

Brussels, January 6, 2017

**NOTICE TO ALL ACCREDITED AUDITORS**  
**NOTICE 2016-9**

Dear members,

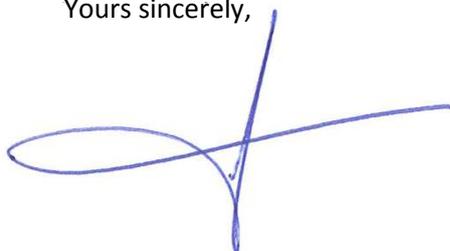
On a six-monthly basis, the Board of Directors of IRAIF/IREFI informs its members of main highlights or attention points which could impact your work.

The following overview is structured according to the relevant working groups of IRAIF/IREFI.

The FSMA and the NBB also provided their key attention points.

Should you have any questions regarding this document, please do not hesitate to contact me, any Board Member of IRAIF/IREFI or Ingrid De Poorter.

Yours sincerely,



Jean-François Hubin  
President IRAIF/IREFI

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## **I. General – Audit reform**

On Friday December 13, 2016, the law of December 7, 2016 regarding the organisation and public oversight on auditors has been published in the Belgian Official Journal. For more details on this reform, please consult the IBR-IRE-website.

Specifically related to accredited auditors, we would like to draw your attention on the following changes:

### **1) Definition of Public Interest Entity (PIE):**

Article 3 of the Belgian Company law defines the new concept of PIE's. This definition includes credit institutions as defined in Book II of the Banking Law of April, 25, 2014, insurance companies as defined in Book II of the Control Law of March, 13, 2016 and settlement institutions as defined in article 36/1, 14° of the Law of February 22, 1998, as well a similar institutions. This definition does not include however EU and non-EU branches of credit institutions or insurance companies. Funds, such as institutions for occupational retirement provision (IORPs) or UCIs are also out of scope of the definition of a PIE.

### **2) Professional secrecy:**

The legislator has also added some new specifically defined exceptions regarding the professional secrecy applicable for statutory accredited auditors.

The accredited auditor of a credit institution issuing covered bonds, will have the possibility to exchange information or discuss certain issues with the portefeuillesurveillant/surveillant de portefeuille.

The same exception applies for the 'special' auditor appointed by the NBB based upon article 236, §1 Bank law. The statutory auditor of the credit institution and the specially appointed auditor will be able to exchange information with each other regarding the relevant credit institution.

## **II. Main attention points regarding accounting and regulatory reporting standards**

### **a) Accounting by credit institutions for the ECB TLTRO II**

As mentioned in the Notice 2016 - 5 with respect to the attention points for the half year reporting, the ECB's Governing Council decided to launch a new series of four targeted longer-term refinancing operations (TLTROs-II), with the aim of further easing private sector credit conditions and stimulating credit creation. The TLTROs-II are intended to strengthen the transmission of monetary policy by further incentivising bank lending to the non-financial private sector, i.e. households and non-financial corporations, in Member States whose currency is the euro. This measure is not intended to support bank lending to households for the purposes of house purchases. In connection with other non-standard measures in place, the TLTROs-II aim to contribute to a return of inflation rates to the levels below, but close to 2 % over the medium term.

The key features of the program are:

- Banks participating will be able to borrow from the ECB an amount of up to 30 % of their eligible loan portfolio;
- The new operations will be conducted from June 2016 to March 2017 at a quarterly frequency;
- All of the new operations will have a four-year maturity, with the possibility of repayment after two years;
- The interest rate applied to the operations will be fixed at the rate applied in the main refinancing operations (MROs) – currently at 0%;
- If the bank's eligible net lending for the period between February 2016 and January 2018 exceeds its benchmark outstanding amount by 2,5%, the interest will be reduced to the lower deposit facility rate (currently at -0,4%) for the entire term of the operation;
- If the bank does exceed its benchmark outstanding amount of eligible loans but by less than 2,5 % as at January 31, 2018, the interest rate to be applied is graduated linearly depending on the percentage by which the banks exceeds its benchmark outstanding amounts of eligible loans.

Banks that have participated to the program need to assess what their expectations are with respect to requirements and what the appropriate accounting treatment is.

#### **b) ESMA Statement on Common Enforcement priorities.**

The European Securities and Markets Authority (ESMA) has published on October 28 its annual Public Statement on European Common Enforcement Priorities, which identifies enforcement priorities for listed companies' 2016 financial statements and highlights the need for transparency in disclosing the potential impact of Brexit on issuers' financial statements. The Statement, directed at listed companies and their auditors, sets out the areas ESMA and national enforcers will focus on in particular when they examine listed companies' 2016 financial statements in order to promote a consistent application of IFRS across the EU. The common priorities for 2016 financial statements encompass:

- (1) Presentation of financial performance;
- (2) Financial instruments: distinction between equity instruments and financial liabilities; and
- (3) Disclosures of the impact of the new standards on IFRS financial statement.

We refer to the ESMA publication for further information.

#### **c) ESMA consideration in implementing IFRS 9 / EBA report on the result of its impact assessment of IFRS 9**

The ESMA has published on November 10 a Public Statement on Issues for consideration in implementing IFRS 9: Financial Instruments, which highlights both the need for consistent, high-quality implementation of IFRS 9 and the need for transparency on its impact to users of financial statements. ESMA notes that paragraph 30 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* requires disclosure of an impending change in accounting policies when an issuer has yet to implement a new IFRS Standard that has been issued but did not yet come into effect. We refer to the ESMA publication for further information.

Financial institutions need to consider the IAS 8 requirement for new standards in particular with respect to IFRS 15 and IFRS 9. We refer to the relevant ESMA statements and the guidance issued in this respect.

Auditors can also read the EBA report dated November 10, 2016 on the results of the EBA impact assessment of IFRS 9.

**d) FINREP reporting on a statutory level**

As from 2016, certain credit institutions have to submit the FINREP reporting also on statutory level, we remind the accredited auditor that the FINREP reporting on statutory level is part of the credit institutions regulatory reporting and therefore in scope of the report of the accredited auditor towards the National Bank of Belgium on the regulatory reporting.

In E-Corporate, some changes have been made to enable the auditor to upload his/her report on the FINREP solo reporting. The NBB requests auditors to submit their reports accordingly. This also regards the end of June 2016 reports.

**e) Derogation to Article 36bis of the Royal Decree of September 23, 1992**

In its letter dated December 22, 2015, the NBB detailed its new policy with respect to the derogation of Article 36bis of the Royal Decree of September 23, 1992. We remind the accredited auditors of the specific IRAIF/IREFI notice 2016-08 with respect to certain clarifications received from the NBB.

**f) Visa Belgium**

Following the gain realised on the acquisition of Visa Europe Ltd. by Visa Inc., the general shareholders meeting of Visa Belgium decided on 16 December 2016 to distribute a dividend to its' shareholders which will consist of (i) a dividend in cash, (ii) a dividend in kind consisting of preferred shares series C in Visa Inc. and (iii) a deferred cash payment, subject to certain conditions. After the dividend distribution, part of the gain realised on the sale will remain in Visa Belgium, which will have to be considered if the participation is carried at fair value under IFRS. We draw the attention of the accredited auditors on this transaction and recommend them to obtain and analyse the accounting treatment applied by the institutions both under Belgian GAAP and IFRS.

**g) Impact of the changes in the Belgian pension legislation on the treatment of pension obligation in IFRS financial statements**

We draw the attention of the accredited auditors on the study published by the FSMA in December 2016 on the impact of the changes in the Belgian pension legislation on the IFRS treatment of pension obligation.

**h) COREP transitional measures with respect to recognition of unrealised gains and losses related to sovereign positions**

For both institutions under the direct and indirect supervision of the ECB, the "5% sovereign exemption for AFS bonds" in the context of the capital requirement and related COREP reporting, has been removed. We invite the accredited auditors to pay attention to this change in the context of their procedures on the COREP reporting.

### III. Main attention points regarding REITs and UCI

#### a) Internal control reporting for GVV/SIR

The REITs (GVV/SIR) have to organize, in accordance with article 17 of the Law of May 12, 2014, their internal control structure in such a way as to allow them to perform their activities.

Paragraph 7 of the aforementioned article states that the REIT has to report once a year on the compliance of the REIT with the organizational requirements as identified in paragraphs 1 till 5 of this article. In addition, the statutory auditor has to evaluate the internal control measures taken by the REIT in accordance with article 60 §1, paragraph 1, 1° of the same Law and report hereon towards the FSMA.

The REIT has to provide their reporting on internal control to the FSMA and the statutory auditor at the latest one month after the closing of the financial year, being January 31, 2017 for the financial year 2016.

The statutory auditor has to provide his/her reporting on the evaluation of the internal control measures to the FSMA at the latest 15 working days before the General Assembly.

#### b) Permanent Training session FSMA dd. October 20, 2016

On October 20, 2016, the FSMA organized its yearly 'permanent training', dedicated to UCI, IORPs and REITs (GVV/SIR). The whole sets of slides can be obtained from the FSMA.

This year, the main topic with respect to REITs was dedicated to the ESMA guidelines on the 'Alternative Performance Measures' (the so-called non-GAAP measures). The FSMA will dedicate specific attention to the application of these guidelines. Major requirements for REITs are that terminology has to be explained in detail, a reconciliation to the financial statements has to be provided, and that some confusing terminology (such as '*netto courant resultaat/résultat net courant*') needs to be avoided. Auditors are asked to make sure that (i) the REITs are aware of these guidelines and (ii) requirements of the FSMA in this respect are implemented by the REITs.

During this permanent training session, the FSMA also reiterated two matters for UCI auditors which, although not new, deserved specific attention:

- ✓ For funds of funds, the materiality threshold above which Article 199 of the RD of November 12, 2012 applies, is 0,5%. RD does not refer to any look-through and materiality to apply in function of the underlying of the funds;
- ✓ For UCI with a designated management company, the assessment of the internal control environment will be based on the reporting by the management of the designated management company to the effective management of the UCI. The mission of the auditor of the UCI in this respect is to assess whether such reporting has been obtained, and whether processes are in place in the UCI to make sure adequate conclusions are drawn on the basis of this reporting.

### **c) CIS-reporting**

The FSMA has announced to amend statistical reporting requirements for certain public UCIs. As well as the form, the manner of reporting will change and be adapted to the reporting requirements for AICB's. The scope and timing of the statistical reporting requirements remain unchanged. The current tables of the CIS-reporting will be replaced by the tables of the AIFMD-reporting; an additional table with a limited number of additional fields, will be added. The FIMIS-platform will be used for the new reporting requirements. The automatization of the process should minimize the workload for the entities. The regulation of September 11, 2011 (including the circular of the CBFA ICB 3/2006) will be repealed and circular CBFA\_2011\_6 related to the cooperation assignment of the accredited auditors, will be amended.

### **d) Royal Decree on alternative investment funds investing in non-listed companies and growth businesses**

On August 4, 2016, the Royal Decree on alternative investment funds investing in non-listed companies and growth businesses was published in the Belgian Official Journal. Its main objective is a new start for investment companies with fixed capital investing in non-listed companies and growth businesses (Public Privaks) (*'Publieke Privak'/'Pricaf Publique'*).

The Royal Decree on alternative investment funds investing in non-listed companies and growth businesses (the Royal Decree) repeals the Royal Decree of April 18, 1997 on investment funds investing in non-listed companies and in growth businesses and attempts to adjust the legal and regulatory framework in order to meet the ongoing developments from the past years in the financial markets and regulations.

The Royal Decree has two main objectives:

- First, through the renewed legal framework, it aims at providing easier and new means of financing for alternative investment funds investing in non-listed companies and growth businesses.
- Secondly, the provisions imposed intend to contribute to maintain and stimulate the creation of employment since it aims at improving the financing of an important sector of the 'real economy', while also still providing investors with the protection and information needed through the applicable legal framework.

This Royal Decree entered into force on August 14, 2016 and a transitional period is applicable for existing *privaks/pricafs*.

### **e) Securities and Financing Transaction Regulation (SFTR)**

On January 13, 2017 the SFTR fund transparency requirements that concern the existing funds, will become applicable. ESMA, in its Q&A (section 13), gives some clarifications regarding the date of application of the disclosure in the annual report of the UCITS and AIF. The Luxembourg regulator (CSSF) confirmed that following discussions at the ESMA level, the disclosure will apply as strictly mentioned in the regulation for reports published as from January 13, 2017. This means that every report that is due to be published at the end of the year has to provide the relevant information by January 13, 2017.

**f) Delay PRIIP**

The Commission published a press release on November 9, 2016, proposing an extension to the date of application of the Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs). The delay gives issuers and distributors of PRIIPs products until January 1, 2018 to comply with the provisions.

**g) ESMA guidelines on sound remuneration**

On October 14, 2016 ESMA issued two sets of Guidelines: Guidelines on sound remuneration under UCITS and Guidelines on sound remuneration under AIFMD. The UCITS Remuneration Guidelines provide clarity on the requirements under UCITS for management companies when establishing and applying a remuneration policy for key staff, whereas the AIFMD Remuneration Guidelines deal with the application of the remuneration rules in a group context. The Guidelines will apply as of January 1, 2017. In the meanwhile national competent authorities must notify ESMA whether they comply or intend to comply.

**h) ESMA consultation on draft guidelines on the assessment of the suitability of members of the management body and key function holders**

On October 28, 2016 the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) launched a consultation on draft guidelines on the assessment of the suitability of members of the management body (MB) and key function holders (KFH). The guidelines were published in accordance with the new requirements introduced under the Capital Requirements Directive IV (CRD IV) and the Markets in Financial Instruments Directive II (MiFID II) and aim to improve and harmonize suitability assessments within the EU. Harmonization of “fit and proper” assessments of the MB has been a focus area for the European Central Bank.

In parallel, the EBA launched a consultation on draft guidelines aimed at further harmonizing firms’ internal governance arrangements, in line with the new requirements in this area introduced in CRD IV and also taking into account the proportionality principle.

Both consultation papers note that weaknesses in corporate governance have contributed to excessive and imprudent risk-taking in the financial sector which has led to systemic problems.

**IV. Main attention points for the institutions for occupational retirement provision (IORPs)**

The FSMA has issued a Circular on the function of appointed actuary at pension funds / IORPs (*Circular FSMA\_2016\_02 of 24 February 2016*). The two objectives of this Circular are as follows:

1. Emphasising the importance of an independent and objective execution of the function of appointed actuary

It is common practice that the same person or actuarial firm performs different assignments for one IORP: on the one hand the legal mission of appointed actuary, on the other hand consulting and / or operational assignments. Within this context and by means of this Circular, the FSMA emphasises that it is extremely important that the appointed actuary is independent and objective, as this is a basic condition for qualitative advises and reports. The FSMA considers that, both actuaries and IORP's, should take the necessary measures to avoid or manage any conflict of interest.

## 2. The standardisation of the content of the advises and reports of the appointed actuary

The FSMA has made a clear distinction between the duties and responsibilities of the Board of Directors of an IORP on the one hand, and the appointed actuary on the other hand:

- The IORP provides descriptive elements on technical positions as part of its annual reporting, and
- The appointed actuary may limit its annual report to the FSMA to findings and conclusions on the financial technical situation of the IORP.

This makes it also easier for the actuary to make a distinction between its two roles in case he/she is both a consultant (he/she does the description part on behalf of the IORP) and the appointed actuary (he/she reports his findings and conclusions to the FSMA).

Furthermore, the FSMA illustrates in this Circular the different topics that should be covered in the advises and reports of the appointed actuary. The FSMA expects that the appointed actuary for each topic:

- Examines and discusses all pension schemes related issues and topics that are, in his professional judgment, relevant;
- Describes his/her working method, explaining his/her analysis and indicating the technical references used (actuarial method, benchmark,...);
- Finally, concludes and proposes adjustments or alternatives when the results, in his/her opinion, are not appropriate.

The Circular refers repeatedly to the "professional judgment" of the appointed actuary. It is systematically emphasised that the FSMA expects the appointed actuary to give his/her conclusions to the extent that he/she believes they are relevant for the IORP in question.

Accredited statutory auditors that intend to use the work of the appointed actuary as audit evidence in drawing a conclusion on the true and fair view of the financial statements of an IORP, should take into account the requirements of ISA 500 and ISA 620.

In accordance with the definition in ISA 620 §6 (c), the appointed actuary of an IORP qualifies as a management's expert (= "*an individual or organization possessing expertise in a field other than accounting or auditing, whose work in that field is used by the entity to assist the entity in preparing the financial statements*").

If the work of the appointed actuary is to be used as audit evidence, the accredited statutory auditor shall, in line with ISA500 (Audit Evidence), to the extent necessary, having regard to the significance of that expert's work for the accredited statutory auditor's purposes:

- Evaluate the competence, capabilities and objectivity of that expert (Para. 8 - Para. A37-A43);
- Obtain an understanding of the work of that expert (Para. 8 - Para. A44-A47);
- Evaluate the appropriateness of that expert's work as audit evidence for the relevant assertion (Para. 8 - Para. A48).

## V. Main attention points for the Insurance Sector

### a) Solvency II

Based on the new Control Law, Solvency II has entered into force as from 2016 onwards for all Belgian (re)insurance undertakings. The new Belgian Control Law of March 13, 2016 introduced Solvency II regime into Belgian legislation. This Law replaces the Control Law of July 9, 1975 and converts the Solvency II EU Directives into Belgian law.

Circulars relating to the conversion of the set of EIOPA guidelines into Belgian supervisory regulation have been published to ensure a harmonized implementation of the principles of the EU Delegated Acts. These Circulars consist of a complete adoption of the EIOPA guidelines and can be consulted on the website of the NBB.

The scope of the accredited auditor for periodical financial information now consists of the Solvency II QRT's (half-year and year-end), the liquidity reporting (half-year and year-end), the interest rate risk reporting (year-end) and the reporting on the covering assets/permanent inventory (half-year and year-end) replacing the former D231 reporting. Based on the articles 332 and 333 of the new Control Law, the statutory accredited auditor is required to perform limited review procedures (limited assurance) on the half-year periodical financial information and to perform audit procedures (reasonable assurance) on the year-end periodical financial information.

A new NBB Circular is expected on the collaboration to the prudential supervision between the NBB and the accredited auditors clarifying the expectations from the NBB. Based on our ongoing discussions with the NBB we expect that:

- A defined set of QRT's reported by the (re)insurance undertakings will be in scope for our limited review/audit procedures. The scope will also be limited to the QRT's and will not include other reported information in the context of Solvency II. We refer to IRAIF/IREFI communication 2016-7 of September 2, 2016 for the scope of the half-year QRT's. A separate communication will be issued for the scope of the year-end QRT's, including the proposed reporting template.
- (Partial) internal models and Undertaking Specific Parameters (USPs) are subject to validation by the NBB. As such the accredited auditors will not be expected to provide an opinion on the model or USP itself. The role of the accredited auditor will be focused on the data quality aspects of the internal model (i.e. validation of the data and assumptions into the (partial) internal model and validation of the output of the (partial) internal model into the relevant QRT's). This scope has been specifically included in the reporting template for the half-year and year-end Solvency II reporting by the accredited auditors.
- The procedures to be performed for the purpose of expressing a limited review/audit opinion have to be based on the latest set of the Solvency II working programs that have been developed by the IRAIF/IREFI in collaboration with the NBB, tailored to the specific circumstances of the (re)insurance undertaking and taking into account key observations and findings obtained during the Preparatory Phase and Day-One reporting.

Deadlines for reporting as per December 31, 2016 by the (re)insurance undertakings are May 20, 2017 (solo) or July 1, 2017 (group). The deadlines for the reporting by the accredited auditors are July 1, 2017 (solo) or August 12, 2017 (group).

The reporting template for the half-year and year-end Solvency II reporting by the accredited auditors has been developed by IRAIF/IREFI and has to be accompanied by the detailed spreadsheet of the recommendations and their status.

**b) Circular on the governance system**

On July 5, 2016 the Circular NBB\_2016\_31 has been published including the prudential expectations of the NBB related to the governance system of insurance companies. This Circular has the following objectives:

- Translating the EIOPA guidelines on the governance system into Belgian regulation;
- Centralizing in one document all legal and regulatory matters with respect to governance;
- Replacing former circulars which are no longer valid taking into consideration the evolutions in the Solvency II regulation;
- Providing additional guidance for the implementation of the Solvency II regulation.

The major developments in the governance system are in the following areas:

- Enforcement of the role of the Board of Directors with respect to governance and risk management;
- Enforcement of the role of specialized committees within the Board of Directors such as Risk committee and Remuneration committee;
- Enforcement of the role of the risk manager and actuarial function;
- Clarification of the requirements of a risk management system;
- Enhanced requirements in areas such as fit & proper, outsourcing, remuneration, etc.;
- Revision of the reporting requirements on governance.

Following this new Circular a new version of the governance memorandum and the report of the Executive Committee on the effectiveness of the governance system is expected by May 20, 2017. The report of the Executive Committee on the effectiveness of the governance system replaces the former report on the internal control system but will be broader in scope. This new report does not change the nature of the work of the accredited auditor and his reporting towards the NBB, but only extends the scope of work in the light of his reporting on internal controls based on article 331 of the Law of March 13, 2016.

**c) Impact of the terror attacks of March 22, 2016**

The two terrorist attacks on Brussels Airport and the Brussels (Maalbeek) subway station on March 22, 2016 triggered the intervention of the non-for-profit organisation TRIP (Terrorism Reinsurance and Insurance Pool). According to the terms and conditions of TRIP, all claim declarations related to terrorist attacks are reported by the member firms to TRIP.

TRIP will split the validated claim charges between its member firms up to a maximum of EUR 300 million per year, based upon their respective market share. If the total annual claim charges exceed EUR 300 million, the reinsurers of TRIP will compensate the part exceeding EUR 300 million until the next level of EUR 900 million.

It is expected that insurance companies account for the case reserves related to their reported claims in accordance with their own insurance policies. In the case of a higher market share in the costs pooled by TRIP it is expected that the insurance undertaking will account for an additional IBNR reserve for the difference between the recorded case reserves and its expected market share. In the case of a lower market share it is expected that the insurance undertaking accounts for a receivable on TRIP for the expected recoverable amount to the extent that its recoverability is virtually certain based on communications by TRIP of the total expected claim charge.

Accredited auditors should also pay sufficient attention to the validity of the reported claims to TRIP as well as to the impact of the intervention by the reinsurance treaties of the insurance undertaking following the above mentioned terrorist attacks.

#### **d) Accounting for flashing light reserves**

In March 2014 all insurance undertakings received a letter from the NBB stating that no exemptions for the recording of flashing light reserves would be granted for the years 2014 and 2015. Consequently, all insurance undertakings were obliged to calculate and to record (if applicable) additional flashing light reserves in their local statutory accounts.

Following the publication of the Royal Decree of June 1, 2016 and the Circular NBB\_2016\_39 of October 5, 2016, the NBB can exempt a company to account for a flashing light reserve at the request of the company and under the following conditions:

- The company meets the Solvency II capital requirements without taking into consideration the transitional measures;
- Companies should demonstrate that the EIOPA stress tests on the interest rate risk (low-for-long scenario) provide satisfactorily results.

If such an exemption is obtained, this should be mentioned in the disclosure 23 of the annual accounts. The flashing light reserves from the past have to be retained in the Belgian GAAP accounts.

We expect that the accredited auditors follow up to what extent an exemption is obtained and that they verify that the reserve is accounted for in accordance with this exemption and the reserves accounted for in the past. It is also expected that accredited auditors verify whether proper disclosure is made in annex 23 of the annual accounts in case the company has received the exemption.

#### **e) EIOPA stress tests**

The major Belgian insurance companies have been requested to participate in the 2016 EIOPA stress test exercise. Submission deadline for the insurance companies towards the national supervisory authorities was mid July 2016. Disclosure of the results of the stress test analysis by EIOPA is expected by December 2016. We recommend the accredited auditors to discuss with management the outcome of the stress tests.

**f) Low interest rate environment**

Market interest rates remain extremely low. As a consequence, the attention points reported in earlier communications remain valid. We expect that accredited auditors assess the impact of the continued low interest rate environment on the strategic asset allocation (market risk), the potential duration / yield gap between assets and liabilities and its effect on the liability adequacy test to be executed for Belgian GAAP and IFRS reporting purposes.

**g) New medical index**

On March 25, 2016 a new Royal Decree has been published modifying the Royal Decree of February 1, 2010 on the medical index. This Royal Decree redefines the formalities for the reporting of the statistical information to the FSMA and the application of the medical index. The major changes compared to the prior Royal Decree relate to:

- Insurance undertakings can now increase premiums and deductibles to a maximum of the medical index multiplied by a factor of 1,5, but with a maximum increase following the application of a factor of 200 bp.;
- Statistical information only has to be reported on an annual basis in April instead of quarterly, with publication of the yearly medical index on July 1.

We expect that accredited auditors pay sufficient attention to the modelling of these future premium increases in the context of the SII actuarial best estimate of technical provisions and ageing reserves for individual health products.

We also want to draw your attention to the fact that the Royal Decree prescribes that the statistics are prepared based on the invoices relating to the reference period and received before the month of reporting, being April. It has been observed that for practical reasons most of the entities prepared the statistics based on the invoices paid before April instead of received before April. At this moment the FSMA is considering, in consultation with the sector, a modification of the Law with respect to the matter. This matter will be further followed up in the coming months.

We expect from the accredited auditors that in the light of their reporting on the statistics they verify that the provisions of the Royal Decree for the preparation of the statistics are applied correctly. In the case of an incorrect application, the potential impact has to be assessed together with the impact on our opinion.

**h) Profit participation**

A new Royal Decree on profit participation has been signed on September 14, 2016. This Royal Decree revises the modalities and the conditions under which profit participation can be provided to policyholders. Profit participation can now be provided based on the following conditions:

- The solvency II ratio without taking into consideration transitional measures on the risk-free interest rates or technical provisions is exceeding 100%;
- The amount of the profit participation does not exceed the technical result for life or non-life (in case of premium returns) insurance activities before taking into consideration the movements in the provision for profit participation and the movement in the non-capitalized '*zillmeringswaarde / valeur de zillmerisation*'.

The Royal Decree also defines the role of the actuarial function with respect to this matter. He is expected to provide an advice in which he confirms:

- That the amount of the profit participation is in accordance with the profit participation policy approved by the Board of Directors;
- That the profit participation policy has been properly taken into consideration in the cash flow modelling applied for the Solvency II best estimate calculations;
- The amount of the movement of the non-capitalized '*zillmeringswaarde / valeur de zillmerisation*'.

We expect that the accredited auditors verify if the conditions to provide profit participation have been fulfilled and that they take into consideration the advice and conclusions of the actuarial function.

**i) Indicative tables for bodily injury claims**

The indicative tables provide guidance to the judges on the indemnifications in the case of bodily injuries or death. The tables are established by a group of judges and are updated approximately every 4 years. As the latest update has been published in October 2012, new updated indicative tables are expected shortly.

In the case of an update, we recommend the accredited auditors to follow-up if the update of the indicative tables is properly reflected in the technical reserves.

**VI. Main attention points of the FSMA related to the December 31, 2016 audit**

**a) Attention points for the audits of institutions of occupational retirement provision**

For the audit of IORPs covering the 2016 financial year, the FSMA asks accredited auditors to pay particular attention to the prudence of the calculation of technical provisions, and in particular to the discount rate(s) used.

Furthermore, the FSMA confirms the other attention points that were previously mentioned, that is:

1. greater clarity, in the annual reports to the FSMA, concerning the aspects examined by the accredited auditor, in order that one can deduce with certainty from the absence of any finding on a point that the said point was indeed verified by the accredited auditor, but simply did not give rise to any particular comment on his/her behalf;
2. the information in the "P40" reporting (on the governance and on the activities and financial structure of the IORPs) presenting inconsistencies vis-à-vis the information at the disposal of the accredited auditor;
3. the valuation of the unlisted investments;
4. the codes of the investments in securities of the IORPs with regard to the FSMA circular on reporting (Circular FSMA\_2016\_01 of 26 January 2016 on the communication of annual accounts, statistics and related documents for the 2015 financial year) and

5. the impact of the amendments to the Law of 28 April 2003 on Supplementary Pensions introduced by the Law of 18 December 2015 aimed at guaranteeing the continuity and the social character of supplementary pensions and strengthening their supplementary nature in respect of retirement pensions.

**b) Attention points for management companies**

The attention points for the auditors of management companies are the following:

1. The reports that auditors submit to the FSMA should be more clearly detailed as regards any observations and recommendations made.
2. The FSMA asks auditors to inform it of all their observations that could indicate deficiencies in the management of the operational risk by the institutions under its supervision.
3. The FSMA will continue its informal contacts (in the form of meetings or telephone contact) with a view to exchanging information on way the companies followed up on the aforementioned reports as well as on the topics of concern to them but that were not the subject of a dedicated report (developments in the activities, quality of contacts with the company, management techniques, risks, etc.).

**c) Attention points for undertakings for collective investment**

In addition to the attention points for management companies that are also relevant for undertakings for collective investment, the FSMA would like to reiterate the following attention point (given that the period for drawing up the annual reports is approaching): the FSMA asks auditors to examine whether the comments they made in the past regarding the (semi-)annual reports have been taken into consideration.

**d) Attention points for regulated real estate companies (GVV/SIR)**

The FSMA wishes to emphasize the following publications concerning financial reporting:

- the ESMA guidelines on Alternative Performance Measures<sup>1</sup>,
- the European common enforcement priorities published by ESMA<sup>2</sup> and, finally,
- ESMA's Public Statements concerning the application of IFRS 9<sup>3</sup> and IFRS 15<sup>4</sup>.

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<sup>1</sup> ESMA Guidelines on Alternative Performance Measures, 05/10/2015/ESMA/2015/1415en, <https://www.esma.europa.eu/sites/default/files/library/2015/10/2015-esma-1415en.pdf>

<sup>2</sup> ESMA Public Statement, European common enforcement priorities for 2016 financial statements, 28/10/2016/ESMA/2016/1528, <https://www.esma.europa.eu/press-news/esma-news/esma-sets-enforcement-priorities-listed-companies%E2%80%99-2016-financial-statements>

<sup>3</sup> ESMA Public Statement, Issues for consideration in implementing IFRS 9: Financial Instruments, 10/11/2016/ESMA/2016/1563, [https://www.esma.europa.eu/sites/default/files/library/2016-1563\\_public\\_statement-issues\\_on\\_implementation\\_of\\_ifrs\\_9.pdf](https://www.esma.europa.eu/sites/default/files/library/2016-1563_public_statement-issues_on_implementation_of_ifrs_9.pdf)

<sup>4</sup> ESMA Public Statement, Issues for consideration in implementing IFRS 15: Revenue from Contracts with Customers, 20/07/2016/ESMA/2016/1148, <https://www.esma.europa.eu/press-news/esma-news/esma-issues-public-statement-ifrs-15>

In its Circular FSMA\_2015\_17 of December 4, 2015, the FSMA informed issuers whose securities are admitted to trading on a regulated market and that are required to publish regulated information as defined by the Transparency Directive, as well as persons responsible for the prospectus under Article 6, first paragraph of the Prospectus Directive, of the publication of the ESMA Guidelines on Alternative Performance Measures (APMs).

These guidelines apply since July 3, 2016 to APMs disclosed by issuers when publishing regulated information and to persons responsible for the prospectus when one is being published. In accordance with Article 16(3) of the ESMA Regulation, issuers or persons responsible for the prospectus must make every effort to comply with the guidelines.

The guidelines are aimed at promoting the usefulness and transparency of the APMs included in prospectuses or regulated information. Adherence to the guidelines will improve the comparability, reliability and/or comprehensibility of APMs.

Compliance with these guidelines will provide a faithful representation of the financial information disclosed to the market.

ESMA issued a Public Statement on October 28, 2016 defining the European common enforcement priorities, in order to promote consistent application of International Financial Reporting Standards (IFRSs) as indicated in the ESMA Guidelines on enforcement of financial information. Listed companies and their auditors should in particular consider those priorities when preparing and auditing, respectively, the IFRS financial statements for the year ending December 31, 2016.

Furthermore, the FSMA expects issuers of securities admitted to trading on regulated markets and their auditors to take the Public Statements on IFRS 9 and IFRS 15 into consideration in their respective work when implementing those standards, notably when disclosing and auditing their [expected] effects in the IFRS financial statements.

## **VII. Main attention points of the NBB related to the December 31, 2016 audit**

### **a) Credit institutions:**

- ✓ Data quality of prudential reporting: especially the design and the controls within used to prepare the reporting.

The NBB expects of the auditors to analyse the process used by the institutions in order to prepare the periodic financial reporting (including FINREP and COREP) as well as to follow up the important attention points raised by the supervisors. To that respect it is recommended for the auditors to contact the contact person of the NBB in order to understand their main preoccupations. A working group of IRAIF/IREFI is currently reviewing this process and establish a common approach for the auditors of financial institutions (banks and insurance companies). As soon as the project is finalised, IRAIF/IREFI will inform its members (normally, in the first half of 2017).

- Preparation of IFRS 9: projects that the banks have set up in order to prepare for compliance (to what extent are they completed, what is the impact?). (See chapter II)
- Attention for the IT risks: in the broad sense, their significance is steadily increasing.

The NBB expects of the auditors that they pay special attention to the risks related to Cyber Security and robustness of the IT systems of the banks. The findings of the auditors should be reflected in the critical analysis of the evaluation of internal control.

✓ Use of the signal function:

The NBB expects of the auditors that they intensify their signal function or use a more pro-active communication on different domains. These domains are not limitative and could aim at:

- Deterioration of the financial situation (including the solvability and liquidity);
- Sustainability of certain business models. The NBB does not expect of the auditor to review the business plans in detail, but complex situation should be documented (e.g. credit easing in order to increase the amount of credit massively, an aggressing pricing strategy, etc.);
- Expected tension points in the internal control or each point that could influence sufficiently the appropriate character of the organisation;

It is expected from the auditor to indicate: (a) the important cases of non-compliance with laws and regulations identified by the compliance officer, (b) the most important gaps related to internal control identified not only by the external auditor, but also those of the internal auditors as well.

- ✓ Monitoring of conditions regarding the derogation of art. 36bis: it is important for the NBB to ensure that the derogation conditions are being complied with in practice.
- ✓ Hedge effectiveness under IAS 39, taking into account the prepayment / renegotiation wave over the past two years.
- ✓ Even in this relatively uncertain and difficult economic environment, the NBB noticed that the cost of risk remains relatively low. In this context, the NBB expects that the auditors will investigate possible understatements of the impairments on loans.

**b) Insurance companies:**

- Data quality is essential and remains a major challenge, as it appears from the QRTs for Q1.
- Best estimate (BE): how is this defined, in particular regarding the Life branch:
  - i. Respect of the rules on contract boundaries: these are often incorrectly applied; it is the auditors' responsibility to draw attention to problems in this context.
  - ii. Pertinence and back testing of hypotheses relating to costs, lapses, etc. This is not about the opportuneness of scenarios, but rather whether appropriate hypotheses have been used.
  - iii. Use of the Economic Scenario Generator (ESG): this is an essential dimension in the perspective of ensuring the proper character of the BE, especially related to the dimensions PB, LAC TP, RM, etc.

- SCR: Limits with regard to LAC DT:

The LAC DT remains an important topic, given its impact on the capacity of the companies to satisfy the coverage ratio of the SCR. The attention of the NBB teams will take into account any evolutions of the Belgian position on that point.

- Categorisation and valuation of complex structured products and derivatives:

Regarding the derivatives, this is considered to the extent that it becomes of interest – at least for the companies for which the recourse to such derivatives proves to be sufficiently material – in the way that they are valued and checked, taken into account the hedging strategies adopted by the companies involved.

On this point, considering that there is no framework comparable to the “derogation article 36 bis” existing for the banks, it has been observed that some insurance companies have chosen to set up alternative structures to avoid the accounting mismatch sometimes experienced under Belgian GAAP (between the accounting treatment of securities, and those of derivatives).

- Group calculation: Transferability of own funds:

The need of understanding the group approach in its component calculation of the solvency requirements, concentration of risks and intra-group operations, also given the options foreseen in the regulations.

- The NBB confirms the agreement that the auditors (just as in the preparatory phase of Solvency 2) continue to submit their points of attention by means of Excel sheets (with indications for the follow-up of each of these points).
- Without prejudice to definitive rules in the new circular on collaboration, the NBB agrees for the 31/12 reporting with a period of at the most 6 weeks after the maximum period that the insurance or re-insurance companies have at their disposal to submit the reporting to the NBB. For the financial year closed on December 31, 2016, the due dates will be July 1, 2017 (solo) and August 12, 2017 (group).

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