



EUROPEAN INSURANCE
AND OCCUPATIONAL PENSIONS AUTHORITY

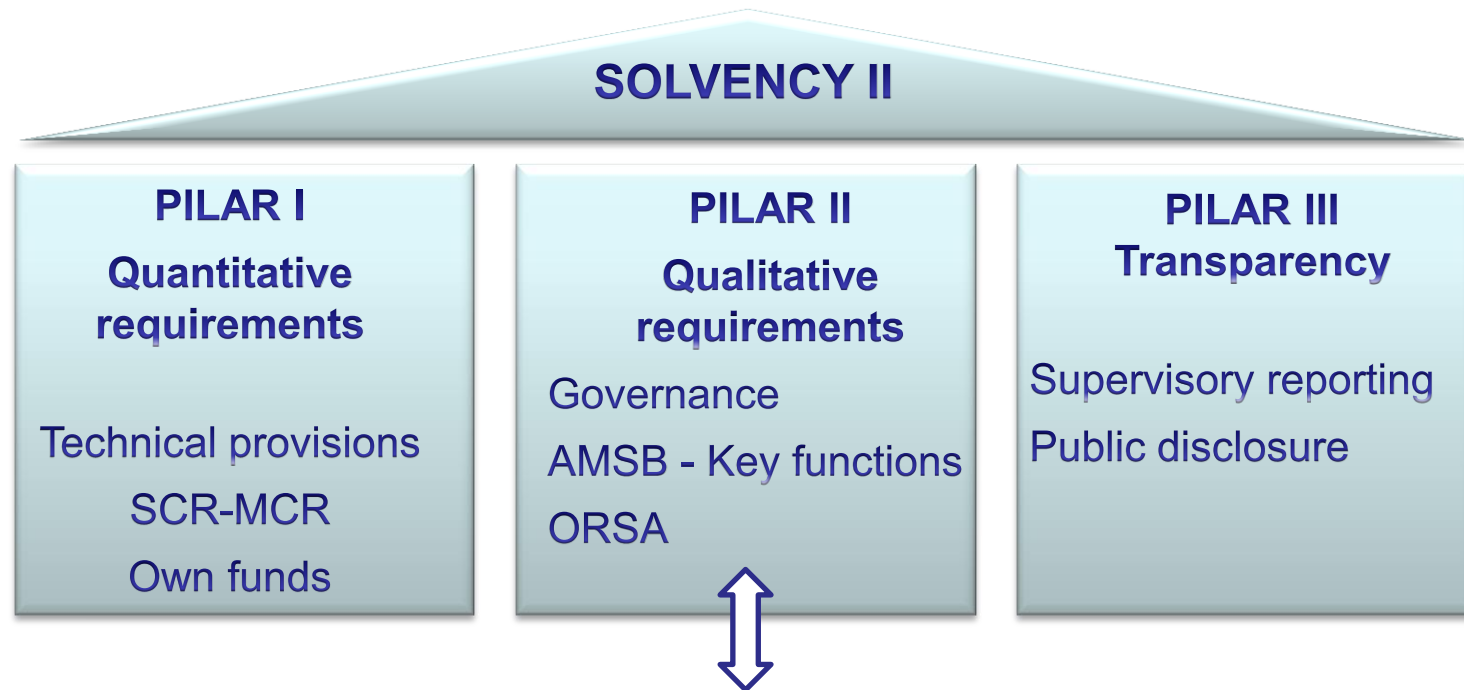
ICP 5: Suitability of Persons

Regional Training Seminar for Insurance Supervisors of Latin America

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ICP 5: Suitability of Persons

The supervisor requires board members, senior management, key persons in control functions and significant owners of an insurer to be and remain suitable to fulfil their respective roles.



Fit & proper requirements for persons who effectively run the undertaking or have other key functions

Solvency II Framework

Level 1 - Article 42 SII Directive: *Fit and proper requirements for persons who effectively run the undertaking or have other key functions*

Level 2 - Article 273 Delegated Regulation: *Fit and proper requirements*

Level 3 - EIOPA Guidelines on system of governance (GL 11-16)
+Technical Annex: *Minimum information to be provided to the supervisory authority concerning the fit & proper assessment*

■ **Article 42 Solvency II - Fit & Proper requirements:**

"Insurance and reinsurance undertakings shall ensure that all persons who effectively run the undertaking or have other key functions at all times fulfil the following requirements:

(a) their professional qualifications, knowledge and experience are adequate to enable sound and prudent management (fit); and

(b) they are of good repute and integrity (proper)."

Applicable, at least, to:

- Members of Administrative, Management or Supervisory Body (AMSB) as well as members of the senior management
- Key functions in SII (Actuarial, Risk management, Compliance and Internal Audit)

- **Article 42 Solvency II - Notifications:**

- *Insurance and reinsurance undertakings shall notify the supervisory authority of any changes to the identity of the persons who effectively run the undertaking or are responsible for other key functions, along with all information needed to assess whether any new persons appointed to manage the undertaking are fit and proper.*
- *Insurance and reinsurance undertakings shall notify their supervisory authority if any of the persons have been replaced because they no longer fulfil the fit and proper requirements.*

■ **Fit & Proper:** Policies & procedures

Fitness

- ✓ at all times
- ✓ proportionality
- ✓ professional & formal qualifications, knowledge, relevant experience in insurance or other financial sector
- ✓ duties allocated relevant, especially with regard to Administrative, Management or Supervisory Body (AMSB)

Propriety

- ✓ at all times
- ✓ no proportionality
- ✓ honesty & financial soundness based on character, personal behaviour & business conduct crimes, misdemeanors, financial & supervisory "misconduct"
- ✓ connection to duties allocated
- ✓ relevant timeframe: national law
- ✓ no conflicts of interest

■ **Minimum information to be provided to the supervisory authority**
(EIOPA Guidelines on system of governance / included in the Technical Annex – supporting convergence in the EU)

- 1) Contact information
- 2) Fact being notified
- 3) Description of the position being notified
- 4) Information on the person subject to notification
- 5) Documents to be submitted
- 6) Declarations



■ **Minimum information to be provided to the supervisory authority**

1) Contact information

- ✓ Name of the undertaking
- ✓ Undertaking's registration number
- ✓ Contact person

2) Fact being notified

- ✓ First appointment
- ✓ Change in previous information
- ✓ Change of position

3) Description of the position being notified

- ✓ Name of the position
- ✓ Scope of the responsibilities
- ✓ Date of the appointment
- ✓ Length of appointment, if applicable
- ✓ Executive functions or not
- ✓ Any other information the undertaking deems relevant

■ **Minimum information to be provided to the supervisory authority**

3) Information on the person subject to notification (I)

- ✓ Information on **any previous assessment/notification** process by a supervisory authority of the financial sector within the EEA
- ✓ Information on **previous employments**, qualified assignments or appointments as a member of an AMSB
- ✓ Any other positions held
- ✓ Description of the level of **knowledge, competence and experience** of the person to perform the task
- ✓ Companies in which the person has a direct/indirect **qualifying ownership**
- ✓ Close relatives with ownership shares in the undertaking that notifies or in any other company which has ownership shares in that company
- ✓ Close relatives with any other financial relations to companies mentioned
- ✓ Any other commitments that may give rise to **conflict of interest** with explanations as to the circumstances and how the notified person intends to deal with it

■ **Minimum information to be provided to the supervisory authority**

3) Information on the person subject to notification (II)

- ✓ **Conviction** in a domestic or foreign court within the last X years [number of years according to national law] with explanation of circumstances
- ✓ **Pending criminal proceedings**
- ✓ Membership in a board of directors in an operating undertaking that has not been granted a release from liability
- ✓ **Dismissal** from a position in a company or from employment as senior executive or termination of an engagement as a board member or auditor
- ✓ Participation in an arbitration board
- ✓ **Bankruptcies** or the equivalent abroad
- ✓ Rejection of an application, exclusion or limitation of the right to conduct operations or a profession
- ✓ **Supervisory sanctions** against the person notified or a company where the person had a key function
- ✓ Any other information relevant to the assessment by the supervisory authority

■ **Minimum information to be provided to the supervisory authority**

4) Documents to be submitted

- ✓ Extract from the judicial record or an equivalent document issued by a competent judicial or administrative authority related to the above referred information, if available

5) Declarations

- ✓ Declaration signed by the appropriately authorized person [according to national law/practice] that the assessment was performed in accordance with the laws, regulations and undertaking's fit and proper policy and the person subject to notification was considered as fit and proper for the job
- ✓ Declaration that the information submitted in the notification is correct and complete: date, name of signatories in block letters, signatures

Supervision of fit & proper requirements: European experience



Supervisory assessment:



Fit and proper policy

- ✓ Process of establishing and maintaining the policy
- ✓ Content of the policy and effectiveness
- ✓ Good and poor characteristics

Fit and proper policy – some examples

Questions on the process of making the policy:

- Does the policy have a nominated owner of sufficient seniority?
- Is it approved by the AMSB? Is it subject to regular review and update?
- Does the undertaking follow its own HR policies in appointing new AMSB members?
- Is there an introduction process for new members of the AMSB?

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Questions on the content of the policy and overall effectiveness:

- Is the content of the policy in line with the regulations?
- Does it cover the checks and evidence to be required in sufficient detail?
- Does the policy include both considerations of fitness and propriety?
- Is compliance with the policy monitored, and are breaches reported and rectified?

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Supervision of fit & proper requirements: European experience



Assessment of individuals at appointment

- ✓ Development on fit and proper criteria
- ✓ Leveraging the information and process conducted by the undertaking
- ✓ Checking background on supervised entities
- ✓ Additional actions: interviews

On-going monitoring

- ✓ Verifying procedures at the undertaking to ensure continuous fitness (e.g. training programs?) and propriety (e.g. signals of misbehaviour?)
- ✓ Verifying on-going fitness & propriety both individual/collective

QUESTIONS?

Thank you for your attention!

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