EIOPA consults on governance arrangements in third countries

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The European Insurance and Occupational Pensions Authority (EIOPA) is launching today a public consultation relating to a draft supervisory statement on the use of governance arrangements in third countries.

EIOPA's aim with the supervisory statement is to enhance the supervision and monitoring of insurance undertakings' and intermediaries' compliance with relevant EU legislation concerning governance arrangements in third countries.

The supervisory statement recalls that EIOPA has previously underlined the need for insurance undertakings to not display the characteristics of an empty shell company, and instead demonstrate an appropriate level of corporate substance, including the presence of key decision-makers, function holders and staff to an extent proportionate to the nature, scale and complexity of the entity's business in the European Economic Area (EEA).

Specifically, governance arrangements raise concerns when they are used to conduct certain regulated functions and activities for undertakings and intermediaries that ultimately serve policyholders in EEA. This has the potential to impair risk management and effective decision making, and impact the ability of supervisory authorities to conduct proper supervision.

To achieve clarity of supervisory expectations, the principle of substance over form is used to ensure that similar risks are treated in a similar way, irrespective of the legal form of the governance arrangement and their location.

Stakeholders are kindly invited to provide their feedback on the draft supervisory statement until 31 October 2022 by responding to the questions via the online survey.

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