertakings, including ad hoc measures regarding also: e) order to remove one or more corporate officers or holders of key functions when their remaining in office would be detrimental to the sound and prudent management of insurance or reinsurance undertakings or to the interests of policyholders and those entitled to insurance benefits.

The fourth recommended action issued to IVASS was in the context of 'Supervisory database'.

IVASS was recommended to maintain and capture in one single database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

IVASS has developed and improved a centralised and integrated repository (hereinafter 'database' or 'single database') that captures all information related to criticalities affecting the fitness and propriety requirements that have been identified, including the nature and circumstances of withdrawals/refusals on fitness and propriety of AMSB members, qualifying shareholders and other company's key figures. For any assessment and ongoing verification, further elements about events and circumstances arising on an ongoing basis are included in the database. The aim of this single and centralised database is to have the possibility, during the assessment, to verify immediately if something critical on the person who wants and/or already has a position in an insurance undertaking has been already found. This single database, shared by the Prudential Supervision Directorate and the Market Conduct Supervision Directorate, has been in use since June 2019, closely after receiving the EIOPA recommended action.

Conclusion

In response to this recommended action IVASS has adopted an additional regulation to meet the transparency and accountability obligations contained in Article 31 of the Directive. IVASS has also issued a communication towards the (re)insurance market stating the supervisory expectations concerning the application of proportionality principle to the system of governance.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

IVASS has worked toward strengthening its legal and regulatory framework in relation to AMSB members by broadening the definition of 'good repute' mentioned in the Ministerial Decree n° 220 which now integrates the five bases according to Article 59 of the Directive for definition or scope of the assessment for insurers as well as the supervisory authorities. IVASS has now fully implemented Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

IVASS has amended the local legislation including in its powers to revoke the AMSB member. The regulatory framework, as amended, is consistent with the Solvency II Directive and fully compliant with the EIOPA recommended action.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

In response to this recommended action IVASS has developed a single database including information in relation to the fitness and propriety requirements that have been identified, including the nature and circumstances of withdrawals/refusals on fitness and propriety of AMSB members, qualifying shareholders and other company's key figures.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended action as fulfilled.**

4.17. LATVIA

Main findings

The first recommended action issued to FCMC was in the context of 'External Guidance'.

FCMC was recommended to issue external guidance for the AMSB members' propriety assessment to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers for ongoing compliance with propriety requirements.

FCMC has issued a new Regulation (the above mentioned on Establishment of the System of Governance of 3th November 2020), including an external guidance for AMSB members' propriety assessment, setting detailed criteria and provisions for ensuring the compliance with the fit and proper requirements on the governance system, also in consistency with the Commission Delegated Regulation 2015/35. The information and documents to be submitted to FCMC in order to be authorised, as described above, have been also identified in the Financial and Capital Market Commission's Regulations No 179 Procedures. Furthermore, the internal procedure 'Licensing of a Financial Market Participant' has been more detailed, setting the procedure to be followed by FCMC, determining allocation of responsibilities, as well as developing a single model of report on the fit and proper assessment.

The second recommended action issued to FCMC was in the context of 'Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders'.

FCMC was recommended to strengthen its legal and regulatory framework by arranging the definition of 'good repute' contained in the Latvian Insurance Law to be broadened in order to integrate the five bases according to Article 59 of the Directive for definition or scope of the assessment of AMSB members for insurers as well as the supervisory authorities. The definition may be broadened by amending the definition in the Latvian Insurance Law or by issuance of a regulation provided the regulation is legally enforceable. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

FCMC has amended the national regulatory framework in order to pursue the goals of the recommended action and ensure a broadened definition of good repute for the assessment of AMSB members by the insurers as well as by the supervisory authorities. Furthermore, FCMC adopted the Regulation on Establishment of the System of Governance on 3 November 2020. Detailed information has been provided by the Authority with regard to the part of the Regulation concerning the assessment of the AMSB member's reputation. A wider set of information should be taken into account to carry out this evaluation⁷, including those concerning the AMSB member's previous activity⁸. Also, the information and documents to be submitted for obtaining the Insurance

⁷ For instance, criminal or administrative convictions, the type of conviction, the level of appeal, the punishment received, the stage of the judicial process, and the impact of any rehabilitating measures, any ancillary circumstances of the relevant offence or the punishment (sanctions) applied by administrative or supervisory authorities, including mitigating circumstances, the period from the time of committing the offence and the conduct of the relevant AMSB member, including the gravity of the offence or the sanction applied by administrative or supervisory authorities, taking into consideration the duties and role of the relevant member.

⁸ FCMC has identified in its regulation, a minimum set of information, e.g. evidence supporting the fact that the member of the company's supervisory board or management board has refused to cooperate or provided false information, including deliberate misleading of the supervisory authorities; the received refusal to carry out registration, issue a permit, accept as a member or issue a licence for carrying out business or professional activity or revoke, annul or terminate such registration, permit, membership or licence or exclusion carried out by the relevant supervisory institution; the grounds on which dismissal from employment or a responsible position has occurred,

or Reinsurance Licences, Individual Insurers or Reinsurers Operating Authorisations and Approvals and Information and Notifications have been identified⁹. FCMC assesses the compliance with the above mentioned regulatory framework in its supervisory activity.

The third recommended action issued to FCMC was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

FCMC was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

On 13 July 2021, FCMC issued the internal procedure 'Reassessment of officials and shareholders of the financial market participants', currently in force and implemented in practice. Such a procedure sets the allocation of responsibilities within FCMC for reassessment of shareholders and identifies the triggers for the reassessment and the activities to be carried (in case, for instance, of new circumstances which could have an impact on the financial stability of shareholders; new facts affecting any of criteria for the assessment of the shareholder).

Conclusion

EIOPA is welcoming the work done by FCMC towards the identification of criteria and requirements in terms of undertakings transparency and responsibility set in the new regulation on governance system and the issuing of the internal procedure aimed at ensuring a more structured approach in the application of the requirements.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

FCMC has worked toward strengthening its legal and regulatory framework in relation to AMSB members by broadening the definition of 'good repute' mentioned in Latvian Insurance Law which now integrates the five bases according to Article 59 of the Directive for definition or scope of the assessment for insurers as well as the supervisory authorities. FCMC has now fully implemented Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

i.e., the loss of trust on the part of the employer or a similar case, or the request to step down from the position; withdrawn right to carry out business of any or specific type, including the right to be a member of the company's supervisory board or management board.

⁹ In accordance with Annex 2 of the Financial and Capital Market Commission's Regulations No 179 Procedures whereby Information and Documents are Submitted and Documents for Obtaining Insurance or Reinsurance Licences, Individual Insurers or Reinsurers Operating Authorisations and Approvals and Information and Notifications are provided through a detailed questionnaire.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

FCMC has developed a structured approach regarding the reassessment of qualifying shareholders on a continuous basis by introducing an internal procedure referring to specific activities to be carried out with this regard.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.18. LIECHTENSTEIN

Main findings

The first recommended action issued to FMA-LI was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

FMA-LI was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to FMA-LI.

The second recommended action issued to FMA-LI was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

FMA-LI was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

In response to both recommended actions FMA-LI has run parallel activities. The Authority has amended the internal Supervisory Handbook in order to ensure, using a risk-based and proportionate approach, the ongoing assessment of suitability of qualifying shareholders. The supervisory practices have been implemented consistently. According to the clarification provided by FMA-LI, some triggers (e.g. new developments and changes, such as: i) for qualifying shareholders, an incensement in the qualifying holding as well as possible significant influence on a company that FMA-LI became aware of; ii) for AMSB members change in the business plan, taking up FoS-/FoE business, new business lines or mergers) have been identified with the aim of reassessing the AMSB members or shareholders suitability also in collaboration with other NCAs. The approach adopted by FMA-LI aims at pursuing the goal of a permanent compliance with the fit

and proper requirements. Furthermore, FMA-LI has adopted some external communications to the market, according to the findings of the peer review: i) amendment of its circular – FMA-LI Guidelines 2017/18 – Professional qualification and personal integrity of executive bodies and function holders; ii) the use of the yearly event of the ‘Compliance Day’, organised and hosted by the University of Liechtenstein, as an opportunity to deal with the fit and proper requirements and relevant FMA-LI expectations and procedures.

Conclusion

EIOPA welcomes the work done by FMA-LI towards ensuring a risk-based and proportionate approach in the ongoing assessment of suitability of qualifying shareholders and AMSB members. The communication on supervisory expectations towards the market, the amendment of the supervisory handbook in particular with propriety topics to address the recommended actions and the consistent implementation of supervisory handbook practices in this area are considered as sufficient to reflect on the recommended actions.

Based on the assessment of the information provided, **EIOPA considers the first and second recommended actions as fulfilled.**

4.19. LITHUANIA

Main findings

The recommended action issued to BoL was in the context of ‘Supervisory verification on a continuous basis of the compliance with propriety requirements for qualifying shareholders’.

BoL was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

According to the national legislative framework in place, indeed, undertakings are required to ensure the compliance with the authorisation requirements on a continuous basis, by informing BoL if any changes occurred to the information provided. BoL will re-assess, if the conditions are met. In 2021, the internal manual for the assessment of AMSB members was reviewed and updated by way of including inter alia the re-assessment procedure. The internal manual for the assessment of qualifying shareholders shall be reviewed and updated in a similar manner in 2022 in order to state more precisely that suitability can be reassessed when needed. To carry out on a continuous basis the above mentioned assessment, BoL makes use of external and internal databases (ensuring the exchange of information also, for instance, with the Technology and Communications Department

of the Ministry of the Interior of the Republic of Lithuania). Furthermore, some triggers have been identified in order to ensure that the information used in the supervisory processes is continuously updated.

Conclusion

EIOPA acknowledges the work done by BoL towards ensuring a risk-based and proportionate approach in the ongoing assessment of AMSB members. The intent of reviewing the internal manual for the assessment of qualifying shareholders is welcomed; however, before being fully operational for supervisors the recommended action cannot be graded as fulfilled.

Based on the assessment of the information provided, **EIOPA considers the recommended action as partially fulfilled.**

4.20. LUXEMBOURG

Main findings

The first recommended action issued to CAA was in the context of 'Legal and regulatory framework'.

CAA should make arrangements for itself or where needed in collaboration with the national legislator, to have the powers to take the necessary measures towards the AMSB of supervised insurers.

New regulatory provisions 2021 has been put in place, as a result not only of the peer review but based on 'outside pressure from international organisations'. The legislative change implies that license is not granted anymore by the Minister of Finance but directly by the NCA (CAA). There is no case so far where CAA took away a license for propriety reasons (due to impropriations of a board member).

The second recommended action issued to CAA was in the context of 'External Guidance'.

CAA was recommended to: a) issue external guidance for AMSB members to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements; b) update its website to ensure that only the latest and relevant guidelines concerning the assessment of qualifying shareholders are available on the website outlining clearly the information requirements.

CAA has drafted a circular letter with regard to Board members which, by the time of the follow-up of the peer review was still under approval and not published yet. In September 2019, CAA published a memo on acquisitions and increases of qualifying holdings in the insurance sector in order to comply with the Joint Guidelines, but the review of public information available on its

website has yet to be completed. CAA has informed the ad-hoc PRC about the intention to publish another circular letter on the assessment of qualifying shareholders in order to replace previous different documents (e.g. circular letters LC06/1 and LC02/7). Such a memo, according to the clarification provided by CAA, should not be legally enforceable.

The third recommended action issued to CAA was in the context of 'Internal Guidance'.

CAA was recommended to finalise internal guidance to ensure its supervisory processes are robust and aims to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.

As mentioned above, CAA has drafted a circular letter to Board members and implemented two internal procedures with the aim of strengthening the assessment on AMSB members fit and proper requirements (at inception and on a continuous basis). Regarding qualifying shareholders, CAA has adopted some initiatives (like, for instance, internal trainings on the Joint Guidelines and improving the data quality provided in its database).

The fourth recommended action issued to CAA was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

CAA was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the CAA.

The fifth recommended action issued to CAA was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

CAA was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

With regard to both - fourth and fifth - recommended actions, CAA has drafted a circular letter targeting Board members (by the time of the follow-up of the peer review still under approval) in order to set the Authority's expectations regarding the responsibility of the Board of Directors for the continuous assessment of the qualifying shareholders and the fit and proper assessment on a continuous basis of AMSB members, i.e. Board members and licensed managers. When it comes to the AMSB members, the circular letter will request to collect supporting documents and to carry out and formalise a written self-evaluation, at least once every 3 years, which will need to be supported by a verification carried out by an external auditor.

CAA has also improved the data quality in databases regarding the assessment of qualifying shareholders and implemented a new software as a tool to allow an automatic check of the relevant information on qualifying shareholders and AMSB members. The supervision of propriety of both AMSB members and qualified shareholders is carried out also through on-site inspections and off-site monitoring.

The sixth recommended action issued to CAA was in the context of 'Definition or scope of propriety of AMSB members'.

CAA was recommended to strengthen its legal and regulatory framework in relation to the AMSB members by arranging the definition of 'good repute' contained in the Luxembourg Insurance Law to be broadened in order to integrate the five bases according to Article 59 for definition or scope of the assessment for insurers as well as the supervisory authorities. The definition could be broadened by amending the definition in the Luxembourg Insurance Law or by issuance of circular provided the circular is legally enforceable, i.e. it can serve as a legal basis to refuse an applicant AMSB Member. CAA is also recommended to strengthen its legal and regulatory framework by ensuring that the same assessment scope is applied for both executive and non-executive directors. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

Besides the circular letter regarding Board members drafted by CAA in order to strengthen the assessment of non-executive directors (by the time of the follow-up of the peer review still under approval) the Authority has also provided information about its intent, by Q4 2022, to draft a circular letter on propriety with the aim of proposing to Government and Parliament to clarify the definition of 'good repute' in the national legislative framework (Article 32 of the insurance law), as a response to the recommended action. In addition, the CAA has drafted an internal procedure in order to issue a standardised guidance for the fit and proper assessment of AMSB members and key function holders. Further notification forms (including the fit and proper assessment) have been published on CAA's website since the beginning of 2019, requiring similar information and documents to be submitted for both executive and non-executive directors. Also, the tools used for the supervision on the applicants (including Board members and licensed managers) have been enhanced since 2020 in order to ensure a better quality of the data checked by CAA.

Conclusion

EIOPA acknowledges the work done by CAA in the area of amending local legislation which has resulted in pursuing powers to take the necessary measures towards the AMSB of supervised insurers.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

EIOPA considers the initiatives taken by CAA not sufficient to ensure the compliance with the recommended action in the area of ‘External guidance’, in particular the importance of approving and publishing the communication to the (re)insurance market should be emphasised. Such a step, once effectively realised, would pursue the goals of meeting the transparency and accountability obligations in line with the EU legal framework and would reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements. In addition to that the update of the Authority’s website – by the time of the follow-up of the peer review not realised yet - would represent another relevant step to pursue the goal of clearly identifying all the information requirements for the assessment of qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as not fulfilled.**

EIOPA would welcome CAA’s work towards finalisation of the internal guidance which would ensure the consistency of Authority’s supervisory processes with the EU legislative and regulatory framework, with particular reference to qualifying shareholders.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as partially fulfilled.**

In the context of both – fourth and fifth – recommended actions some initiatives have been adopted in line with the findings of the peer review (circular letter targeting AMSB members propriety under preparation, update of the database quality in the context of qualifying shareholders propriety assessment) but these are just setting the scene for ongoing risk-based and proportionate supervision of propriety. Some of those measures need to be finalised in order to ensure the ongoing supervision on suitability of qualifying shareholders and AMSB members.

Based on the assessment of the information provided, **EIOPA considers the fourth and fifth recommended action as partially fulfilled.**

EIOPA acknowledges the measures taken by CAA (internal procedure, circular letter and new notification forms) aiming at strengthening the supervision, taking a convergent approach, of AMSB executive and non-executive members and ensuring more structured approach on the compliance with the fit and proper requirements. By the time of the peer review follow-up however, no change to the legal definition of ‘good repute’ has been adopted with the aim of pursuing the goals of the recommended action.

Based on the assessment of the information provided, **EIOPA considers the sixth recommended action as partially fulfilled.**

4.21. THE NETHERLANDS

Main findings

The first recommended action issued to DNB was in the context of 'Legal and regulatory framework'.

DNB was recommended to revisit the control criterion in addition to the multiplication criterion.

EIOPA welcomes the revision of the national policy rule, performed in 2017 by DNB, with particular reference to control and multiplication criteria, in order to ensure a better identification of the shareholders for whom a reassessment is required. Such approach has been adopted with the aim of ensuring the compliance with the Joint Guidelines on Qualifying Shareholders and strengthening the regulatory framework on suitability of qualifying shareholders. In addition, DNB has implemented supervisory practices which have been aligned with the amended legislative/regulatory framework.

The second recommended action issued to DNB was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

DNB was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. To implement this recommended action, the DNB may have to seek legislative changes to the national law. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to DNB.

The Dutch national policy rule on suitability - a public document which provides internal and external guidance on the assessment process - clarifies supervisor's expectations about 'suitability' and the aspects relevant for its assessment. The policy rule will be re-evaluated in 2022 by DNB, also with the aim of providing more detailed indications on the incidents that will give rise to a reassessment. In addition, the risk-based supervisory approach currently applied to assess on a continuous basis the propriety of AMSB members tends to cover the whole process, starting from the initial approval for the appointment to any subsequent fact which could have an impact on the compliance with the requirements. In order to properly assess the AMSB members' propriety, DNB exchanges information with other national Authorities (the Dutch Public Prosecutor, Tax and Revenue Service and the Fiscal Information and Investigation Service). Furthermore, only for listed companies, a yearly self-evaluation of the Management and Supervisory Board is requested.

The third recommended action issued to DNB was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

DNB was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of

qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

DNB has provided information about its risk-based supervisory approach, currently mainly relying on the identification or the reporting of incidents by insurers or shareholders. The assessment carried out by DNB follows the whole process, from the authorisation required for obtaining a qualifying share to the subsequent phases of monitoring. DNB is using all information available to the supervisors from on-site and off-site supervision in order to assess propriety of qualifying shareholders. This assessment is carried out as part of the Authority's supervisory risk-based activities and does not replicate the acquiring transaction review process, i.e. completion and submission of forms by the shareholders and/or supervised insurers and their review by DNB.

The fourth recommended action issued to DNB was in the context of 'Insurers own assessment'.

DNB should be able to receive, together with the appointment notification, and subsequent review, using a risk-based and proportionate approach, insurers' own assessment, as required by Article 42(2) of the Directive.

DNB receives only a partial own assessment from the undertakings. Indeed, undertakings are required to send to DNB their own assessment on the suitability (together with the appointment notification) of proposed ASMB members, but such evaluation does not cover the propriety and reputation aspects. This information is revised in the ongoing monitoring activity carried out by DNB, using a risk-based and proportionate approach. However, DNB does not recognise the added value of receiving in a structured way the insurers' own assessments, also because according to its view it could have an impact in terms of increasing the connected administrative burdens.

Conclusion

EIOPA acknowledges the work done by DNB in the area of amending local regulation, with particular reference to control and multiplication criteria, which has resulted in better identification of shareholders to be reassessed.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

DNB's regulatory and supervisory framework in place has been well explained in the context of AMSB members' propriety assessment; however, no amendments have been completed yet in order to achieve a full implementation of the recommended action. In addition to the activities described above, EIOPA would welcome, for example, the drafting of internal guidance or public statement aimed at clarifying the procedure to be followed in assessing the propriety of AMSB members on a continuous basis (e.g. the revision of the Dutch national Policy Rule on Suitability in order to provide more details on the triggers which require a reassessment of the AMSB members suitability).

Based on the assessment of the information provided, **EIOPA considers the second recommended action as partially fulfilled.**

EIOPA acknowledges the effort put on DNB's side with regard to this recommended action; however, no additional tools or measures were adopted in order to achieve full implementation of the recommended action and to support the shareholders' suitability assessment on a continuous basis. EIOPA would welcome further evidence regarding DNB's supervisory approach with regard to the propriety assessment of shareholders; for example, supervisory measures applied in specific cases or internal guidance on this topic in order to demonstrate its challenging and conclusive supervisory approach. The issuing of internal guidance on the assessment of shareholders' suitability, would be welcomed also in order to clearly identify some triggers for the need of re-evaluation and to strengthen the ongoing basis of supervision.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as partially fulfilled.**

The information received by DNB for its supervisory assessment of the undertakings is only partial compared with the wider scope of information required by the EU framework. EIOPA would welcome an initiative aiming at a wider set of information on propriety and reputation of AMSB members requirement in order to properly supervise on an ongoing basis their adequacy; such initiative would strengthen the national legislative, regulatory and supervisory framework.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended action as partially fulfilled.**

4.22. NORWAY

Main findings

The first recommended action issued to Finanstilsynet was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

Finanstilsynet was recommended to implement its proposal to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to Finanstilsynet.

According to the findings of the follow-up, the on-site inspections represent the main tool to assess the compliance on an ongoing basis of the undertakings' systems of governance. The Authority has taken some initiatives in order to emphasise the relevance of the ongoing assessment on AMSB members' propriety requirement. The yearly evaluation, carried out by the undertaking's AMSB, is

taken into account by the NCA as a useful tool in assessing the compliance with the fit and proper requirements, also in case of any change occurrence regarding the previous information provided.

The second recommended action issued to Finanstilsynet was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

Finanstilsynet was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

Finanstilsynet is carefully monitoring and making sure that the (re)insurance undertakings under its supervision are not exposing themselves to insurance risk on the holder. Applying this additional condition materially reduces undertakings’ risk exposure and hence, reduces the need for a close follow-up during ongoing supervision. In addition, during the conduct of on-site inspections the undertakings are asked to present their exposures and business relations with third parties.

Conclusion

EIOPA appreciates the initiative taken by the Authority to strengthen the AMSB members’ fit and proper assessment as a crucial element of the supervisory assessment performed regarding the governance system. However, the combination of more supervisory tools (on-site, off-site) and the development of a set of clear internal and external guidelines, to be used in guiding and carrying out the supervisory assessment on such profile would be welcomed by EIOPA.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as partially fulfilled.**

The information provided by Finanstilsynet is not sufficient to support the compliance with the recommended action. The scope of the response provided, concerns only a partial aspect of the wider goals to be achieved in accordance with the findings of the peer review, consistently with the EU legislative and regulatory framework. Furthermore, no further initiatives, tools, changes have been adopted by the Authority following the peer review in order to ensure the appraisal or verification, using a risk-based and proportionate approach, of the qualifying shareholders’ suitability.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as not fulfilled.**

4.23. POLAND

Main findings

The first recommended action issued to KNF was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

KNF was recommended to appraise or verify, using a risk-based and proportionate approach, the propriety aspects of suitability (and not just financial soundness) of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

KNF, as mentioned above, has proposed to the competent Ministry a legislative proposal in order to amend the national law and allow the NCA to receive all the information needed for a comprehensive assessment on the shareholders' propriety. Currently, KNF does not have yet the proper legal framework providing the juridical ground to demand qualifying shareholders notifying the Authority in case there are any new elements which may have an impact on their assessment. KNF has provided a detailed explanation on the measures adopted to strengthen the assessment of qualifying shareholders' suitability on a continuous basis. The propriety and integrity of qualifying shareholders have been assessed since 2020 through annual risk assessments of all domestic insurance undertakings. In addition, an annual survey is carried out with a specific focus on qualifying shareholders. Furthermore, within the regular supervisory activity carried out by KNF, some specific initiatives have been taken, in order to verify, in accordance with the risk-based approach in place, the compliance with the requirements. KNF also collects data on propriety of qualifying shareholders through ad-hoc request to the (re)insurance companies. KNF has adopted a Methodology of an ongoing supervision of qualifying shareholders in domestic (re)insurance undertakings, which explains the supervisory activities undertaken to assess the adequacy of shareholders on an ongoing basis.

The second recommended action issued to KNF was in the context of 'Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders'.

KNF was recommended to strengthen its legal and regulatory framework by amending the questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a licence. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

In response to the peer review findings, KNF has taken initiatives to amend the legislative framework, but currently the process - which implies interaction with the competent ministry empowered to change the legislation - is still in progress. Such changes, once the new legislative framework will be in force, provide more detailed information at KNF's disposal in order to enable it to perform a wider assessment on qualifying shareholders suitability. With regard to the

supervisory framework it should be noted that KNF has already amended the questionnaire in order to extend the scope of the information relevant for the suitability assessment with particular reference to the AML, involvement in bankruptcies, financial soundness of the applicant and doing business without a licence. The availability of the 'Methodology for Assessing the Suitability of Members of Supervised Entities' Bodies' with the updated questionnaire is another significant tool to strengthen the supervision.

Conclusion

EIOPA welcomes the work done by KNF towards ensuring a risk-based and proportionate approach in the ongoing assessment of suitability of qualifying shareholders. The annual risk assessments performed in particular on propriety topics together with the annual survey carried out with a specific focus on qualifying shareholders reflect very good progress in addressing the recommended action. The additional reflection of the aspects considered in the ongoing assessment of the suitability of qualifying shareholders in the Methodology is bringing additional value to the effort to fully comply with Articles 26(3), 34(2), 59 and other related provisions of the Directive.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

EIOPA welcomes the initiatives taken by KNF aimed at full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines. The amendments to the national legislation are still in progress and have not been finalised by the time of this follow-up peer review as the entire process is not fully in the hands of KNF. It should be mentioned however, that KNF has amended the questionnaires by incorporating explicit questions concerning involvement in bankruptcies, prevention of money laundering, financial soundness of the applicant and doing business without a licence which is the subject of this recommended action. The new questionnaires are fully operational.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled and will be awaiting a note from KNF once the legislative process is concluded.**

4.24. PORTUGAL

Main findings

The recommended action issued to ASF was in the context of 'Internal Guidance'.

ASF was recommended to finalise internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.

ASF has adopted internal guidelines, already in force, in order to ensure a more comprehensive and consistent supervisory process, regarding the assessment of AMSB members and key function holders, in particular with regard to propriety. The guidelines, which are providing detailed criteria and describing the procedure to assess the compliance with the fitness and propriety requirements, are also being used for the assessment of natural persons intending to acquire or increase a qualifying holding, in consistency with the requirements set by the national legislative framework.

Conclusion

EIOPA welcomes the more structured approach undertaken by the Authority as a result of the internal guidelines developed. It also acknowledges the intention of ASF to disclose the content of the guidelines in order to anticipate to the market Authority's view on supervision.

Based on the assessment of the information provided, **EIOPA considers the recommended action as fulfilled.**

4.25. SLOVAKIA

Main findings

The first recommended action issued to NBS was in the context of 'Legal and regulatory framework'.

NBS was recommended to engage with the national legislator to ensure it has the legal powers for the assessment of supervisory board members.

In response to the recommended action, NBS has provided information about its proposals to the competent Ministry to amend the national legislation – the Insurance Act. The NBS initiative has not been taken on board yet.

The second recommended action issued to NBS was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

NBS was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

As referred by NBS, the suitability of qualifying shareholders is assessed generally during on-site inspections. The current initiative of implementing a new supervisory tool to assess on a continuous basis the propriety of AMSB and qualifying holders of insurance undertakings, taking into account a wider set of information for its assessment is acknowledged. Currently, NBS receives from insurance undertakings information concerning every material change regarding the fitness and

propriety of AMSB members and qualifying shareholders and the undertakings' (bi-annual) assessment of propriety of such subjects.

The third recommended action issued to NBS was in the context of 'Supervisory database'.

NBS was recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

NBS has implemented a general supervisory database in order to collect the relevant information on AMSB members and key function holders related also to cross-border exchanges with other National Authorities, to past supervisory and current data, to refusal or withdrawals. The Authority intends to create, in the next two years, a wider database system aiming at increasing the efficiency of the supervisory process and allowing a more user-friendly environment and a better information sharing across the financial market sectors.

Conclusion

EIOPA welcomes the action carried out by NBS; however, taking into account the fact that the legislative framework has not been amended yet and that by the time of this follow-up peer review NBS does not have the legal power to assess AMSB members, the recommended actions cannot be graded as fulfilled.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as partially fulfilled.**

EIOPA appreciates the initiative taken by the Authority to strengthen the qualifying shareholders' proper assessment as a crucial element of the supervisory assessment performed regarding the governance system. However, the combination of more supervisory tools (on-site, off-site) and the development of a set of clear internal and external guidelines, to be used in guiding and carrying out the supervisory assessment on such profile would be welcomed by EIOPA. Due to the fact that the new supervisory tool is still in progress and has not been finalised by the time of the follow-up the recommended action cannot be graded as fulfilled.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as partially fulfilled.**

In response of the recommended action NBS has implemented a supervisory database in order to collect the relevant information on AMSB members and key function holders also in cross-border context. The aim of the Authority is to improve the current database with wider one in the coming years.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

4.26. SLOVENIA

Main findings

The first recommended action issued to AZN was in the context of ‘Legal and regulatory framework’.

AZN was recommended to require a revision of the definition of ‘indirect holding’ mentioned in the Slovenian Insurance Law in order to align it with Joint Guidelines. The system of identification of the ‘indirect shareholders’ by AZN should also be aligned with the revision of the definition of ‘indirect shareholder’. Such evolutions are necessary in order to comply with Article 59 and following of the Directive and Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector JC/GL/2017/27.

AZN has provided further clarifications regarding its understanding on the national legislative framework with reference to definition of ‘indirect holding’ and its consistency with the EU legislative and regulatory framework, as defined in the Solvency II Directive and deeper detailed in the ESAs Guidelines on qualifying shareholders. As clarified by AZN, the Slovenian Insurance Law¹⁰ already now includes a definition of indirect participation and an evaluation of the presumption of indirect ownership, identifying the criteria for carrying-out the Supervisor’s assessment in such a circumstance.

The second recommended action issued to AZN was in the context of ‘Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders’.

AZN was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met. If required, AZN was recommended to seek legislative changes to implement ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders.

AZN has issued a new supervisory handbook, prescribing the ongoing assessment on the suitability of qualifying shareholders as well as ad-hoc supervision in this context. Currently, the ongoing supervision of qualifying shareholders, in accordance with the new supervisory approach and with the NCA risk-based assessment, is part of the regular on-site inspection. According to the

¹⁰ For additional clarification, we provide the English text of the relevant article in the Slovenian Insurance Act (Official Gazette of the Republic of Slovenia, Nos. 93/15, 9/19 and 102/20; hereinafter: Insurance Act or IA-1): Article 20 (indirect holding) (1) An indirect holder of shares, holdings or other rights ensuring participation in management or capital shall be a person for whose account another person, as a direct holder, has acquired the aforementioned shares, holdings or other rights ensuring participation in management or capital. (2) Unless proven otherwise, a subsidiary undertaking shall be considered to have acquired shares, holdings or other rights ensuring participation in management or capital for the account of its parent undertaking or another parent entity.

clarification provided by the NCA, specific triggers have been also identified to guide the supervision on an ongoing basis.

The third recommended action issued to AZN was in the context of 'Definition or scope of propriety of AMSB members'.

AZN was recommended to strengthen its legal and regulatory framework by:

- arranging the definition of propriety to be broadened in order to integrate the five bases¹¹ according to Article 59 for definition or scope of the assessment of AMSB members by the insurers as well as the supervisory authorities;
- ensuring that the same assessment scope is applied for both executive and non-executive directors and developing external guidelines for propriety assessment of non-executive directors (Supervisory Board members). Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

AZN has adopted four new supervisory handbooks, including in their scope the fit and proper assessment of: i) qualifying shareholders; ii) management board members; iii) supervisory board members and iii) key function holders. Such new handbooks are currently used by AZN in its supervisory processes, through on-site inspections and off-site monitoring (following a proactive approach). It should be noted that AZN has also amended its legislative and regulatory framework, ensuring a wider scope of the assessment concerning the AMSB members' propriety by the insurers as well as by the supervisors in line with the recommended action. The current framework enables undertakings and supervisors to consider further elements potentially relevant for such assessment (as, for instance, pending investigations of criminal offences and administrative sanctions of AMSB members). AZN has also issued recommendations and expectations, as an external guidance, for nomination proceedings for Management and Supervisory Board Members. The Authority has also published a supervisory statement available on its website, declaring its intent to comply with the Joint guidelines on suitability of qualifying shareholders.

The fourth recommended action issued to AZN was in the context of 'Power to revoke'.

AZN was recommended to seek necessary changes to the national insurance legislation to be provided with the power to revoke membership of a non-executive AMSB member as envisaged by Article 34(2) of the Directive.

¹¹ The five bases are including: 1. criminal offences and administrative sanctions for non-compliance with provisions governing financial activities; 2. pending investigations for criminal offences or administrative sanctions; 3. bankruptcy or insolvency of an insurer where the candidate was previously a director; 4. personal bankruptcy or inclusion on a list of unreliable debtors; and 5. matters of transparency or honesty, rejection of an application, exclusion or limitation to conduct operations which requires authorisation or dismissal from employment.

According to the clarification provided by AZN, the Insurance Act was amended in 2019, empowering AZN to revoke the member of non-executive AMSB. Consistently with the changes adopted in the national regulatory framework, AZN has adopted further initiatives aimed at strengthening the supervisory assessment on such profile: i) the issuing of supervisory handbook on members of supervisory boards' fitness and propriety; ii) the adoption of recommendations and expectations for nomination proceedings for Supervisory Boards members, requiring to insurance undertakings to adequately inform AZN on the assessment carried out, also transmitting the supporting documentation; iii) the implementation of internal organisational changes to carry out a specialised supervision; iv) the booster of the assessment carried out through on-site inspections and off-site monitoring.

Conclusion

In Slovenian legislation there is reference to a definition of indirect holding/indirect shareholder which is in line with the Directive and Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector JC/GL/2017/27. In response to the recommended action, AZN has clearly stated that there is no change envisaged to the Slovenian Insurance Law due to the fact such an amendment would actually limit the Authority in applying the definition of indirect holding/indirect shareholder.

Based on the assessment of the information provided, **EIOPA considers the first recommended action as fulfilled.**

EIOPA welcomes the initiative taken by the Authority to strengthen the qualifying shareholders' proper assessment as a crucial element of the supervisory assessment performed regarding the governance system, in particular the issue of the new supervisory handbook and its immediate implementation into the day-to-day supervision.

Based on the assessment of the information provided, **EIOPA considers the second recommended action as fulfilled.**

The initiatives, measures and tools adopted by AZN in order to strengthen the regulatory and supervisory framework for the assessment of AMSB's members propriety, for both executive and non-executive directors, also developing external guidance for such members are well recognised by EIOPA. All the steps taken are considered enhancing the supervisory convergence in line with the requirements set at the European Union level, also with regard to qualifying shareholders and key function holders.

Based on the assessment of the information provided, **EIOPA considers the third recommended action as fulfilled.**

The strengthening of the powers of intervention through the amendment of the legislative framework and through a more structured approach towards supervision of AMSB members is

appreciated. The actions performed by AZN ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended action as fulfilled.**

4.27. SPAIN

Main findings

The first recommended action issued to DGSFP was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

DGSFP was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis would ensure that one of the underlying operating conditions for insurance business is met.

The second recommended action issued to DGSFP was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

DGSFP was recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the DGSFP.

DGSFP intends to introduce, in the future, a reporting template where key information on propriety of AMSB members and qualifying shareholders will be required. The development of the additional template is not a priority for the moment as within all inspection and authorisation procedures the suitability requirements are checked. Furthermore, two years after their evaluation, the document is requested again for reassessment. DGSFP has carried out three on-site inspections regarding system of governance in order to evaluate fitness and propriety issues.

The third recommended action issued to DGSFP was in the context of 'Power to revoke'.

DGSFP was recommended to seek necessary changes to the national insurance legislation to be provided with the power to revoke membership of an AMSB member as envisaged by Article 34(2) of the Solvency II Directive.

The amendment incorporating the proposed law is with the Finance Committee of the Spanish Parliament since 2018. DGSFP is considering and assessing whether to incorporate it in a currently

new proposed law, together with some changes proposed with regard to the Motor Third-party liability. DGSFP has carried out three on-site inspections regarding the system of governance in order to check some fitness and propriety issues. In addition, DGSFP has taken some supervisory actions, focused on the system of governance.

The fourth recommended action issued to DGSFP was in the context of 'Supervisory database'.

DGSFP was recommended to maintain a database which captures information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

DGSFP is running a database including all persons who have contacted the authority in order to be assessed.

Conclusion

EIOPA appreciates the practice in place within the Authority with regard to the AMSB members and qualifying shareholders' ongoing assessment. However, the combination of more supervisory tools (on-site, off-site) and the development of a set of clear internal and external guidelines, to be used in guiding and carrying out the supervisory assessment on such profile would be welcomed by EIOPA. Annex 3 of the original peer review report outlines some examples of how an ongoing propriety assessment of AMSB members and qualifying shareholders can be implemented by using a risk-based and proportionate approach and without replicating the process used for initial or ad-hoc assessments. It acknowledges the intention to work on an additional template to collect information on propriety aspects.

Based on the assessment of the information provided, **EIOPA considers the first and second recommended actions as not fulfilled.**

In response to the third recommended action DGSFP has made efforts to amend local law which, since 2018, has not been finalised by the Spanish Parliament. It is acknowledged that DGSFP is assessing opportunities to incorporate the changes in a new set of law to be proposed.

Based on the assessment of the information provided, **EIOPA considers the third recommended actions as partially fulfilled.**

EIOPA acknowledges the existence of the database; however, it is expected that also information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive is included.

Based on the assessment of the information provided, **EIOPA considers the fourth recommended actions as partially fulfilled.**

4.28. SWEDEN

Main findings

The first recommended action issued to SFSA was in the context of 'External Guidance'.

SFSA was recommended to issue external guidance for AMSB members' propriety assessment to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.

In response to the peer review no actions, tools or measures have been adopted by SFSA. With regard to this point it was stated that SFSA's approach is not to provide this type of external guidance, even if the issue is currently further investigated by the Authority.

The second recommended action issued to SFSA was in the context of 'Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members'.

SFSA was recommended to carry out ongoing assessment for AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to SFSA.

The third recommended action issued to SFSA was in the context of 'Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders'.

SFSA was recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

As clarified by SFSA due to the lack of resources no actions, tools or measures have been adopted by SFSA, to ensure the compliance with the second and third recommended actions or to make any progress in ensuring proper assessment of both AMSB members and qualifying shareholders, using a risk-based and proportionate approach. Currently, SFSA performs such assessment mainly during the acquiring transaction review process. The intent to further investigate the issue by SFSA is welcomed by EIOPA.

The fourth recommended action issued to SFSA was in the context of 'Legal and regulatory framework'.

SFSA was recommended to apply all the criteria for the assessment of propriety of qualifying shareholders mentioned in the CEIOPS/CEBS/CESR guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by the Directive 2007/44/EC and the EIOPA SoG guidelines.

SFSA does not have the power, when assessing the integrity of the proposed acquirer, to take into consideration the integrity and reputation of any person linked to the proposed acquirer. In response to the peer review SFSA has not introduced any amendment of the legislative framework, nor have any other initiatives been taken.

Conclusion

The Authority declares non-compliance with all four recommended actions partly due to the lack of internal resources.

Based on the assessment of the information provided, **EIOPA considers the four recommended actions as non-fulfilled.**

5. BEST PRACTICES

The Peer Review on propriety of AMSB members and qualifying shareholders identified eight best practices (BPs) that aimed to inspire NCAs to benefit from each other’s experience.

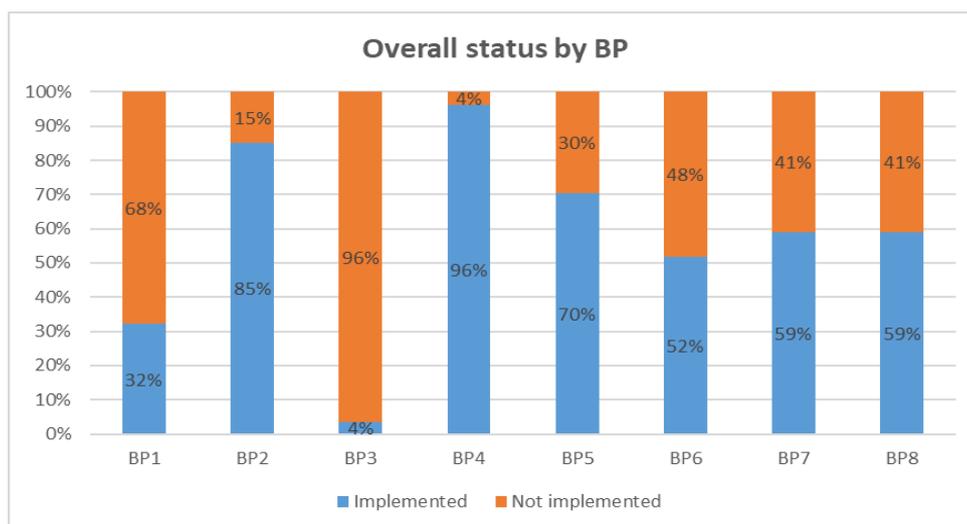
In order to gain knowledge on the implementation of the identified BPs, all NCAs in the EEA countries have been invited to provide input in this respect during the self-assessment.

The follow-up analysis focuses on whether and to what extent the best practices have been taken into consideration, implemented or further developed by NCAs. The outcome of this analysis and the achieved information on the level of consideration and/or implementation of the best practices and reasons for this will be considered by EIOPA when assessing whether and how to include these practices in EIOPA’s supervisory review process handbook.

5.1. KEY FINDINGS ON THE IMPLEMENTATION OF BEST PRACTICES

Almost all eight best practices, apart from BP3, as identified in the peer review report have been implemented by NCAs or have inspired NCAs to develop their similar supervisory approach to some extent¹².

Graph 1



¹² Detailed overview of the implementation of the BPs across NCAs can be found in Annex IV.

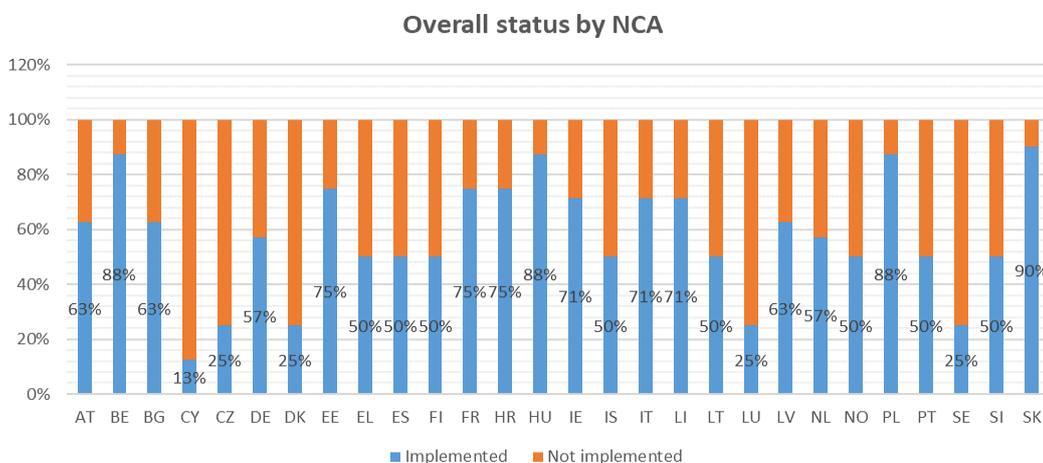
For BP4, BP2 and BP5 EIOPA concluded significantly high rate of implementation, i.e. 96 %, 85 % and 70 % respectively, while BP6, BP7 and BP8 were implemented by more than half of the NCAs. Very low level of implementation was confirmed for BP1 and even more for BP3 (i.e. 32 % and 4 % respectively).

In particular, for BP1 EIOPA acknowledges the arguments made by some NCAs with regard to following an approach that is proportionate to the structure and complexity of the undertakings operating in relatively small national insurance markets. Nevertheless, EIOPA expects further efforts by the NCAs to put in place a framework that will ensure accountability of individuals and will allow them to take timely action in case of supervisory breaches.

For BP3 the vast majority of NCAs expressed concerns on its compatibility with the GDPR, while others also doubted its necessity given the small local market and the fact that insurers have the responsibility to adopt the appropriate mechanism for collecting the information needed in the context of propriety assessment as long as it is compatible with the regulatory requirements.

The chart below presents the level of implementation of best practices by Member State. Among the NCAs which have concluded the implementation of the majority of the BPs are AT, BE, BG, DE, EE, FR, HR, HU, IE, IT, LI, LV, NL, PL and SK. There are a number of NCAs which have been working towards implementing the BPs and have achieved a rate of 50 %, among them are: EL, ES, FI, IS, LT, NO, PT, SI. The rest of the NCAs have achieved an implementation rate of the BPs below 50 % (CY, CZ, DK, LU, SE). Among the reasons for the non-implementation for all three groups mentioned above is also specificity of the local regime (referring to legislation but also considering specificities of the market) resulting in limitation of the supervisory approach which does not allow to incorporate the spirit of the particular best practice.

Graph 2



5.2. BP1 - LEGAL AND REGULATORY FRAMEWORK

EIOPA considers when an NCA's regulatory framework ensures accountability of individuals and allows it to take timely action in case of supervisory breaches.

The PRA's regime sets out number of responsibilities to be discharged by one or more controlled functions. The framework of responsibilities ensures clarity in setting out PRA's overall expectations and assigning these responsibilities to individual roles. This ensures individual accountability as roles and responsibilities are clearly defined also for the assessment of (fitness and) propriety and provide a strong basis for enforcement actions or assessment of future applications.

Insurers are required to draft and submit an application for the approval of an individual by the PRA along with a scope of responsibilities which is required to clearly show the responsibilities that individuals have as part of their control function and how they fit in with the insurer's overall governance and management arrangements.

The analysis of the responses shows that 32 % of the NCAs have implemented this best practice. It is noted that for concluding on the implementation of the best practice all aspects highlighted in the approach adopted by the PRA were considered. In particular, whether:

- the regulatory framework in place ensures clarity in setting out NCA's expectations, while also ensures accountability of individuals, allowing the NCA to take timely action in case of supervisory breaches;
- roles and responsibilities are clearly defined for the assessment of propriety;
- the application from undertakings for the approval of an individual by the NCA details the responsibilities of that individual and how these fit in the overall governance and management arrangements of the undertaking.

Main findings

For 19 NCAs this best practice has not been implemented for various reasons:

Some have indicated that there are some actions in the pipeline for improving the current regime and detailing the scope of responsibilities in the application process (AT). Others believe that such an approach is a far fletched project considering the size (CY) or the structure (EL) of the insurance undertakings in the local market or it is not currently a priority and as such it has not been implemented (ES) . Some (CZ, FI,) argued that the national legislation and the European framework provide the appropriate basis for undertakings to perform the assessment of propriety of AMSB

members and that undertakings are the ones to set the roles and responsibilities of individuals within their management and control system. In this regard they do not see the need to adjust their regulatory framework, noting that additional control layers would be inappropriate as it could create an unproductive cumulation of information (LU). Nevertheless, some expressed their intention to consider this best practice in the future (e.g. preparation of legislative amendments in the context of Solvency II review) (CZ), while others have included in their 2022 annual plan a thematic analysis on system of governance of supervised entities (FI). One authority (SI) intends to amend the national legislation on the assessment of the suitability of members of the management body and key function holders of insurance undertakings, by adding a provision stating that an insurance company must submit a report on its assessment of the suitability of the managing director or board member and, in the case of board members, on its assessment of the composition of the board. Another (NO) intends to focus more on the combined skills and quality of Board and management group members in addition to the assessment of each individual. In this context, they will consider amendments in their internal procedures aiming to improve the assessment of the combined skills.

Others noted that they have not defined a framework of responsibilities other than the control functions themselves since this is not a requirement supported by the legislation/regulation (FR, SE).

In some jurisdictions, the requirement set by the NCA seems to be limited to the submission of a chart of responsibilities of the executive board members (DE). Others (DK) claimed that the national regulatory framework ensures accountability of individuals and allows for the NCAs to take the necessary actions in case of breaches, while they argued that the best practice implemented by the PRA assigns responsibilities to a larger number of functions that goes beyond the scope defined by the Directive (NL).

Conclusions

The majority of NCAs has not implemented this best practice and very few indicated willingness to move towards this direction. EIOPA acknowledges the arguments made by some in particular with regard to following an approach that will be proportionate to the structure and complexity of the undertakings operating in relatively small national insurance markets.

Nevertheless, EIOPA expects further efforts by the NCAs to put in place a framework that will ensure accountability of individuals and allow them to take timely action in case of supervisory breaches.

5.3. BP2 - ACCESS TO SOURCES OF INFORMATION/COOPERATION WITH OTHER AUTHORITIES

EIOPA considers it a best practice when supervisory assessment of AMSB members takes records into account that are comprehensive in their nature and scope. The Federal Office of Justice in DE uses the European Judicial Network (EJN) for the facilitation of judicial cooperation in criminal matters. The criminal register in Germany is operated by the Federal Office of Justice and the Register holds domestic judgments of criminal courts and - after an assessment entailing a comparison of laws – foreign criminal convictions handed down against German citizens or against foreigners living in Germany. The citizens of other Member States of the European Union residing in Germany may be issued with a certificate of criminal record, which provides information in relation to the entries into the Federal Central Criminal Register and also the criminal register of their home Member State (European certificate of criminal record). If a European certificate of criminal record is applied for, the Federal Office of Justice will request the applicant's home Member State to provide the contents of its register so that this can be included in the certificate of criminal record. BaFin considers the European certificate of criminal record in its assessment.

Member States can consider adopting a risk-based and proportionate approach in requesting a European certificate by taking advantage of the European Criminal Records Information System (ECRIS).

The analysis of the responses shows that 85 % of the NCAs have implemented this best practice.

Main findings

The vast majority of the NCAs confirmed that in the context of the assessment of the propriety of AMSB they consider criminal records of the applicants¹³. An important aspect that many NCAs also provided reassurance is the exchange of information and consultation with other authorities within the same jurisdiction and from abroad depending on the specificities of the applicant.

Many expressed willingness to consider requesting a European certificate, some indicating that they were not aware that this is a possibility, so EIOPA believes that some further benefits can be explored further from the implementation of this best practice.

Regarding the four NCAs (CY, DK, FI and IE) which have not implemented this best practice, one (FI) noted that they perform detailed background checks and so far there has not been any significant practical need for this kind of European wide information gathering or utilisation of ECRIS, given the

¹³ The assessment of the implementation of the BP was not focused on the reference to the European Criminal Certificate but to the consideration of any criminal records of the applicants.

small local market. Another (IE) claimed that the proposed AMSB member must complete and submit individual questionnaires that require extensive disclosure and consent to background checks.

For DK, the information sharing with other authorities was noted as a practice followed in case the applicant has indicated that they have lived aboard.

All have expressed openness to consider this model adopted by BaFin in the future if needed.

Conclusions

The vast majority of NCAs have implemented this best practice, while the few that have not done so already recognise its benefits and have indicated willingness to move towards this approach in the future. No further actions are planned by EIOPA in this regard.

5.4. BP3 - ACCESS TO SOURCES OF INFORMATION/COOPERATION WITH OTHER AUTHORITIES

EIOPA considers it a best practice when an NCA's regulatory framework allows insurers to exchange information for propriety assessment.

The UK authorities have implemented a Policy statement on regulatory references that enables insurers to request employment references from previous employer(s) when recruiting individuals into certain functions or roles using a set form. The practice supports the requirements of Article 42(1)(b) of the Directive which states that (re)insurers shall ensure that all persons who effectively run the insurer or have key functions must at all times fulfil the requirements for good repute and integrity.

While regimes implemented in a number of other Member States seek and rely on employment references, the PRA's regulatory references are supported by a detailed regulatory framework, including specific guidance. The references assist the authority to discharge its gatekeeper role in an efficient and effective manner by providing a mechanism that allows sharing of important information on a set form between insurers and help insurers prevent 'recycling' of individuals with poor conduct records between insurers. The references provide a mechanism for the supervised insurers to ensure that the AMSB members are both fit and proper at all times as required by Article 42 of the the Directive and Article 273 of the Delegated Regulation.

Only one NCA (SI) has implemented this best practice, with remaining ones expressing concerns on the legal basis enabling the adoption of a similar approach¹⁴.

Main findings

Many NCAs have indicated that there is no relevant regulatory basis enabling insurers to exchange information on previous employers and expressed concerns on whether such an approach would be compatible with the General Data Protection Regulation (NL, PT, SE) and called for relevant amendments in the Solvency II directive if there is an intention of promoting such an approach in order to ensure clarity on its compatibility with the Level 1 regulation (SK).

They also thought that promoting such practice goes beyond the role of the competent authority and they did not express any intention to explore this possibility further.

Others also reflected on the size of the local market noting that this does not justify such an approach. In particular, they claimed that given the small insurance market in their jurisdiction insurers have easy access to information necessary for assessing the propriety of AMSB members (BG, IE, IS, LI).

Several NCAs (DK, FI, FR, IS) claimed that it is a common practice for insurers to make use of employment references and if needed to gather explicit consent from applicants to contact previous employers in order to assess fitness and propriety, so they do not see the need to adopt an approach as the one described in the best practice. Among them some expressed also concerns on the compatibility of the approach with the legal framework (IS, LV).

HR and SK are the only NCAs that expressed some willingness to consider this practice in the future and possible work on internal guidelines in the second half of the year (SK).

Conclusions

NCAs share the concerns expressed by EIOPA on recycling of individuals with poor conduct records. However, the majority of NCAs did not implement this best practice given that they expressed concerns on its compatibility with the GDPR, while others doubted its necessity given the small local market and the fact that insurers have the responsibility to adopt the appropriate mechanism for collecting the information needed in the context of propriety assessment as long as it is compatible with the regulatory requirements.

¹⁴ The Peer review on propriety of AMSB members and qualifying shareholders has been performed (assessing available practices) prior implementation of the GDPR.

5.5. BP4 – EXCHANGE OF INFORMATION / COOPERATION WITH OTHER AUTHORITIES

EIOPA considers it a best practice when the legislation provides a framework that explicitly requires NCAs within the same Member State to share information with each other.

DNB supervises banks, pension funds, insurers as well as payment insurers while the Netherlands Authority for the Financial Markets (AFM) is responsible for financial market and conduct supervision. For fit and proper assessments of management and supervisory board members, DNB is obliged by law to consult the AFM. The two NCAs may decide to attend assessment interviews of the other authority.

The authority consults various others public and non-public sources of information like the Financial Expertise Center (cooperation between DNB, AFM, Public Prosecutor, Police, Financial intelligence Unit, Tax Authorities); the Tax and Customs Administration; the public prosecutor's office for conviction, the Chamber of Commerce; the Graydon database (fee based private source to check if someone is involved in a bankruptcy procedure), declarations from candidates for pending proceedings if necessary and other sources of information from relevant foreign financial NCAs or criminal law authorities. Section 7, paragraph 1 of the Decree on Prudential Rules provides an exhaustive list of authorities the authority is permitted to consult.

All but one NCA (SE) stated that they follow already or have recently implemented this best practice that enables them to cooperate and exchange information with all relevant authorities in the context of propriety assessment, while maintaining supervisors' professional secrecy obligation¹⁵.

Main findings

NCAs made references to cooperation agreements, protocols, MoUs signed between authorities in the same jurisdiction that facilitates exchanges in the context of AMSB propriety assessment and on the national regulatory framework or internal procedures that promotes or enforces such interactions (e.g. BE, CY, DE, DK, ES, HR). Exchange of information is organised between authorities of the financial sector in a specific jurisdiction but also with other public and non-public authorities (e.g. tax and custom authorities, public prosecutor, criminal law authorities, ministry of justice) and on a cross-border basis as needed.

¹⁵ Reference explicitly made by IE.

Some (CZ, EE, FI, HR, IS, NO, SK) provided details on the supervisory institutional framework in their respective jurisdiction and indicated that even though this is not similar with the one in the Netherlands, the best practice is in any case followed. In particular, these authorities noted that given their appointment as integrated authority for the financial sector in their jurisdiction, the cooperation and information exchange is organised within the respective departments/units of the same NCA.

In SE, the Swedish Financial Supervisory Authority, which is an integrated authority, has established a new internal department, the Authorisation Department. Thereby all assessments of propriety regarding all types of financial institutions is handled by the same department to ensure consistency and an efficient flow of information.

Conclusions

This best practice is followed by almost all NCAs and EIOPA does not consider that there is any need for further follow-up on this issue.

5.6. BP5 – SUPERVISORY DATABASE

EIOPA considers it a best practice when NCAs develop a database that ensures (fitness and) propriety information is readily available, persons requiring in depth propriety assessment based on historical supervisory breaches or other concerns are identified, information in relation to withdrawals and refusal of applications by the supervisory authority is recorded for future assessment or sharing of information with other supervisory authorities.

The Central Bank of Ireland (CBI) has a database that captures historical information on candidates on a name basis, tracks withdrawals and in addition flags people that have been refused approval or require in-depth assessments. The database tracks the employment history of all individuals which enables supervisors to link individuals to insurers where supervisory issues arose in the past.

The existence of a historical database combined with the flagging system on all assessments may assist an NCA in its work by making the process much more effective and efficient and is also beneficial for the effective cross-border cooperation and information sharing with other NCAs in view of Article 31(1) of the Directive.

The analysis of the responses shows that 70 % of NCAs have implemented this best practice.

Main findings

Based on the responses submitted it was concluded that 8 NCAs (BG, CY, CZ, HR, IS, LU, SE, SI) have not implemented this best practice. However, the majority of them (BG, CZ, HR, IS, SK) has already started the development of a database, or the improvement of the current one, that will enable them to follow a structured approach for storing and easily accessing information necessary in the context of propriety assessment as the one described in the best practice.

In particular, BG noted that it has started a process of developing an entirely new electronic integrated information system containing all its business processes. The system will provide enhanced capabilities for extracting from the accumulated database on the basis of a key word (e.g. name or identity number or the position of a person). This information will allow easy access to all information contained in their databases for persons having been in one or another relation with supervised entities and/or having been subject to any supervisory action or measure by the NCA.

CZ stated that a central database of all necessary information for fit and proper assessment with controlled access of authorised persons is currently under development.

The goal is to have more effective and efficient system which is also beneficial for the effective cross-border cooperation and information sharing with other NCAs in view of Article 31(1) of the Solvency II Directive.

HR is working on establishing a system for the exchange of fitness and propriety information by creating a database containing contact points for the exchange of fit and proper information and a common searchable database of holders of qualifying holdings and AMSB members’.

In the case of IS, documents related to the assessment of individuals and other historical supervisory actions concerning that individual are readily available in the NCA’s database. However, IS considers that the database is not as complete as the one developed by the Central Bank of Ireland, thus they evaluate opportunities for improving it further.

SK has provided details of the system they have currently in practice which is based on a directory, stored in excel files and linked with documents, stored in a documentary-system program. However, this system provides for limited cross-checking (e.g. possibilities of checking conflict of interests when one person holds more than one position), and it has inefficient historical view (manual reviewing of old excel documents is quite time consuming). As a result, the NCA is currently working on establishing a new databased similar to that in Ireland.

CY stated that they are considering this best practice given that they recognise the benefits of its implementation.

LU noted that a regular database is available and in use for qualifying shareholders, beneficial owners and authorised executives. They argue that fitness & propriety of authorised executives and administrators of shareholding companies are verified, but not registered in a database because of the overwhelming cascade structure it would create. For the supervised entities and for some shareholders, the NCAs asks documents for the whole board of directors but without the need to create a special database as they believe that it would entail too many frequent changes and a rapid overview loss.

Finally, SE believes that such a database is not compatible with the GDPR legislation and has not expressed any intention to take actions towards its implementation.

Conclusions

The majority of NCAs has already implemented this best practice, while there are positive indications from most of the NCAs for which implementation has not been confirmed yet given that five out of these eight authorities have already initiated an action plan for the development of a database with similar functionalities as the one maintained by the Central Bank of Ireland.

5.7. BP6 – POSSIBILITY TO STAY ASSESSMENT (OR PUT ASSESSMENT ON HOLD) IN CASE OF PENDING INVESTIGATIONS

EIOPA considers the ability to suspend or put the assessment on hold a best practice.

Assessment of propriety is a time sensitive supervisory task. Often NCAs are bound by timelines provided by national legislation, supervisory practices or expectations from the national legal and regulatory framework. Article 4, §3 of the Insurance Act permits the FMA, in case of a pending proceeding for criminal or administrative offences, to 'suspend its assessment'.

When an applicant is facing a pending criminal or administrative sanction proceeding, an ability to suspend the assessment by the authority may provide a practical alternative to deciding between two options that may pose future challenges for the authority.

The analysis of the responses shows that 52 % NCAs have implemented this best practice.

Main findings

Several NCAs have indicated that the current regulatory framework does not (fully) support the implementation of this best practice given that it does not provide the possibility to the NCA to keep an application on hold (e.g. CY, CZ, EE, IT, LV, PT). In particular, they argued that when an application is complete there are certain timelines that must be met informing the undertaking and the applicant regarding the outcome of the supervisory assessment. PT in particular indicated that in some cases there is the possibility to suspend the application but there is a time limitation, nevertheless, if for an applicant there are ongoing legal proceedings this can drive the decision for rejecting its appointment. Similarly, FI noted that such information will be taken into account. LT clarified that where it is possible to suspend or put the assessment on hold in case of pending investigations, the NCA may do so without breaching the legal deadline. In case it is not possible, the NCA may issue conditional authorisation/approval which may be revoked and sanctions may be applied if the condition is not met. For the conditional authorisation/approval to be issued, all relevant circumstances shall be taken into account, i. e. the number, type, scope and significance of reputation related issues.

There were some further factors that were underlined by supervisory authorities with regard to this best practice. Firstly that legal proceedings usually entail lengthy processes with authorities (e.g. EL) considering that suspending an application is not the most appropriate solution for dealing with these cases. Second point that was made by many is that the legal framework supports the presumption of innocence, meaning that an applicant cannot be treated unfavorably on the basis of ongoing legal proceedings and in this context their application cannot be suspended. To this end, some practical arrangements have been found by supervisor. For example many indicated that in case of ongoing legal proceedings, NCAs discuss the issue with the undertaking and suggest for the applicant to withdraw the application till the proceedings have been concluded (e.g. CY, DK, SI). In this context, NCAs suggest that a proportionate and flexible approach should be implemented to allow for the appropriate measures depending on the specificities of each case.

CZ has expressed no intention to implement this best practice. Finally, DE argued that it is not possible to apply this best practice given that they are not approving AMSB member, but rather they have the power to require the dismissal of AMSB members and prohibit them from exercising their activity if there is evidence indicating that the person is not fit and/ or proper.

Conclusions

The majority of NCAs have implemented this best practice even though there is still a significant number of supervisory authorities that have express concerns on its implementation for various reasons. These mostly relate to the national legal framework that does not provide a possibility for NCAs to suspend or put on hold the application when there are ongoing legal proceedings. EIOPA acknowledges these concerns and is also pleased to see that alternative mechanisms are in place

for ensuring that the outcome of these ongoing processes is in any case informing the propriety assessment of AMSB members.

5.8. BP7 – ONGOING VERIFICATION OF OPERATING CONDITION IN RELATION TO PROPRIETY OF QUALIFYING SHAREHOLDERS

EIOPA considers it a best practice when an NCA develops a well-structured framework that includes:

1. internal guidelines which are well structured and detailed;
2. systematic verification of information transmitted by the proposed acquirer of qualifying shareholding;
3. consultation with several authorities (Courts, Central Bank, Financial Intelligence Units, etc.) to establish whether or not there exists any adverse information;
4. requiring qualifying shareholders to provide notification and details of any material changes to the information previously provided to the supervisory authority.

The framework implemented by IVASS meets all of the above attributes and results in a supervisory process that appraises or verifies the propriety of qualifying shareholders on a continuous basis, as envisaged by Article 59, 34 and other related provisions of the Directive.

The analysis of the responses shows that 59 % NCAs have implemented this best practice. For concluding on the implementation of the best practice all aspects highlighted in the approach adopted by IVASS were considered. In particular, whether:

- the NCAs have developed internal guidelines that well-structured and detailed;
- the information submitted by the proposed acquirer of qualifying shareholding is systemically verified;
- consultation with various authorities is organised;
- qualifying shareholders are required to notify of any material changes of the information previously provided to the NCA.

Main findings

From the feedback collected during the follow-up exercise it was confirmed that eleven NCAs (AT, BG, CY, CZ, DK, ES, LU, NL, NO, SE, SI) have not implemented this best practice, however the factors driving the non-implementation assessment vary across the assessed authorities.

In more detail, some of them noted that even though the information provided by the applicant qualifying shareholder is in general verified and consultation with other authorities is organised, their regulatory framework does not impose a requirement to qualifying shareholders to inform the NCA on any material changes in the information they have originally provided (AT). In this context, AT proposed to further specify the notion of 'significant changes' (e.g. significant changes should be determined from the perspective of the qualifying shareholder or the insurance undertaking).

Others (BG) argued that the current regulatory framework at EU and national level does not provide a clear legal basis for ongoing monitoring of the suitability of the qualifying shareholders and suggested clarity with necessary amendments in the Solvency II Directive that will enable them considering implementation of this best practice. Similar concerns on the appropriate legal basis for implementing this best practice were expressed also by others (CY).

CZ communicated that they do not currently plan to change the legislation and the supervisory process in this area, as they believe that it is fully sufficient for their supervisory needs. In addition, ES indicated that the implementation of this best practice, and in general the ongoing assessment of qualifying shareholders and AMSB members, is not a priority currently given the pandemic and the workload.

LU indicated that the implementation of this best practice is still work in progress and confirmed their commitment in moving towards the approach adopted by IVASS. Furthermore, SE will consider this practice in the context of the work relating to the recommended action regarding ongoing assessment of propriety of qualifying shareholders. If implemented, it will be performed through a risk-based and proportionate approach.

DK, NL, NO, SI provided information on the risk-based approach they follow for the assessment of qualifying shareholders but this did not confirm a similar approach with the one implemented by IVASS as described in this best practice.

Conclusions

All in all, more than half of the NCAs have been inspired by this best practice and have implemented an approach that ensures that there are internal guidelines that are well structured and detailed, the propriety of qualifying shareholders is assessed on a continuous basis and the NCAs are notified of any material changes in the information originally provided, while information exchanged is organised with all relevant authorities. Some still work in adopting this supervisory model while

others confirmed that their approach is a risk-based one and are not willing to apply further changes.

Finally, there are few that expressed doubts on whether the current regulatory framework provides the appropriate legal basis and suggested relevant amendments in the Solvency II Directive.

5.9. BP8 – SUPERVISORY VERIFICATION ON A CONTINUOUS BASIS OF THE COMPLIANCE WITH PROPRIETY REQUIREMENTS FOR AMSB MEMBERS

EIOPA considers it a best practice when legal and regulatory framework implements a structured approach for ensuring that the AMSB members meet (fit and) proper requirements at all times.

NBS requires the insurers to reassess AMSB members every two years and to advise the supervisory authority in case of material changes. During the on-site inspection the supervisors review reassessments, on a sample basis, and verify whether the insurer followed propriety policies.

The practice supports the requirements of Article 42(1)(b) of the Directive which states that (re)insurers shall ensure that all persons who effectively run the insurer or have key functions at all times fulfil the (fit and) proper requirements.

The analysis of the responses shows that 59 % NCAs have implemented this best practice.

Main findings

Some supervisors (e.g. CY, CZ, IS, NO) considered this best practice as not fully in line with the scope of Article 42 of the Solvency II Directive. In particular, these supervisors claimed that the insurers have their own fit and proper policies and those policies provide for an ongoing assessment. By imposing a certain timeframe to perform the reassessment is somewhat intervening in the scope of the responsibilities of the undertaking. To this end, they favour an approach where the NCA perform spot checks, usually through on-site inspections, to verify that insurers are in line with the policies and internal procedures in place. In case any shortcomings are identified in how insurance undertakings ensure that AMSB members meet fit and proper requirements, NCAs would require the insurance undertaking in question to take relevant action or impose sanctions. To this end some clearly stated no intention to implement this best practice in the future (i.e. CZ).

In addition, some NCAs claimed that their regulatory framework requires insurers to communicate subsequent changes to the information originally provided in the context of propriety assessment of AMSB members, while a reassessment in PT is required when there is a new fact or when candidates are appointed to a new mandate or to a different function, and this reassessment must be submitted to the supervisory authority.

Others indicated that they will consider the details of this best practice in the future (i.e. EL, LU, FI) either while amending their national regulatory framework (i.e. EL), or by issuing a circular letter in order to implement a structured approach towards continuous fit & proper requirements (i.e. LU) or in the context of the work relating to the recommended action regarding ongoing assessment of propriety of AMSB members (i.e. FI). The latter (FI) also indicated that if implemented, it will be performed through a risk-based and proportionate approach.

Furthermore, DK claimed that follows a risk-based approach but it did not provide enough details that will lead to the conclusion that they follow this best practice. For ES it was not possible to implement an ongoing propriety assessment of AMSB members due to the workload and other supervisory priorities.

Conclusions

The majority of NCAs have implemented this best practice by having in place a framework that requires the insurers to assess the fit and propriety of AMSB members on an ongoing basis.

Regarding the ones that have been assessed as not following this best practice there are cases where willingness to move towards this direction has been expressed, while others consider that the best practice is not fully compatible with Solvency II provisions.

ANNEX I – LIST OR RECOMMENDED ACTIONS

MS	Subject	Proposed recommended actions
AT	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	FMA is recommended to appraise or verify using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis using a risk-based approach will ensure that one of the underlying operating conditions for insurance business is met.
BE	Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders	NBB is recommended to strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer protection offences in relation to the assessment of AMSB members. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.
BE	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	NBB is recommended to appraise or verify the suitability of qualifying shareholders on a continuous basis using a risk-based and proportionate approach as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
BE	Supervisory database	NBB is recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.
BG	Internal Guidance	FSC is recommended to develop internal guidance to ensure its supervisory processes are robust and aims to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.
BG	Ongoing verification of operating condition in	FSC is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders

	relation to propriety (suitability) of qualifying shareholders	on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
CY	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	ICCS is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
CY	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	ICCS is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the ICCS.
CZ	Internal Guidance	CNB is recommended to finalise internal guidance for the propriety assessment of AMSB members to ensure its supervisory processes are robust and aims to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.
CZ	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	CNB is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
DE	External Guidance	It is recommended that BaFin finalises the update of the external guidelines for qualifying shareholders to be compliant with the new VAG Insurance Act as well as the Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2017/27) and take into account that the Holder Control Regulation and the Guidance Notice on Holder Control should be updated to be compliant with

		the new VAG Insurance Act that implemented Article 31 of the Directive.
DE	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	BaFin is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
DE	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	BaFin is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the BaFin.
DK	External Guidance	DFSA is recommended to issue external guidance for qualifying shareholders explicitly referencing to the CEIOPS/CEBS/CESR guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by the Directive 2007/44/EC (CEIOPS-3L3-19/08) to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the obligation for the qualifying shareholders for ongoing compliance with suitability requirements.
DK	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	DFSA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
DK	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	DFSA is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the DFSA.
DK	Insurers own assessment	DFSA is recommended to receive, together with the appointment notification, and subsequently review, using a risk-based and

		proportionate approach, insurers' own assessment, as required by Article 42(2) of the Directive.
DK	Supervisory database	DFSA is recommended to maintain a database that captures information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.
EE	External Guidance	EFSA is recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.
EE	Internal Guidance	EFSA is recommended to develop internal guidance to ensure its supervisory processes are robust and aims to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.
EE	Definition or scope of propriety of AMSB members	EFSA is recommended to strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment in relation to AMSB members. Such strengthening will ensure full implementation of Articles 42, 59 and 26 as well as the relevant European guidelines.
EL	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	Bank of Greece is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
EL	Definition or scope of propriety of AMSB members	Bank of Greece is recommended to broaden the definition or scope of the propriety assessment in relation to AMSB members by extending the scope of the questionnaire to the pending criminal proceedings and any administrative convictions related to the corporate law area. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.
EL	Supervisory database	Bank of Greece is recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42

		or/and cross-border information requests in accordance with Article 26(3) of the Directive.
ES	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	DGSFP is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
ES	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	DGSFP is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the DGSFP.
ES	Power to revoke	DGSFP is recommended to seek necessary changes to the national insurance legislation to provide for power to revoke membership of an AMSB member as envisaged by Article 34(2) of the Solvency II Directive
ES	Supervisory database	DGSFP is recommended to maintain a database which captures information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.
FI	External Guidance	FFSA is recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.
FI	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	FFSA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.

FI	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	FFSA is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the FFSA.
FR	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	ACPR is recommended to carry out ongoing assessment for non-executive AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the ACPR.
FR	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	ACPR is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
FR	Supervisory database	ACPR is recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments including those relating to non-executive AMSB members in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.
HR	Supervisory Process	HANFA is recommended to develop a specific form/questionnaire to be completed by the proposed acquirer. The questionnaire, when issued, will assist HANFA to conduct their tasks in a transparent and accountable manner as required by Article 31 of the Directive.
HR	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	HANFA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying

		shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
HR	Definition or scope of propriety of AMSB members and suitability of qualifying shareholders	<p>HANFA is recommended to:</p> <ul style="list-style-type: none"> • align and conform the propriety definition for supervisory board members with the definition for management board members; and • strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment in relation to qualifying shareholders by extending the scope of assessment to consider personal debt/insolvency procedure, dismissal from a former employer or conducting a business without a license. <p>Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.</p>
HR	Propriety Assessment at Holding Companies	HANFA is recommended to fully implement provisions of Article 257 of the Directive, with respect to holding companies.
HU	Legal and regulatory framework	MNB is recommended to strengthen the legal and regulatory framework to the effect that the insurers are required to notify material changes in relation to AMSB members to the MNB, and as such comply with Article 42(3) of the Directive.
HU	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	MNB should appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
IE	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	CBI is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
IS	Legal and regulatory framework	It is recommended that the Icelandic legislation be strengthened for assessing qualifying shareholders, as required by Article 59 of

		the Solvency II Directive, to bring it at par with the definition and scope for the propriety assessment of AMSB members as required by Article 42 of the Directive.
IT	External Guidance	IVASS is recommended to issue external guidance to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.
IT	Definition or scope of propriety of AMSB members	IVASS is recommended to strengthen its legal and regulatory framework in relation to AMSB members by arranging the definition of ‘good repute’ mentioned in the Ministerial Decree n° 220 to be broadened in order to integrate the five bases according to Article 59 of the Directive for definition or scope of the assessment for insurers as well as the supervisory authorities. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.
IT	Power to revoke	IVASS is recommended to seek necessary changes to the national insurance legislation to provide for power to revoke membership of an AMSB member as envisaged by Article 34(2) of the Solvency II Directive.
IT	Supervisory database	IVASS is recommended to maintain and capture in one single database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.
LI	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	FMA is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to FMA.
LI	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	FMA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a

		continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
LT	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	Central Bank of Lithuania is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
LU	Legal and regulatory framework	CAA should make arrangements for itself or where needed in collaboration with the national legislator, to have the powers to take the necessary measures towards the AMSB of supervised insurers.
LU	External Guidance	CAA is recommended to: <ul style="list-style-type: none"> a) issue external guidance for AMSB members to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements; b) update its website to ensure that only the latest and relevant guidelines concerning the assessment of qualifying shareholders are available on the website outlining clearly the information requirements.
LU	Internal Guidance	CAA is recommended to finalise internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.
LU	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	CAA is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the CAA.
LU	Ongoing verification of operating condition in relation to propriety	CAA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or

	(suitability) of qualifying shareholders	verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
LU	Definition or scope of propriety of AMSB members	<p>CAA is recommended to strengthen its legal and regulatory framework in relation to AMSB members by arranging the definition of ‘good repute’ contained in the Luxembourg Insurance Law to be broadened in order to integrate the five bases according to Article 59 for definition or scope of the assessment for insurers as well as the supervisory authorities. The definition may be broadened by amending the definition in the Luxembourg Insurance Law or by issuance of circular provided the circular is legally enforceable (i.e. it can serve as a legal basis to refuse an applicant AMSB Member).</p> <p>CAA is also recommended to strengthen its legal and regulatory framework by ensuring that the same assessment scope is applied for both executive and non-executive directors.</p> <p>Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.</p>
LV	External Guidance	FCMC is recommended to issue external guidance for AMSB members’ propriety assessment to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers for ongoing compliance with propriety requirements.
LV	Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders	<p>FCMC is recommended to strengthen its legal and regulatory framework by arranging the definition of ‘good repute’ contained in the Latvian Insurance Law to be broadened in order to integrate the five bases according to Article 59 of the Directive for definition or scope of the assessment of AMSB members for insurers as well as the supervisory authorities. The definition may be broadened by amending the definition in the Latvian Insurance Law or by issuance of a regulation provided the regulation is legally enforceable.</p> <p>Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.</p>
LV	Ongoing verification of operating condition in relation to propriety	FCMC is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An

	(suitability) of qualifying shareholders	appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
NL	Legal and regulatory framework	DNB is recommended revisit the control criterion in addition to the multiplication criterion.
NL	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	DNB is recommended to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. To implement this recommended action, the DNB may have to seek legislative changes to the national law. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to DNB.
NL	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	DNB is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
NL	Insurers own assessment	DNB should be able to receive, together with the appointment notification, and subsequently review, using a risk-based and proportionate approach, insurers' own assessment, as required by Article 42(2) of the Directive.
NO	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	Finanstilsynet is recommended to implement its proposal to carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to Finanstilsynet.
NO	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	Finanstilsynet is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying

		shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
PL	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	KNF is recommended to appraise or verify, using a risk-based and proportionate approach, the propriety aspects of suitability (and not just financial soundness) of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
PL	Definition or scope of propriety of AMSB members and/or suitability of qualifying shareholders	KNF is recommended to strengthen its legal and regulatory framework by amending questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a licence. Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.
PT	Internal Guidance	ASF is recommended to finalise internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes in line with Articles 29 and 59 of the Directive.
SE	External Guidance	SFSA is recommended to issue external guidance for AMSB members' propriety assessment to meet the transparency and accountability obligations contained in Article 31 of the Directive and to reiterate the primary responsibility of the insurers and qualifying shareholders for ongoing compliance with propriety requirements.
SE	Supervisory verification on a continuous basis of the compliance with propriety requirements for AMSB members	SFSA is recommended to carry out ongoing assessment for AMSB members by following a risk-based and proportionate approach. The ongoing assessment will ensure that the requirements of Articles 42 and 29 of the Directive are complied with at all times and that such compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to SFSA.
SE	Ongoing verification of operating condition in relation to propriety	SFSA is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or

	(suitability) of qualifying shareholders	verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
SE	Legal and regulatory framework	SFSA is recommended to apply all the criteria for the assessment of propriety of qualifying shareholders mentioned in the CEIOPS/CEBS/CESR guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by the Directive 2007/44/EC (CEIOPS-3L3-19/08) and the EIOPA SoG guidelines.
SI	Legal and regulatory framework	AZN is recommended to require a revision of the definition of 'indirect holding' mentioned in the Slovenian Insurance Law in order to align it with Joint Guidelines. The system of identification of the 'indirect shareholders' by AZN should also be aligned with the revision of the definition of 'indirect shareholder'. Such evolutions are necessary in order to comply with Article 59 and following of the Directive and Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector <i>JC/GL/2017/27</i> .
SI	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	AZN is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met. If required, AZN is recommended to seek legislative changes to implement ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders.
SI	Definition or scope of propriety of AMSB members	<p>AZN is recommended to strengthen its legal and regulatory framework by:</p> <ul style="list-style-type: none"> • arranging the definition of propriety to be broadened in order to integrate the five bases according to Article 59 for definition or scope of the assessment of AMSB members by the insurers as well as the supervisory authorities. • ensuring that the same assessment scope is applied for both executive and non-executive directors and developing external guidelines for propriety assessment of non-executive directors (Supervisory Board members). <p>Such strengthening will ensure full implementation of Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.</p>

SI	Power to revoke	AZN is recommended to seek necessary changes to the national insurance legislation to provide for power to revoke membership of a non-executive AMSB member as envisaged by Article 34(2) of the Directive.
SK	Legal and regulatory framework	NBS is recommended to engage with the national legislature to ensure it has the legal powers for the assessment of supervisory board members.
SK	Ongoing verification of operating condition in relation to propriety (suitability) of qualifying shareholders	NBS is recommended to appraise or verify, using a risk-based and proportionate approach, the suitability of qualifying shareholders on a continuous basis as envisaged by Articles 26(3), 34(2), 59 and other related provisions of the Directive. An appraisal or verification of the suitability of qualifying shareholders on a continuous basis will ensure that one of the underlying operating conditions for insurance business is met.
SK	Supervisory database	NBS is recommended to capture in the database information in relation to nature and circumstances of withdrawals for future assessments in accordance with Article 42 and/or cross-border information requests in accordance with Article 26(3) of the Directive.

ANNEX II - OVERVIEW OF FULFILLMENT OF RECOMMENDED ACTIONS¹⁶

Type of RA NCA	Ongoing assessment of propriety of qualifying shareholders	Ongoing assessment of propriety of AMSB members	Propriety assessment questionnaires	Internal external guidance	Supervisory records	Insurers own assessment	Strengthening regulatory framework	Amending national legislation	Supervisory Process	Propriety Assessment of Holding Companies	Overall status by NCA		
											fulfilled	partially fulfilled	not fulfilled
AT	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
BE	fulfilled	n/a	fulfilled	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
BG	not fulfilled	n/a	n/a	partially fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	0%	50%	50%
CY	not fulfilled	partially fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	50%	50%
CZ	fulfilled	n/a	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
DE	fulfilled	fulfilled	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
DK	partially fulfilled	partially fulfilled	n/a	not fulfilled	fulfilled	partially fulfilled	n/a	n/a	n/a	n/a	20%	60%	20%
EE	n/a	n/a	n/a	fulfilled	fulfilled	n/a	fulfilled	n/a	n/a	n/a	100%	0%	0%
ES	not fulfilled	not fulfilled	n/a	n/a	partially fulfilled	n/a	n/a	partially fulfilled	n/a	n/a	0%	50%	50%
FI	fulfilled	fulfilled	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
FR	fulfilled	fulfilled	n/a	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
EL	partially fulfilled	n/a	n/a	n/a	fulfilled	n/a	fulfilled	n/a	n/a	n/a	67%	33%	0%
HR	fulfilled	n/a	n/a	n/a	n/a	n/a	fulfilled	n/a	fulfilled	fulfilled	100%	0%	0%
HU	fulfilled	n/a	n/a	n/a	n/a	n/a	fulfilled	n/a	n/a	n/a	100%	0%	0%
IE	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
IS	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	partially fulfilled	n/a	0%	100%	0%
IT	n/a	n/a	n/a	fulfilled	fulfilled	n/a	fulfilled	fulfilled	n/a	n/a	100%	0%	0%
LI	fulfilled	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
LV	fulfilled	n/a	n/a	fulfilled	n/a	n/a	fulfilled	n/a	n/a	n/a	100%	0%	0%
LT	partially fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	100%	0%
LU	partially fulfilled	partially fulfilled	n/a	not fulfilled	partially fulfilled	n/a	partially fulfilled	fulfilled	n/a	n/a	17%	67%	17%
NL	partially fulfilled	partially fulfilled	n/a	n/a	n/a	partially fulfilled	fulfilled	n/a	n/a	n/a	25%	75%	0%
NO	not fulfilled	partially fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	50%	50%
PL	fulfilled	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
PT	n/a	n/a	n/a	fulfilled	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
SE	not fulfilled	not fulfilled	n/a	not fulfilled	n/a	n/a	n/a	not fulfilled	n/a	n/a	0%	0%	100%
SI	fulfilled	fulfilled	n/a	n/a	n/a	n/a	fulfilled	fulfilled	n/a	n/a	100%	0%	0%
SK	partially fulfilled	n/a	n/a	n/a	fulfilled	n/a	n/a	partially fulfilled	n/a	n/a	33%	67%	0%
Total No RAs by type		24	12	2	11	9	2	9	7	1	78		
Overall status by type of RA	fulfilled	54%	42%	100%	64%	78%	0%	89%	43%	100%	100%	47	
	partially fulfilled	25%	42%	0%	9%	22%	100%	11%	43%	0%	0%	20	
	not fulfilled	21%	17%	0%	27%	0%	0%	0%	14%	0%	0%	11	
Type of RA	Ongoing assessment of propriety of qualifying shareholders	Ongoing assessment of propriety of AMSB members	Propriety assessment questionnaires	Internal external guidance	Supervisory records	Insurers own assessment	Strengthening regulatory framework	Amending national legislation	Supervisory Process	Propriety Assessment of Holding Companies	No RAs by type		

¹⁶ The cells marked in light grey with 'n/a' are referring to the type of recommended action which was not issued to the particular NCA within the initial peer review report, therefore the particular MS was not subject of assessment in the context of those recommended actions.

ANNEX III – OVERVIEW OF IMPLEMENTATION OF BEST PRACTICES¹⁷

	NCA	Best Practice ID								Overall status by NCA	
		BP1	BP2	BP3	BP4	BP5	BP6	BP7	BP8	Implemented	Not implemented
O v e r a l l a s s e s s m e n t	AT	not implemented	implemented	not implemented	implemented	implemented	implemented	not implemented	implemented	62%	38%
	BE	implemented	implemented	not implemented	implemented	implemented	implemented	implemented	implemented	88%	12%
	BG	implemented	implemented	not implemented	implemented	not implemented	implemented	not implemented	implemented	62%	38%
	CY	not implemented	Not implemented	not implemented	implemented	not implemented	not implemented	not implemented	not implemented	12%	88%
	CZ	not implemented	implemented	not implemented	implemented	not implemented	not implemented	not implemented	not implemented	25%	75%
	DE	not implemented	n/a	not implemented	implemented	implemented	not implemented	implemented	implemented	57%	43%
	DK	not implemented	Not implemented	not implemented	implemented	implemented	not implemented	not implemented	not implemented	25%	75%
	EE	implemented	implemented	not implemented	implemented	implemented	not implemented	implemented	implemented	75%	25%
	EL	not implemented	implemented	not implemented	implemented	implemented	not implemented	implemented	not implemented	50%	50%
	ES	not implemented	implemented	not implemented	implemented	implemented	implemented	not implemented	not implemented	50%	50%
	FI	not implemented	Not implemented	not implemented	implemented	implemented	not implemented	implemented	implemented	50%	50%
	FR	not implemented	implemented	not implemented	implemented	implemented	implemented	implemented	implemented	75%	25%
	HR	implemented	implemented	not implemented	implemented	not implemented	implemented	implemented	implemented	75%	25%
	HU	implemented	implemented	not implemented	implemented	implemented	implemented	implemented	implemented	88%	12%
	IE	implemented	Not implemented	not implemented	implemented	n/a	implemented	implemented	implemented	71%	29%
	IS	not implemented	implemented	not implemented	implemented	not implemented	implemented	implemented	not implemented	50%	50%
	IT	implemented	implemented	not implemented	implemented	implemented	not implemented	n/a	implemented	71%	29%
	LI	not implemented	implemented	not implemented	implemented	implemented	n/a	implemented	implemented	71%	29%
	LT	not implemented	implemented	not implemented	implemented	implemented	not implemented	implemented	not implemented	50%	50%
	LU	not implemented	implemented	not implemented	implemented	not implemented	not implemented	not implemented	not implemented	25%	75%
LV	not implemented	implemented	not implemented	implemented	implemented	not implemented	implemented	implemented	62%	38%	
NL	not implemented	implemented	not implemented	n/a	implemented	implemented	not implemented	implemented	57%	43%	
NO	not implemented	implemented	not implemented	implemented	implemented	implemented	not implemented	not implemented	50%	50%	
PL	implemented	implemented	not implemented	implemented	implemented	implemented	implemented	implemented	88%	12%	
PT	not implemented	implemented	not implemented	implemented	implemented	not implemented	implemented	not implemented	50%	50%	
SE	not implemented	implemented	not implemented	not implemented	not implemented	implemented	not implemented	not implemented	25%	75%	
SI	not implemented	implemented	implemented	implemented	not implemented	not implemented	not implemented	implemented	50%	50%	
SK	implemented	implemented	not implemented	implemented	implemented	implemented	implemented	n/a	90%	10%	
Overall status by BP	implemented	32%	85%	4%	96%	70%	52%	59%	59%		
	Not implemented	68%	15%	96%	4%	30%	48%	41%	41%		
	BP ID	BP1	BP2	BP3	BP4	BP5	BP6	BP7	BP8		

¹⁷ The cells marked in light grey with 'n/a' are referring to the NCA as a source of the best practice, therefore the particular MS was not subject of assessment of its implementation.

ANNEX IV – TERMS OF REFERENCE

Description of the topic	<p>To identify on an individual basis the progress made against the recommended actions by seeing into whether the NCAs have effectively fulfilled the recommended action(s) issued to them.</p> <p>The recommended actions’ aim was to significantly strengthen the regulatory frameworks, supervisory expectations and standards as well as the maintenance of supervisory records and supervisory practices in the area of the assessment of (fit and) proper requirements for AMSB members and qualifying shareholders in NCAs. This will foster the effectiveness of supervision and would promote convergence and consistency across EEA countries.</p>
Purpose and expected outcomes	<p>The follow-up on the review by peers on propriety will assess, on an individual basis and based on the inputs provided, whether the NCAs have effectively fulfilled the recommended actions issued as part of the peer review process in accordance with Article 30 of the EIOPA Regulation (see also the two-year peer review work plan 2020-2022).</p> <p>The follow-up on the review by peers will assess in particular what kind of regulatory or organisational changes and supervisory actions the NCAs have implemented aiming the improvement in the area of the recommended action(s). The NCAs will be asked to describe and document (where needed) in detail these measures via a self-assessment questionnaire.</p> <p>In addition it will be assessed whether NCAs have been inspired by the eight best practices identified in the peer review report, when developing their supervisory approach in the area of the assessment of (fit and) proper requirements for AMSB members and qualifying shareholders. The information on the level of implementation of the best practices and reasons for their implementation/non</p>

implementation will also be an element for the decision, if and how to include these in EIOPA's Supervisory Handbook or other public supervisory convergence tools contributing to establishing the level playing field across the EEA countries.

The main focus of the analysis of the self-assessment answers will be the:

- Progress attained following the specific recommended actions and assessment of the adequacy and effectiveness of the action undertaken by NCAs.
- European overview of the effects of the adjusted supervisory practices and actions taken.
- Use of best practices and their possible further development by NCAs.

On that basis the ad hoc Peer Review Committee (PRC) will describe the progress made by NCAs in a follow-up report that, once approved by EIOPA BoS for approval, will be published on EIOPA's website¹⁸.

Regarding propriety assessments, COM has proposed to amend the Solvency II (SII) Directive including amendments to Articles 30, 36 and 42 aiming to enhance the monitoring of compliance with (fit and) proper requirements as regards members of the AMSB or persons that have other key functions in (re-)insurance undertakings. The proposal includes a clarification of the legal basis for the ongoing assessments and the empowering of the supervisory authorities to require the removal of an AMSB member or key function holder. In addition to that it includes the possibility of joint assessment of an application for authorisation at the request of one of any of the supervisory authorities concerned¹⁹ and the requirement that the conclusion of this joint assessment is considered in the final decision.

Depending on the outcome, EIOPA may extend the status of the recommended actions to NCAs, meaning that further follow-up of actions referring to outstanding issues identified in the context of

¹⁸ Its outcome will be also incorporated in EIOPA's yearly supervisory activities' report.

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021PC0581&from=EN>. The proposal in Article 26 (para.4) reads: *'Where several supervisory authorities need to be consulted pursuant to paragraph 1, any supervisory authority concerned may request the supervisory authority of the home Member State to jointly assess the application for authorisation. The supervisory authority of the home Member State shall consider the conclusions of the joint assessment when taking its final decision'*.

	<p>NCA's legislation and/or organisation and/or supervisory practice(s) is needed.</p> <p>In order to gain knowledge on the use of the identified best practices, all NCAs in the EEA countries will be invited to answer to the question concerning best practices during the self-assessment. The objective of this information collection is to gain further knowledge about the applicability of best practices. After its comprehensive assessment the results will be shared with the NCAs.</p>
<p>Scope</p>	<p>The topics, coming from the peer review report published January 2019, to be covered in the follow-up report are:</p> <ol style="list-style-type: none"> I. National legislation or regulatory framework – 2.1. to 2.3 and 2.6. of the Propriety peer review report; II. Propriety assessment questionnaires – 3.7. of the Propriety peer review report; III. Ongoing assessment of propriety of qualifying shareholders and AMSB members - 3.4. and 3.5. of the Propriety peer review report; IV. Guidance and supervisory records - 2.5. and 3.6 of the Propriety peer review report.
<p>Evaluation criteria, implementation expectations, fulfilment criteria</p>	<p>The follow-up on the review by peers will assess whether the recommended actions have been addressed and what activities regarding regulatory framework and/or organisational structure and/or supervisory practice(s)/supervisory guidance have been undertaken by individual NCAs to fulfil the recommended action(s) issued to them. The self-assessment questionnaire will be addressed separately to NCAs depending on the recommended actions addressed to them.</p> <p>The evaluation criteria for this peer review are summarised below (full table can be found in Annex V).</p> <ul style="list-style-type: none"> • Legal and regulatory framework: Articles 26(3), 29(1), 31(1) and 41 of the SII Directive, Article 30(2)b of the EIOPA Regulation, Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01) (Joint guidelines), Articles 1.45, 1.49, 13 - 15 of the EIOPA Guidelines on the System of Governance (EIOPA_BoS_14/253) • Practical process of the propriety assessment: Articles 26(3), 29(1) 34, 36 and 42 of the SII Directive, - Joint guidelines -

Articles 23-38, Article 273 of the Delegated Regulation (EU) 2015/35 and General Protocol , Part II, art 4.1 and 4.2, Paragraphs 1.45, 1.49, 13 - 15 of the EIOPA Guidelines on System of Governance guidelines and the technical annex to these guidelines

- Sources of information: Articles 34 and 42 of the SII Directive, Article 273 (4) of the Delegated Regulation (EU) 2015/35
- Questions on qualifying shareholders: Article 59 of the SII Directive, joint guidelines, page 10-16, appendix 2, particularly pages 33 -36
- Questions on groups: Article 257 of the SII Directive
- Cross-border cooperation: Article 42 of the SII Directive for AMSB, Article 24, 26(3) and 59 of the SII Directive for qualifying shareholders, Article 34 of the SII Directive for general supervisory powers
- Cooperation with EEA authorities: Decision of the Board of Supervisors on the cooperation of the competent authorities of the Member States of the European Economic Area with regard to Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance²⁰ distribution (paragraphs 1.2 to 1.8., 3.1. to 3.3.)
- Cooperation with non-EEA Authorities: Articles 34 and 42 of the SII Directive and IAIS Insurance Core Principle 5.

The process of the ad hoc PRC's assessment will comprise:

- Evaluation of the written feedback received from NCAs.
- A desk review of the answers and evidence provided and their relevance as summarised by the NCAs, ensuring clear understanding of every NCA's progress; if more clarity or specific information is required the ad hoc PRC will request clarification from respondents (e.g. by email or telephone interviews).
- Grading in terms of fulfillment of the recommended actions.

The evaluation criteria are identical to the assessment criteria used for the peer review on propriety of AMSB members and qualifying shareholders with the exception of those which have been replaced by new decisions/updated text.

²⁰

https://www.eiopa.europa.eu/sites/default/files/publications/pdfs/aaadecision_on_the_cooperation_of_competent_authorities.pdf?source=search

	<p>In addition to the peer review report and the letters with the recommended actions implementation expectations have been set (please refer to Annex IV) i.e. actions required from the competent authorities (how) to achieve substantive goals of the relevant recommended actions and what measures taken by the relevant competent authority would be suited to achieve that objective provided. E.g. in Annex 3 to the report on the ongoing assessment of AMSB members and qualifying shareholders are set.</p> <p>Furthermore, the ad hoc PRC has agreed on the following fulfilment criteria (how action/inaction will be graded) (please refer to Annex IV):</p>
<p>Reference period</p>	<p>The reference period for the follow-up on the review by peers on propriety is January 2019 – January 2022.</p>
<p>Timeline</p>	<p>The follow-up on the review by peers will be conducted along the following key milestones:</p> <ul style="list-style-type: none"> • Launch of self-assessment questionnaire by beginning January 2022 if not done by the end of December 2021; • Submission by NCAs of responses to the self-assessment questionnaire by beginning of February 2022 (4 weeks); • Comparative analysis, including any initial clarification of responses, and development of a draft Report on Initial Findings by end March 2022; • Factual / sensitivity check by single point of contact NCA coordinators by end May 2022; • Quality check of the follow-up report by EIOPA by beginning of June 2022; • Consultation with MB on consistency of the follow-up report by mid-July 2022; • Adoption of the follow-up report by BoS by end July 2022; • Publication of the follow-up report on EIOPA’s website by beginning of August 2022.

ANNEX V – EVALUATION CRITERIA

Area	Evaluation Criteria	
	Implementation expectations	Fulfilment criteria
<p>Guidance and supervisory records (Article 42 and/or Article 26(3) of the Directive)</p>	<p>Maintain and capture in one single database information in relation to nature and circumstances of withdrawals for future assessments and/or cross-border information requests</p>	<p>Fulfilled: The NCA has developed a database storing information, facilitating access to information on withdrawals and cross-border information requests.</p>
		<p>Partially fulfilled: The database does not capture all of the information required, is under development, or does not provides easy access to the information.</p>
		<p>Not fulfilled: The NCA does not capture the required information.</p>
<p>Guidance and supervisory records (Articles 29 and 59 of the Directive)</p>	<p>Develop or finalise internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes</p>	<p>Fulfilled: The NCA has internal guidance to ensure its supervisory processes are robust and aim to achieve consistent outcomes.</p>
		<p>Partially fulfilled: The NCA has started developing internal guidance or the NCA has developed internal guidance but the supervisory processes are not providing the outcomes expected.</p>

		Not fulfilled: The NCA has not developed internal guidance on its supervisory processes.
<p>Guidance and supervisory records</p> <p>(VAG Insurance Act, Joint guidelines on the prudential assessment of acquisitions and increases of 38/65 (JC/GL/2017/27) , Holder Control Regulation and the Guidance Notice on Holder Control)</p>	<p>Finalise the update of the external guidelines for qualifying shareholders</p>	Fulfilled: The NCA has updated and published the external guidelines for qualifying shareholders.
		Partially fulfilled: The external guidelines for qualifying shareholders have been updated but are not sufficiently consistent / or have not been published yet.
		Not fulfilled: The external guidelines for qualifying shareholders have not been updated.
<p>Guidance and supervisory records</p> <p>(Directive 2007/44/EC (CEIOPS-3L3-19/08), Article 31 of the Directive)</p>	<p>Issue external guidance for qualifying shareholders explicitly referencing to the CEIOPS/CEBS/CESR guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector to reiterate the obligation for the qualifying shareholders for ongoing compliance with suitability requirements.</p>	Fulfilled: External guidance has been published and is explicitly referring to the CEIOPS/CEBS/CESR guidelines.
		Partially fulfilled: External guidance has been published but is not sufficiently explicit.
		Not fulfilled: External guidance is still under development or has not been published.
<p>Guidance and supervisory records</p> <p>(Article 31 of the Directive)</p>	<p>Issue external guidance to meet the transparency and accountability obligations and to reiterate the primary responsibility of the insurers and qualifying shareholders for</p>	Fulfilled: External guidance has been developed and published, providing robust expectations in terms of transparency and accountability obligations and on

	<p>ongoing compliance with propriety requirements.</p>	<p>the primary responsibility of insurers and qualifying shareholders for ongoing compliance with propriety requirements.</p>
		<p>Partially fulfilled: External guidance has been developed and published, is insufficiently developed on transparency and accountability obligations and on the primary responsibility of insurers and qualifying shareholders for ongoing compliance with propriety requirements.</p>
		<p>Not fulfilled: External guidance has not been issued.</p>
<p>Guidance and supervisory records</p>	<p>Update its website to ensure that only the latest and relevant guidelines concerning the assessment of qualifying shareholders are available on the website outlining clearly the information</p>	<p>Fulfilled: The NCA has updated its website to ensure the latest and relevant guidelines concerning the assessment of qualifying shareholders are available on it. The updating NCA’s website currently clearly outlines the relevant information for insurers and candidates.</p>
		<p>Partially fulfilled: The NCA has started updating its website or has updated its website but the NCA’s review is not providing the expected outcomes.</p>
		<p>Not fulfilled: The NCA has not updated its website.</p>

<p>National legislation or regulatory framework</p> <p>(Article 34(2) of the Solvency II Directive)</p>	<p>Seek necessary changes to the national insurance legislation to provide for power to revoke membership of an AMSB member</p>	<p>Fulfilled: The NCA has changed its legislative framework by strengthening it with the power to revoke membership of a AMSB member.</p>
		<p>Partially fulfilled: The NCA has started the process aimed at changing its legislative framework, but the process is still not completed/the NCA has tried to obtain the changes in the insurance legislation (in case not the one responsible for doing them) but it is not providing the expected outcomes. In both cases the legislative framework is not changed yet, so the NCA does not have the power to revoke membership of an AMSB member.</p>
		<p>Not fulfilled: The NCA has not taken the necessary steps in order to seek the legislative amendments.</p>
<p>National legislation or regulatory framework</p>	<p>Align and conform the propriety definition for supervisory board members with the definition for management board members;</p>	<p>Fulfilled: The NCA has aligned and conformed the propriety definition for supervisory and management board members, by amending the national legislative or regulatory framework.</p>
		<p>Partially fulfilled: The NCA has started the legislative or regulatory process to align and conform the two propriety definitions for supervisory and management</p>

		<p>board members, but the process is not completed or it is not providing the expected outcomes.</p>
		<p>Not fulfilled: The NCA has not aligned and conformed the two propriety definition for supervisory and management board members.</p>
<p>National legislation or regulatory framework (Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines)</p>	<p>Strengthen its legal and regulatory framework in relation to AMSB members by arranging the definition of 'good repute' to be broadened in order to integrate the five bases or scope of the assessment for insurers as well as the supervisory authorities.</p>	<p>Fulfilled: The NCA has strengthened its legal and regulatory framework in relation to AMSB members. The current legislative and regulatory definition of good repute is broadened in order to integrate the five basis or scope of the assessment for insurers as well as the supervisory authorities.</p>
		<p>Partially fulfilled: The NCA has started to amend (or to seek the legislative framework amendment) the national legislation or regulatory framework in order to ensure a broader definition of AMSB members' good repute, but the process is not completed yet. The legislative or regulatory framework is not strengthened with regard to such profile.</p>
		<p>Not fulfilled: The NCA has not strengthened the legislative or regulatory framework or it has not taken any necessary steps in order to obtain the legislative amendments.</p>

<p>National legislation or regulatory framework</p>	<p>Make arrangements for itself or where needed in collaboration with the national legislator, to have the powers to take the necessary measures towards the AMSB of supervised insurers.</p>	<p>Fulfilled: The NCA in cooperation with the national legislator took action to have the powers to take the necessary measures towards the AMSB of supervised insurers.</p>
	<p>Partially fulfilled: The NCA has started to amend (or to seek the legislative framework amendment) the national legislation or regulatory framework in order to ensure that it has the power to take the necessary steps towards the AMSB of supervised insurers. The legislative or regulatory framework is not strengthened yet.</p>	
	<p>Not fulfilled: The NCA has not strengthened the legislative or regulatory framework or it has not taken any necessary steps in order to strengthen its powers over the AMSB of supervised authorities.</p>	
<p>National legislation or regulatory framework (Article 59 and following of the Directive and Joint guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector JC/GL/2017/27)</p>	<p>Require a revision of the definition of 'indirect holding' in order to align it with Joint Guidelines. The system of identification of the 'indirect shareholders' should also be aligned with the revision of the definition of 'indirect shareholder'.</p>	<p>Fulfilled: The NCA in cooperation with the national legislator revised the definition of 'indirect holding' and 'indirect shareholder' in order to align it with Joint Guidelines.</p>
<p>Partially fulfilled: The NCA has started to amend (or to seek the legislative framework amendment) the national legislation or regulatory framework in order to change the definition of 'indirect holding' and 'indirect shareholder'</p>		

		<p>in order to align it with Joint Guidelines. The process has not been finished yet.</p>
		<p>Not fulfilled: The NCA has not revised (nor the national legislator) the definition of 'indirect holding' and 'indirect shareholder' in order to align it with Joint Guidelines.</p>
<p>National legislation or regulatory framework (Article 59)</p>	<p>Arranging the definition of propriety to be broadened in order to integrate the five bases for definition or scope of the assessment of AMSB members by the insurers as well as the supervisory authorities.</p>	<p>Fulfilled: The NCA has strengthened its legal and regulatory framework in relation to AMSB members. The current legislative and regulatory definition of propriety is broadened in order to integrate the five basis for definition or scope of the assessment for insurers as well as the supervisory authorities.</p> <p>Partially fulfilled: The NCA has started to amend (or to seek the legislative framework amendment) the national legislation or regulatory framework in order to ensure a broader definition of propriety of AMSB members, but the process is not completed yet. The legislative or regulatory framework is not strengthened with regard to such profile yet.</p> <p>Not fulfilled: The NCA has not strengthened the legislative or regulatory framework or it has not taken any necessary steps in order to obtain the legislative amendments.</p>

<p>National legislation or regulatory framework</p> <p>(Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines)</p>	<p>Ensuring that the same assessment scope is applied for both executive and non-executive directors and developing external guidelines for propriety assessment of non-executive directors (Supervisory Board members).</p>	<p>Fulfilled: The NCA in cooperation with the national legislator introduced the application of the same scope of assessment for both executive and non-executive directors and the development of external guidelines for propriety assessment of non-executive directors (members of the supervisory board).</p> <p>Partially fulfilled: The NCA has taken steps to strengthen the legislative and regulatory framework for same assessment of propriety of both non-executive members and executive directors and to develop external guidelines for propriety assessment of non-executive directors. The process has not been finished yet.</p> <p>Not fulfilled: The NCA has not strengthened the legislative or regulatory framework or it has not taken any necessary steps in order to obtain the legislative amendments regarding same assessment scope being applied for both executive and non-executive directors and developing external guidelines for propriety assessment of non-executive directors.</p>
<p>National legislation or regulatory framework</p>	<p>Engage with the national legislature to ensure it has the legal powers for</p>	<p>Fulfilled: The NCA has engaged with the national legislature to ensure it has the legal powers for the</p>

<p>(Not specified. Row 76)</p>	<p>the assessment of supervisory board members.</p>	<p>assessment of the supervisory board members.</p> <p>Partially fulfilled: The NCA has engaged with the national legislature to ensure it has the legal powers for the assessment of the supervisory board members but the change in the legislation is still in an ongoing procedure.</p> <p>Not fulfilled: The NCA has not engaged with the national legislature to ensure it has the legal powers for the assessment of the supervisory board members, no attempts have been done to initiate the change in the legal powers.</p>
<p>Ongoing assessment of propriety of qualifying shareholders and AMSB members</p> <p>(Articles 26(3), 34(2), 59 and other related provisions of the Directive)</p>	<p>Appraise or verify using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis</p>	<p>Fulfilled: The NCA is appraising or verifying using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis.</p> <p>Partially fulfilled: The NCA is on its way of implementing an approach for appraising or verifying using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis. The NCA is developing a practice on appraising/ verifying the suitability of qualifying shareholders on ongoing basis however at the moment the NCA is performing this</p>

		assessment only when they enter the role.
		<p>Not fulfilled: The NCA is not appraising or verifying using a risk-based and proportionate approach the suitability of qualifying shareholders on a continuous basis. The NCA is still appraising/ verifying the suitability of qualifying shareholders only at the moment they enter the role.</p>
<p>Ongoing assessment of propriety of qualifying shareholders and AMSB members (Articles 42 and 29 of the Directive)</p>	<p>Carry out ongoing assessment of AMSB members by following a risk-based and proportionate approach that will ensure that compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the authority.</p>	<p>Fulfilled: The NCA is carrying out ongoing assessment of AMSB members by following a risk-based and proportionate approach that will ensure that compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the authority.</p> <p>Partially fulfilled: The NCA is not yet fully carrying out ongoing assessment of AMSB members by following a risk-based and proportionate approach that will ensure that compliance does not hinge solely on the self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer to the authority. However the NCA is implementing a hybrid approach including proportionality aspects and still</p>

		<p>awaiting adverse. information from insurer/ AMSB member.</p>
		<p>Not fulfilled: The NCA is not carrying out ongoing assessment of AMSB members by following a risk-based and proportionate approach that will ensure that compliance. The NCA is still awaiting self-reporting of potentially adverse information by an AMSB member to the insurer or by an insurer.</p>
<p>Propriety assessment questionnaires (Articles 42, 59 and 26 of the Directive as well as the relevant European guidelines.</p>	<p>Strengthen its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer protection offences in relation to the assessment of AMSB members.</p>	<p>Fulfilled: The NCA is strengthening its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer protection offences in relation to the assessment of AMSB members.</p> <p>Partially fulfilled: The NCA is on its way of strengthening its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer protection offences in relation to the assessment of AMSB members. The work has been initiated and is currently taking place.</p> <p>Not fulfilled: The NCA is not strengthening its legal and regulatory framework by broadening the definition or scope of the propriety assessment to include tax and consumer</p>

		<p>protection offences in relation to the assessment of AMSB members. The work has not been initiated yet.</p>
<p>Propriety assessment questionnaires (Articles 42, 59 and 26 of the Directive as well as the relevant guidelines.)</p>	<p>Strengthen its legal and regulatory framework by amending questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a license.</p>	<p>Fulfilled: The NCA is strengthening its legal and regulatory framework by amending questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a license.</p>
		<p>Partially fulfilled: The NCA is on its way of strengthening its legal and regulatory framework by amending questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a license. The work has been initiated and is currently taking place.</p>
		<p>Not fulfilled: The NCA is not strengthening its legal and regulatory framework by amending questionnaire with explicit questions on involvement in bankruptcies, AML and financial soundness of the applicant and doing business without a license. The work has not been initiated yet.</p>

ANNEX VI – LEGAL AND REGULATORY BACKGROUND

INTRODUCTORY QUESTIONS		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 31(1)	Transparency and accountability
REGULATION (EU) No 1094/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (EIOPA REGULATION)	Article 30(2)	Peer reviews of competent authorities

LEGAL AND REGULATORY FRAMEWORK		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 31(1)	Transparency and accountability
	Article 26(3)	Prior consultation of the authorities of other Member States
	Article 29(1)	General principles of supervision
	Article 41	General governance requirements
REGULATION (EU) No 1094/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (EIOPA REGULATION)	Article 30(2)	Peer reviews of competent authorities
EIOPA GUIDELINES ON SYSTEM OF GOVERNANCE	Guideline 13	Fit and proper policies and procedures
	Guideline 14	Outsourcing of key functions
	Guideline 15	Notification
	Guideline 16	Assessment of the fit and proper requirements by the supervisory authority

PRACTICAL PROCESS OF THE PROPRIETY ASSESSMENT - DESCRIPTION OF THE PROCESS		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 34	General supervisory powers
	Article 36	Supervisory review process
	Article 42	Fit and proper requirements for persons who effectively run the undertaking or have other key functions
	Article 26(3)	Prior consultation of the authorities of other Member States
	Article 29(1)	General principles of supervision
GUIDELINES FOR THE PRUDENTIAL ASSESSMENT OF ACQUISITIONS AND INCREASES IN HOLDINGS IN THE FINANCIAL SECTOR REQUIRED BY DIRECTIVE 2007/44/EC	Paragraphs 23-28	First assessment criterion - Reputation of the proposed acquirer

FOLLOW-UP ON PEER REVIEW OF PROPRIETY OF AMSB MEMBERS AND QUALIFYING SHAREHOLDERS – REPORT

COMMISSION DELEGATED REGULATION (EU) 2015/35	Article 273	Fit and proper requirements
DECISION ON THE COLLABORATION OF THE INSURANCE SUPERVISORY AUTHORITIES OF THE MEMBER STATES OF THE EUROPEAN ECONOMIC AREA (EIOPA-BOS-21- 234) REPLACING THE GENERAL PROTOCOL (PART II, ARTICLES 4.1 & 4.2)	Article 2.4 (2.4.1-2.4.2)	Exchange of information on all persons who effectively run the undertaking or hold other key functions, shareholders and members with qualifying holdings
EIOPA GUIDELINES ON SYSTEM OF GOVERNANCE	Guideline 13	Fit and proper policies and procedures
	Guideline 14	Outsourcing of key functions
	Guideline 15	Notification
	Technical Annex	Minimum information to be provided to the supervisory authority concerning the fit & proper assessment

SOURCES OF INFORMATION

DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 34	General supervisory powers
	Article 42	Fit and proper requirements for persons who effectively run the undertaking or have other key functions
COMMISSION DELEGATED REGULATION (EU) 2015/35	Article 273 (4)	Fit and proper requirements

QUESTIONS ON QUALIFYING SHAREHOLDERS

DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 59	Assessment
JOINT GUIDELINES ON THE PRUDENTIAL ASSESSMENT OF ACQUISITIONS AND INCREASES OF QUALIFYING HOLDINGS IN THE FINANCIAL SECTOR	Paragraph 10	Reputation of the proposed acquirer - first assessment criterion
	Paragraph 11	Reputation and experience of those who will direct the business of the target undertaking – second assessment criterion
GUIDELINES FOR THE PRUDENTIAL ASSESSMENT OF ACQUISITIONS AND INCREASES IN HOLDINGS IN THE FINANCIAL SECTOR REQUIRED BY DIRECTIVE 2007/44/EC	Appendix II (Part I)	General information requirements

QUESTIONS ON GROUPS

DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 257	Administrative, management or supervisory body of insurance holding companies
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CROSS-BORDER COOPERATION		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 42 (for AMSB)	Fit and proper requirements for persons who effectively run the undertaking or have other key functions
	Article 24 (for QUALIFYING SHAREHOLDERS)	Shareholders and members with qualifying holdings
	Article 26(3) (for QUALIFYING SHAREHOLDERS)	Prior consultation of the authorities of other Member States
	Article 59 (for QUALIFYING SHAREHOLDERS)	Assessment

FOR GENERAL SUPERVISORY POWERS		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 34	General supervisory powers

COOPERATION WITH EEA AUTHORITIES		
DECISION OF THE BOARD OF SUPERVISORS ON THE COOPERATION OF THE COMPETENT AUTHORITIES OF THE MEMBER STATES OF THE EUROPEAN ECONOMIC AREA WITH REGARD TO DIRECTIVE (EU) 2016/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 20 JANUARY 2016 ON INSURANCE DISTRIBUTION	Paragraph 1.2	Cooperation between the Competent Authorities
	Paragraph 1.3	Scope of and relationship with the Decision on the collaboration of the insurance supervisory authorities
	Paragraph 1.4	Rules on professional secrecy
	Paragraph 1.5	Supervision of professional requirements
	Paragraph 1.6	Bilateral agreements
	Paragraph 1.7	Language, communication means and contact points
	Paragraph 1.8	Difference of opinion among the Competent Authorities
	Paragraph 3.1	General principles regarding exchange of information and cooperation
Paragraph 3.2	Specific provisions on cooperation <ul style="list-style-type: none"> • Home Competent Authority to Host Competent Authority (3.2.1.) • Host Competent Authority to Home Competent Authority (3.2.2.) • Cooperation in monitoring (3.2.3.) • Cooperation in the event of branch closure or cessation of FoS (3.2.4.) 	

	Paragraph 3.3	<ul style="list-style-type: none"> • Cooperation between the Competent Authorities in case of serious consumer detriment or danger to the market (3.3.1.) • Ways of cooperation with prudential supervisors (3.3.2.)
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COOPERATION WITH NON-EEA AUTHORITIES		
DIRECTIVE 138/2009/EC (SOLVENCY II DIRECTIVE)	Article 34	General supervisory powers
	Article 42	Fit and proper requirements for persons who effectively run the undertaking or have other key functions
INSURANCE CORE PRINCIPLES AND COMMON FRAMEWORK FOR THE SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS	ICP 5	Suitability of Persons

Useful Links

[Solvency II Directive:](#)

[IAIS5 Insurance Core Principle 5](#)

[Delegated Regulation](#)

[EIOPA Regulation](#)

[Guidelines on system of governance \(GL 11-14\)](#)

[3L3 guidelines](#)

[Joint Guidelines](#)

[Decision of the Board of Supervisors on the cooperation of the competent authorities of the Member States of the European Economic Area with regard to Directive \(EU\) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution](#)

[Decision on the Collaboration of the Insurance Supervisory Authorities](#)

[Annex to the Decision on the Collaboration of the Insurance Supervisory Authorities](#)

ANNEX VII – COUNTRIES AND NCAS PARTICIPATING IN THIS PEER REVIEW AND THEIR ABBREVIATIONS

Country	Abbreviation	Name of NCA	Abbreviation used in the report (if any)
Austria	AT	Finanzmarktaufsicht	FMA-AT
Belgium	BE	National Bank of Belgium	NBB
Bulgaria	BG	Financial Supervision Commission	FSC
Cyprus	CY	Insurance Companies Control Service	ICCS
Czechia	CZ	Czech National Bank	CNB
Germany	DE	Bundesanstalt für Finanzdienstleistungsaufsicht	BaFin
Denmark	DK	Danish Financial Supervisory Authority	DFSA
Estonia	EE	Finantsinspektsioon	EFSA
Greece	EL	Bank of Greece – Department of Private Insurance Supervision	BoG
Spain	ES	Dirección General de Seguros y Fondos de Pensiones – Ministerio de Asuntos Económicos y Transformación Digital	DGSFP
Finland	FI	Financial Supervision Authority	FIN-FSA

France	FR	Autorité de Contrôle Prudentiel et de Résolution (Prudential Control Authority)	ACPR
Croatia	HR	Hrvatska agencija za nadzor financijskih usluga	HANFA
Hungary	HU	Magyar Nemzeti Bank	MNB
Ireland	IE	Central Bank of Ireland	CBI
Iceland	IS	Fjármálaeftirlitið (Financial Supervisory Authority)	FME
Italy	IT	Istituto per la Vigilanza sulle Assicurazioni	IVASS
Liechtenstein	LI	Finanzmarktaufsicht Liechtenstein	FMA-LI
Lithuania	LT	Lietuvos Bankas (Bank of Lithuania)	BoL
Luxembourg	LU	Commissariat aux Assurances	CAA
Latvia	LV	Financial and Capital Market Commission	FCMC
Netherlands	NL	De Nederlandsche Bank	DNB
Norway	NO	Finanstilsynet	NFSA
Poland	PL	Komisja Nadzoru Finansowego	KNF
Portugal	PT	Autoridade de Supervisão de Seguros e Fundos de Pensões	ASF-PT
Sweden	SE	Finansinspektionen (Financial Supervisory Authority)	FI
Slovenia	SI	Insurance Supervision Agency	AZN
Slovakia	SK	National Bank of Slovakia	NBS

ANNEX VIII – OTHER ABBREVIATIONS AND ACRONYMS USED

AMSB	Administrative, management or supervisory body
BoS	Board of Supervisors
Commission Delegated Regulation EU (2015/35)	Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
FTE	Full-time equivalent
NCA(s)	National competent authority(-ies)
PRC	Peer Review Committee
Solvency II Directive	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)

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