

**Consultation Paper
on
the proposal for
Implementing Technical Standards
on the process to reach a joint
decision for group internal models**

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1. Responding to this paper

EIOPA welcomes comments on the draft Implementing Technical Standards on the process to reach a joint decision for group internal models.

The consultation package includes:

- The Consultation Paper
- Template for comments

Please send your comments to EIOPA in the provided Template for Comments, by email CP-14-006@eiopa.europa.eu, by 30 June 2014.

Contributions not provided in the template for comments, or sent to a different email address, or after the deadline will not be processed.

EIOPA invites comments on any aspect of this paper and in particular on the specific questions summarised in Annex II. Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with EIOPA's rules on public access to documents¹. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by EIOPA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.eiopa.europa.eu under the heading 'Legal notice'.

¹ [Public access to documents](#)

2.Consultation Paper Overview & Next Steps

EIOPA carries out consultations in the case of drafting Technical Standards in accordance to Articles 10 and 15 of the EIOPA Regulation.

This Consultation Paper is being issued on the process to reach a joint decision regarding the group internal model.

This Consultation Paper presents the draft Technical Standard.

The analysis of the expected impact from the proposed policy is covered under the Annex I (Impact Assessment).

Next steps

EIOPA will consider the feedback received and expects to publish a final report on the consultation and to submit the Implementing Technical Standard for endorsement by the European Commission by 31 October 2014.

3.Draft Technical Standard



EUROPEAN COMMISSION

Brussels, XXX
[...](2011) XXX draft

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of []

**COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down
implementing technical standards with regard to the process to reach a joint decision on the
application to use a group internal model according to Directive 2009/138/EC of the European
Parliament and of the Council**

of []

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of 19 December 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)² and in particular Article 231 thereof.

Whereas:

- (1) Efficient exchange of appropriate information between the national supervisory authorities concerned is essential for the provision of an effective process for the reaching of a joint decision on group internal models.
- (2) In order to ensure a consistent application of the process for the reaching of a joint decision, it is important that each step is well defined. A clear process also facilitates exchange of information, promotes mutual understanding, develops relationships between supervisory authorities concerned and promotes effective supervision.
- (3) Timely and realistic planning for the joint decision process is essential. Every supervisory authority concerned should provide the group supervisor with relevant information on a timely basis.
- (4) Establishing and documenting clear processes for the content and articulation of the joint decision should ensure that it is fully reasoned.
- (5) The provisions set out in this Regulation should apply on a consistent manner to the process to reach a joint decision on major changes and changes to the policy for changing the model for group internal models.
- (6) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (7) The European Insurance and Occupational Pensions Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010.

² OJ L 335, 17.12.2009, p. 1–155

HAS ADOPTED THIS REGULATION:

Article 1 -Subject matter and Scope

- (1) This Regulation specifies what the supervisory authorities concerned shall do to reach a joint decision, referred to in paragraph 2 of Article 231 of Directive 2009/138/EC, on the application for permission to use a group internal model to calculate the consolidated group Solvency Capital Requirement, as well as the Solvency Capital Requirement of insurance and reinsurance undertakings in the group.

Article 2- Definitions

- (1) For the purpose of this Regulation, “supervisory authorities concerned” are the supervisory authorities of all the Member States in which the head offices of each related insurance and reinsurance undertakings applying for the use of the group internal model to calculate their Solvency Capital Requirement are situated.

Article 3- Agreement on the process

- (1) The supervisory authorities concerned shall agree on the process to reach and the way to formalise a joint decision including timeline, main steps, and deliverables, taking into account the requirements set out in Directive 2009/138/EC as further specified in the [Implementing Measures] and the present Regulation. In order to do everything within their power to reach a joint decision according to Article 231(2) of Directive 2009/138/EC, every supervisory authority concerned shall commit to ensure that the main steps and deliverables set out for the agreed process are followed in a timely way.
- (2) The supervisory authorities concerned shall take into account when agreeing on the process, any legal impediments or internal processes that may restrict the supervisory authorities concerned to give their formal view on the application within the specified timeframe. To this end, all supervisory authorities concerned shall inform the other ones about any legal impediments or internal processes that may exist in their respective supervisory authority.
- (3) The supervisory authorities concerned shall provide the other supervisory authorities concerned with any information that may be relevant for the decision on the application as soon as practical.
- (4) In the case a supervisory authority concerned raises a matter regarding the process, in particular when consensus on a decision is not likely to be reached, it shall explain the reasons for this to the other supervisory authorities concerned and indicate whether it intends to refer the matter to EIOPA according to Article 231(3) of Directive 2009/138/EC. The group supervisor shall organize a discussion with all supervisory authorities concerned with the aim to find a solution to the matter. The supervisory authorities shall agree on a timeframe to reach a solution.
- (5) If no satisfactory solution is reached in the timeframe determined, if the relevant supervisory authority decides to refer the matter to EIOPA, it shall do it without delay.

Article 4- Proposal for a decision

- (1) Before making a proposal for a decision, the supervisory authorities concerned shall confirm that the assessment of the application has been finalized and that the outcome of this assessment constitutes the basis for making a decision on the application.
- (2) The other supervisory authorities concerned shall give their input on the proposal for a decision to the group supervisor in writing by summarising the outcome of the assessment made.
- (3) The group supervisor, with the input of the other supervisory authorities concerned referred to in paragraph 2, shall draft a written proposal for a decision, including, if applicable, the terms and conditions which the proposed decision is subject to. This proposal shall include the reasons for this decision and, if applicable, for the terms and conditions.
- (4) When drafting a proposal for a decision, the group supervisor shall consider, if appropriate, the views expressed during the assessment of the application by the other supervisory authorities concerned regarding the appropriateness of the group internal model for the calculation of the consolidated group Solvency Capital Requirement. If relevant, the group supervisor shall also take into consideration the views from the other supervisory authorities within the college of supervisors regarding the group internal model.
- (5) The group supervisor shall send the proposal for a decision to the supervisory authorities concerned and, where appropriate, to the other members and participants of the college.
- (6) The other supervisory authorities concerned shall provide in writing to the group supervisor their opinion on the proposal for a decision, including, if applicable, their opinion on the terms and conditions to which the proposed decision is subject. The group supervisor shall aggregate the opinions received and provide a synthesis of them to the other supervisory authorities concerned.
- (7) The group supervisor shall organise at least a session with the other supervisory authorities concerned to discuss the proposal for a decision and the opinions provided. These sessions may take place as a physical meeting or, when agreed by all the supervisory authorities concerned, through other means. The discussion shall aim at reaching consensus for a joint decision. Every supervisory authority concerned shall then confirm its views or send in writing its final views and reservations to the group supervisor.

Article 5- Final decision

- (1) In the case set out in Article 231(5) of Directive 2009/138/EC when a joint decision has been reached, the group supervisor shall:
 - (a) document the final decision on the application and, if applicable, on the terms and conditions to which the decision is subject.
 - (b) send the final decision to all college members and, where appropriate, to participants, together with the views of the supervisory authorities concerned.
- (2) In the case set out in paragraph 1, the agreement on the final decision shall be evidenced in writing by representatives of the supervisory authorities concerned with appropriate authority to commit their respective authorities.
- (3) In the case set out in Article 231(6) of Directive 2009/138/EC when a joint decision has not been reached, the group supervisor shall:

- (a) document its final decision.
- (b) document the views and reservations referred to in Article 4(7) of the relevant supervisory authorities concerned.
- (c) state the views and reservations from the relevant supervisory authorities concerned and, if applicable, why the group supervisor has deviated from these views when providing the supervisory authorities concerned with a document setting out its decision according to Article 231(6) of Directive 2009/138/EC.
- (d) send the decision to the rest of college members and where appropriate to participants, together with the views and reservations of the supervisory authorities concerned.

Article 6- Communication of the decision

- (1) When a final decision is made, the group supervisor shall communicate the decision to the applicant as soon as possible.
- (2) In case of permission to use the group internal model the group supervisor shall include in the decision:
 - (a) if the decision was a joint decision according to Article 231(5) of Directive 2009/138/EC or made by the group supervisor according to Article 231(6) of Directive 2009/138/EC.
 - (b) the reasons for the decision.
 - (c) the names of the related undertakings included in the scope of the internal model for the calculation of the group Solvency Capital Requirement.
 - (d) the names of the related undertakings allowed to use the group internal model to calculate their Solvency Capital Requirement.
 - (e) if relevant, the risks and major business units within the scope of a partial internal model.
 - (f) the starting date from which the Solvency Capital Requirements listed in (c) and (d) shall be calculated using the group internal model.
 - (g) if relevant, the terms and conditions to which the permission to use the group internal model is subject, and the reasons for these terms and conditions.
 - (h) if relevant, a requirement for the undertaking to develop and provide a plan to extend the scope of the internal model, including the description and timeframe of the plan.
 - (i) if relevant the integration technique approved to be used to integrate the partial internal model into the solvency capital requirement standard formula.
- (3) In case of rejection to use the group internal model, the group supervisor shall include in the decision a brief description of the parts or aspects of the internal model that do not comply with the requirements to use a group internal model, as well as the precise reference to the requirements that are not complied with. The communication shall also state that the rejection does not imply that other requirements have been assessed as complied with.

Article 7- Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, []

*[For the Commission
The President]*

[On behalf of the President]

[Position]

Annex I: Impact Assessment

In the course of the policy drafting each provision in the ITS, an analysis has been carried out with respect to the expected costs and benefits generated by these texts.

When analysing the impact from proposed policies, the impact assessment methodology envisaged that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered.

Baseline

The aim of the baseline scenario is to explain how the current situation would evolve without additional regulatory intervention. The baseline is based on the current situation of the market, which is considered to be composed of:

- The progress towards Solvency II that insurance and reinsurance undertakings have already achieved at this stage, considering the average state of art of EU insurance and reinsurance undertakings,
- Progress for the implementation of Solvency II envisaged by any other elements of its framework.

In particular the baseline for this ITS includes:

- The content of Directive 138/2009/EC and any amendment already agreed to it,
- Where there is evidence of its public availability at the date of approval of the consultation of these technical standards by EIOPA, any reliable background on the likely content of the [draft Delegated Acts] and technical standards developing the aforementioned Directive.

Policy Analysis

This analysis below presents the EIOPA's considerations on the expected costs and benefits with respect to the **key issues** of this ITS:

1. Agreement on the process;
2. Proposal for a decision;
3. Final decision and communication of the decision;

With regard to **key issue 1: Agreement on the process**, the ITS specifies the minimum elements (main steps, timeline and deliverables) that the supervisory authorities concerned need to consider when setting the process of reaching a joint decision. Although the introduction of these elements could require some effort for supervisory authorities, such elements can be valued as all important and necessary.

It should be noted that EIOPA, in its proposal, is not imposing obligations that can fall beyond the goals of the Directive, which in Article 231(2) states that the supervisory authorities concerned shall do everything within their power to reach a joint decision within six months from the date of receipt of a complete application.

With regard to **key issue 2: Proposal for a decision**, the ITS in fact only clarifies the process to be followed by the supervisory authorities concerned to prepare the proposal of the decision, and for further discussions on this proposal. This proposed text further specifies the elements that have to be taken into account according to key issue 1, and therefore it only makes operational the requirement set out in Article 231(2) of the Directive by clarifying how the Directive provisions have to be fulfilled.

With regard to **key issue 3: Final decision and communication of the decision**, the ITS specifies the documentation process of the final decision and the communication of this decision, in both cases: when a consensus is reached among the supervisory authorities concerned for the joint decision (Article 231(5) of the Directive), or where there is no consensus and the group supervisor decides on the application (Article 231(6) of the Directive). The provisions proposed are needed to ensure that the group supervisor considers all the necessary elements for the decision, in order to make operational the requirements set out in the referred Articles of the Directive, not adding new material costs.

As a conclusion, EIOPA is of the opinion that this implementing technical standard is intended to contribute to an enhanced convergence of supervisory practices in this field and also to ensure the effectiveness of the process to reach a joint decision. In this sense the ITS is beneficial both for supervisory authorities and the undertakings that submit an application to use a group internal model, as it facilitates a decision on the application in the six month period and allow for a more effective allocation of resources and cooperation.

The technical standard does not introduce any material costs on top of previous levels of legislation. The technical standard develops and further specifies the requirements already set out in previous levels of legislations, both in the Directive and [Delegated Acts].