

**Comments Template on EIOPA-CP-14-062
Draft proposal for the Advice to the European Commission
in response to the Call for Advice on recovery plan, finance scheme
and supervisory powers in deteriorating financial conditions**

**Deadline
18.Feb.2015
23:59 CET**

Company name:	Insurance and Reinsurance Stakeholder Group	
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.</p>	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not introduce any change in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. <p>Please send the completed template to Consultation_Set2@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-062.</p>		
Reference	Comment	
General Comment	<p>It is not apparent that EIOPA will allow a public consultation of the final RTS. This will be problematic, given that this Call for Advice once adopted will be legally binding, and it will remain unclear from this current draft what the actual legal requirements of the RTS will be. We therefore urge EIOPA to perform a public consultation of the final version of the RTS.</p>	

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	<ul style="list-style-type: none"> • Supervisors' should have an obligation to remove the capital add-on as soon as the company has addressed the issue giving rise to the add-on. • The RTS list extensive requirements, however it should be made clear that not every one of these will necessarily apply in every case - there should be sufficient flexibility to ensure that the recovery plan/finance scheme and the supervisory measures taken in deteriorating financial conditions are tailored to the particular company and their specific situation. • The proposal provides leeway for supervisors to request any additional information for any particular period outside of the Solvency II regular reporting requirements – it should make clear that such requests should be focused to what is necessary and take into account the cost and impact during deteriorating financial conditions of providing additional reporting. 	
Legal background		
Recovery plan and finance scheme: analysis	<p>The IRSG agrees that it should be possible for an undertaking to submit one recovery plan/finance scheme that covers both the recovery from the non-compliance with the MCR and with the SCR.</p> <p>In the first sentence of the third paragraph on p. 7, second line, the reference should be to the "information about the expected overall financial situation of the undertaking at the end of the recovery period".</p> <p>With reference to paragraph 4 and the scope for supervisors to request both prospective SCR and MCR regardless of whether the undertaking has to submit a recovery plan or finance scheme - this is unacceptable. Any extension in scope should be justified as there is a prospective SCR in the ORSA, and the finance scheme includes both a prospective SCR and MCR.</p>	
Content of the recovery plan and finance scheme (1)	<p>The IRSG agrees that undertakings should avoid the use of "quick fixes" that may lead to another non-compliance of the SCR or MCR in the short time following the recovery period. Supervisors should make sure that the measures they impose on undertakings do not lead them to use "quick fixes", which will likely lead to further non-compliance.</p>	

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	<p>We also propose that paragraph (1)(e) should be deleted due to the following reasons:</p> <ul style="list-style-type: none"> • Article 138(3) of the Directive already requests a SCR ratio $\geq 100\%$ and that non-compliance should only be averted for the following three months. • Furthermore, requesting to avert another non-compliance of the SCR or MCR in the following three months suggests that an additional capital buffer is needed on top of the SCR. This measure is not acceptable. <p>Further redrafting suggestions for this section:</p> <ul style="list-style-type: none"> - littera a): it is unclear what is meant with the concept of "former split" - littera d): the text should read: "remedial measures which the insurance or reinsurance undertaking concerned has already..." - littera e): last line: "following the end of the recovery period" 	
Content of the recovery plan and finance scheme (2)	Redrafting suggestion: "....the insurance or reinsurance undertaking concerned should provide..."	
Forecast balance sheet and estimates		
Overall reinsurance policy	Redrafting suggestion: "... any changes the insurance or reinsurance undertaking concerned proposes to introduce with regard to its reinsurance policy and shall include information..."	
Non-compliance with both the MCR and the SCR at the same time		
Approval of the recovery plan and	<ul style="list-style-type: none"> • Paragraph 2 should be deleted: Article 138(3) of the Directive already requests a SCR ratio $\geq 100\%$ and that non-compliance should only be averted for the following three months. 	

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finance scheme

- Furthermore, requesting to avert another non-compliance of the SCR or MCR in the following three months suggests that an additional capital buffer is needed on top of the SCR. This measure is not acceptable.
- Supervisors should make sure that the measures they impose on undertakings do not lead them to use “quick fixes”, which will likely lead to further non-compliance

Paragraph 3 does not address the case if the supervisory authorities have the resources to analyse and give feedback to the undertaking submitting the recovery plan/finance scheme in time, particularly where it cannot be approved for the first time. It should be acknowledged that deadlines for feedback to the undertaking are very tight and that the supervisors should ensure that the response time is as short as possible.

Paragraph 4 does not address the case if the combined recovery plan and finance scheme are partially rejected, and the deadline for the submission period expires prior to the undertaking re-submitting part of the combined recovery plan and finance scheme that was originally rejected. The comment from paragraph 3 on tight deadlines also applies here.

We also suggest the following redrafting suggestions to the text:

- under (1) c): “...the future solvency capital requirement or minimum capital requirement...” (delete “s”)
- under (1) d): “... or reduce its risk profile within the recovery period...” (delete “in”)
- under (2) second line: “... on the basis of the information supplied, **it** considers it likely...”
- under (4) second line: “... the supervisory authority may **decide to** only approve ...”

Supervisory powers
in deteriorating
financial

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conditions:analysis		
Supervisory powers in deteriorating financial conditions (1)	<p>The supervisor should provide justification if they impose additional reporting requirements. These additional reporting requirements should only contain the necessary numbers to assess the progress made in deteriorating financial conditions. Additionally, there should be a balance between the quality and reliability of the estimates (the shorter the reporting period, the rougher the estimate).</p> <p>Redrafting suggestion under d): "...the financial situation of the insurance or reinsurance undertaking concerned"</p>	
Supervisory powers in deteriorating financial conditions (2)	<p>When supervisors consider imposing additional reporting requirements, it should be justified and the additional reporting should only be what is deemed necessary to assess the progress made in deteriorating financial conditions. It should be taken into consideration that the shorter the reporting period the less quality and reliability of the estimates can be expected.</p>	
Supervisory powers in deteriorating financial conditions (3)	<p>Redrafting suggestion: "... shall withdraw the authorisation of the insurance or reinsurance undertaking concerned"</p>	
Supervisory powers in deteriorating financial conditions (4)	<p>Redrafting suggestion: "...any remedial measures the insurance or reinsurance undertaking concerned..."</p>	
Supervisory powers in deteriorating financial conditions (5)	<p>Redrafting suggestion: "...the financial conditions of the insurance or reinsurance undertaking concerned at short..."</p>	
Annex I – General Comment		

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Annex I - Section 1		
Annex I - Section 2		
Annex I - Section 3		
Annex I - Section 4		
Annex I - Section 5		
Annex I - Section 6		