

Comments Template on Consultation Paper on the proposal for implementing technical standards with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items

**Deadline
30 June 2014
23:59 CET**

Name of Company:	AMICE	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ 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 numbers below. <p>Please send the completed template, <u>in Word Format</u>, to CP-14-004@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering refers to the Consultation Paper on the proposal for implementing technical standards with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items.</p>		
Reference	Comment	
General Comments	<p>AMICE welcomes the opportunity to comment on this Consultation Paper on the Implementing Technical Standards with regards to the Supervisory Approval to use Undertaking Specific Parameters.</p> <p>The time frames for each phase of the approval process should be reasonable and should not take longer than 3 months in exceptional circumstances (1 month to decide if the application is complete and 2 months to take a decision). In normal circumstances this period should be limited to 2 months (1+1). EIOPA should bear in mind that the timescales by which the ancillary own-fund items might be required can</p>	

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	<p>be very short. These funds can be required when an undertaking breaches the SCR, during stress periods and as part of the recovery plan required by the supervisor authority which will most of time be on a 9 months time frame. In times of stress, the approval period for ancillary own funds should be shortened to 2 weeks.</p> <p>EIOPA should not allow the supervisory authorities to extend the consideration period. Should the supervisory authorities remain silent after the consideration period has elapsed, the ancillary own fund item should be considered as approved.</p> <p>We welcome the explicit inclusion of the principle of proportionality. We are alerted, however, by the fact that reference to proportionality is made here only in the Impact Assessment section and with regard to the complexity of the ancillary own fund item for which approval is sought. What we miss is a clear commitment to proportionality also in the supporting evidence to be provided and in the area of procedures for supervisory authorities.</p> <p>We disagree with the requirement to inform in the cover letter about other applications submitted by the firm. We do not see how this can provide useful information for assessing the approval of ancillary own funds.</p>	
Recital (1)		
Recital (2)		
Recital (3)		
Recital (4)		
Recital (5)		
Recital (6)		
Recital (7)		
Recital (8)		
Recital (9)		

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Article 1		
Article 2	The " <i>material facts</i> " definition seems to be too general; We suggest rewording this paragraph so that only facts which can significantly impact the supervisor's decisions are included under the scope of material facts.	
Article 3 (1)		
Article 3 (2)		
Article 3 (3)		
Article 3 (4)		
Article 3 (5)	The requirement that the application letter should be signed by persons on behalf of the AMSB is not in line with either the Level 1 or the Level 2.	
Article 4 (1)	EIOPA writes in paragraph 1 c) that the " <i>economic substance</i> " of a potential ancillary own-fund item, including how the item provides basic own funds once called, should be fully reflected in the application. In paragraph 1b) EIOPA states that the assessment of the ancillary own fund should be prudent and realistic. Further guidance is needed on how these two concepts should be combined; Should " <i>economic substance</i> " be understood as a " <i>realistic consideration</i> " or in line with the economic balance sheet approach?	
Article 4 (2)	We disagree with the requirement to inform in the cover letter about other applications submitted by the firm. We do not see how this can provide useful information for assessing the approval of ancillary own funds.	
Article 5 (1)	EIOPA is requiring firms to submit confirmation that national law, in any relevant jurisdiction, does not prevent a call being made including in the case where resolution, administration or insolvency proceedings have been initiated against the firm. This sentence should be deleted, because this should be the task of the supervisors. Ancillary own funds are often used during " <i>deteriorating financial conditions</i> " so point (e) seems to be in contradiction with those objectives and overly burdensome for firms.	

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Article 5 (2)	In paragraph 2(a) the term "affiliated arrangements" can be replaced by "commitments" as the translation seems to be a problem in several countries	
Article 5 (3)	The requirements in paragraph 3) (c) have been also included in article 4-1d) and article 5-2b). We suggest deleting this paragraph .	
Article 5 (4)		
Article 5 (5)		
Article 5 (6)		
Article 5 (7)		
Article 5 (8)		
Article 6		
Article 7 (1)		
Article 7 (2)		
Article 7 (3)		
Article 7 (4)	Supervisory authorities should do everything in their power to reach a decision on the application as quickly as possible and within one month of receipt of the complete application.	
Article 7 (5)	The time frames for each phase of the approval process should be reasonable and should not take longer than 3 months in exceptional circumstances (1 month to decide if the application is complete and 2 months to take a decision). In normal circumstances this period should be limited to 2 months (1+1). EIOPA should bear in mind that the timescales by which the ancillary own-fund items might be required can be very short. These funds can be required when an undertaking breaches the SCR, during stress periods and as part of the recovery plan required by the supervisory authority which will generally be on a 9 month time frame. In times of stress, the approval period for ancillary own funds should be shortened to 2 weeks.	
Article 7 (6)		

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Article 7 (7)	The "stop-the clock" mechanism (the time required to submit further information) is not in line with the Level 1 text and it could significantly delay the whole process. We suggest deleting this paragraph .	
Article 7 (8)		
Article 7 (9)		
Article 7 (10)		
Article 8 (1)		
Article 8 (2)		
Article 8 (3)	EIOPA should not allow the supervisory authorities to extend the consideration period. Should the supervisory authorities remain silent after the consideration period has elapsed, the ancillary own fund item should be considered as approved.	
Article 9 (1)		
Article 9 (2)		
Article 10 (1)		
Article 10 (2)		
Explanatory Text		
Annex I Section 1		
Annex I Section 2		
Annex I Section 3		
Annex I Section 4		
Annex I Section 5		
Annex I Section 6		
Annex I Overall Conclusion		