

Comments Template on EIOPA-CP-14-053 Consultation Paper on the draft proposal for Implementing Technical Standards on capital add-ons		Deadline 02.Mar.2015 23:59 CET
Company name:	GDV	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. 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.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, 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-14-053.</p>		
Reference	Comment	
General Comment	GDV welcomes the opportunity to comment on the draft proposal for implementing technical standards on capital add-ons. In general, GDV has two concerns about the procedures to decide on setting, calculating and removing capital add-ons:	

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	<ul style="list-style-type: none"> • first, the lack of harmonisation concerning time frames for insurance undertakings to respond to changes or notifications of capital add-ons (Articles 1, 3 and 4); • second, the far-reaching cooperation and information requirements (Article 2). 	
Recital 1		
Recital 2		
Recital 3		
Article 1 (1)		
Article 1 (2)	<p>The ITS should include a minimum time period to be allowed for insurance undertakings to respond to capital add-on notifications. Hence, GDV asks EIOPA to amend Article 1 (2) of the ITS by the following:</p> <p><i>"The supervisory authority shall specify a timeframe, taking into consideration the severity of the deviation concluded, for the insurance or reinsurance undertaking to respond to the notification of a capital add-on. The timeframe should be no less than 1 month."</i></p>	
Article 1 (3)	GDV views critically the option for supervisory authorities to be able to set capital add-ons without notifying insurance or reinsurance undertakings. This could lead to arbitrary decisions and legal uncertainty and makes it very difficult for undertakings to respond and comply to decisions about capital add-ons.	
Article 2	The scope of Article 2 seems to go beyond what is necessary and what is required by the legal texts. The obligation to supply " <i>any relevant information</i> " goes beyond what is stated in Level 1 and Level 2 legal texts. In particular, Article 35 (1) and (2) of the Solvency II Directive clearly state that the mandate for implementing such rules lies with member states as both paragraphs begin with " <i>member states shall ...</i> ". Henceforth, the consultation papers of the ITS can only cover how the information shall be processed and transmitted to the national supervisory authorities as stated in Article 35 of the Solvency II Directive. Thus, a mandate to set up substantial and relevant information requests like the one in Article 2 of the ITS cannot be derived from Article 35 of the Solvency II Directive. In addition, we note that such regulation requesting extensive information also	

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	<p>has no foundation in Article 37 of the Solvency II Directive and Article 276 et seqq. of the Delegated Acts. The planned request for cooperation and sharing of “any relevant information” in Article 2 of the ITS is too far-reaching and should be deleted or diminished.</p> <p>Instead, the supervisory authorities should use the already supplied information by the insurance undertakings from other various reporting requirements to conduct their supervision.</p> <p>As a minimum, the process in terms of documentation requested has to be clearly delineated and linked to the deficiency so that the supervisor is not in a position to have unlimited leeway in its requests.</p>	
Article 3 (1)	The timeframe for any information request addressed to the insurance or reinsurance undertaking should be adequate and usually not less than 1 month. It should be stated clearly that the timeframe has to be adequate. It should be mentioned explicitly that the supervisory authority shall take into account “the extent and complexity of the requested information, its importance for the decision, the severity of the deficiencies and the urgency of the proceeding of setting a capital add-on.”	
Article 3 (2)		
Article 4 (1)		
Article 4 (2)	<p>When determining the date from which the capital add-on shall be applicable, the supervisory authority should take into account a reasonable time frame for insurance undertakings to be able to comply. Insurance and reinsurance undertakings need enough time to accommodate the decision of the supervisory authority to set capital add-ons, and to proceed with measures to comply.</p> <p>Hence, GDV asks EIOPA to amend the following to indent (c): “<i>The supervisory authority should consider a reasonable time frame in determining the date from which the capital add-on is applicable.</i>”</p>	
Article 5		
Article 6 (1)		
Article 6 (2)		
Article 7		

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Article 8 (1)		
Article 8 (2)		
Article 9 (1)		
Article 9 (2)		
Annex I general		
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