| | | Deadline<br>02.Mar.2015<br>23:59 CET |
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| | **Comments Template on EIOPA-CP-14-053**<br>**Consultation Paper on the draft proposal for Implementing Technical Standards on**<br>**capital add-ons** | |
| Company name: | Insurance and Reinsurance Stakeholder Group (IRSG) | |
| Disclosure of comments: | EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.<br><br>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 |
| | Please follow the instructions for filling in the template:<br><br>⇨ Do **not** change the numbering in column "Reference".<br>⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph, keep the row empty.<br>⇨ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below.<br>     o 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.<br>     o If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself.<br><br>**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).**<br><br>The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-053. | |
| **Reference** | **Comment** | |
| General Comment | The IRSG welcomes the opportunity to comment on this ITS on capital add-on.<br><br>• The IRSG welcomes the level of transparency and documentation required by supervisors when setting capital add-ons.<br>• Article 1(3) should be deleted as it could lead to arbitrary decisions, since according to this | |

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| | paragraph the supervisory authority would have the option not to notify the imposition of a capital add-on. It is unjustifiable that supervisors deem a notification to be unnecessary and impose a capital add-on without further reasoning. This cannot be warranted as undertakings should have the option to respond.<br><br>• There is no consistency in the timeframes for undertakings to respond after the notification of a capital add-on which in the context of a group, can result in an inconsistent treatment of comparable undertakings.<br><br>• The ITS should make clear that a capital add-on should be the last resort supervisory measure as set out in the Directive (Recital 27 and Article 37).<br><br>• Supervisors should establish a board of appeal for undertakings, where a process of appeal does not currently exist.  At the board of appeal undertakings can dispute decisions taken by supervisors on capital add-on amounts, notification periods, timeframes, communication, and decisions to change or sustain a capital add-on. This is especially important where supervisors take decisions without reaching an agreement with the undertaking first. | |
| Recital 1 | | |
| Recital 2 | | |
| Recital 3 | | |
| Article 1 (1) | Redrafting suggestion:<br><br>p. 7 Article 1 (1) second line: delete the word "concerned". | |
| Article 1 (2) | This article should include a minimum time to be allowed for companies to respond to capital-add on notifications.<br><br>It is unclear why the timeframe for the undertaking to respond to a notification of the imposition of a capital add-on is left for national discretion. This is especially problematic for comparable undertakings belonging to the same group, where there can be differences in the timeframe given to respond to a supervisory notification about imposing a capital add-on.  A possible resolution would be | |

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| | to set a minimum timeframe in the ITS such that the same deficiencies are granted the same consideration by the supervisor, but also the group in its entirety. | |
| Article 1 (3) | According to this paragraph the supervisor would have the option not to notify the imposition of a capital add-on.  In any case, prior to setting a capital add-on, the supervisory should inform the undertaking concerned of its intention (together with the reasons for  setting a capital add-on). Therefore, this paragraph should be deleted since it could lead to arbitrary decisions. | |
| Article 2 | The obligation for undertakings to provide "any relevant information" appears onerous.  The supervisor should only request information related to their decision to calculate, set or remove the capital add-on.  Documentation requirements should be defined clearly in this manner, such that it does not allow the supervisor to have unlimited flexibility in their requests.  We therefore request to have the word "any" removed from this sentence. | |
| Article 3 (1) | | |
| Article 3 (2) | | |
| Article 4 (1) | | |
| Article 4 (2) | | |
| Article 5 | | |
| Article 6 (1) | It is in the best interest of the undertaking to ensure that the capital add-on is removed as soon as possible.  It is therefore expected that undertakings will update the supervisors continuously on the progress made and that the supervisors' will remove the capital add-on in a timely manner, when it is no longer justified. | |
| Article 6 (2) | | |
| Article 7 | | |
| Article 8 (1) | | |
| Article 8 (2) | | |
| Article 9 (1) | | |

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| Article 9 (2) | | |
| Annex I general | | |
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