

**Consultation Paper
on
the proposal for
Implementing Technical
Standards
On the procedures to be
followed for the approval of the
application of a matching
adjustment**

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1. Responding to this paper

EIOPA welcomes comments on the Implementing Technical Standards on the procedures to be followed for the approval of the application of a matching adjustment.

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-14-007@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. 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 Implementing Technical Standards in accordance to Article15 of the EIOPA Regulation.

This Consultation Paper is being issued on the procedures to be followed for the approval of the application of a matching adjustment.

This Consultation Paper presents the draft Implementing 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 Standards 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 .../.. of [date] laying down
implementing technical standards with regard to the procedures to be followed for the
supervisory approval of the application of a matching adjustment according to Article 77b(1)
of Directive 2009/138/EC of the European Parliament and of the Council**

of XXX

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/138/EC of 25 November 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 86 thereof.

Whereas:

- (1) Article 77b of Directive 2009/138/EC allows insurance and reinsurance undertakings to apply a matching adjustment to the relevant risk-free interest rate term structure, subject to prior approval by the supervisory authorities where the relevant conditions are met.
- (2) The present Regulation establishes the procedures to be followed for the approval of the application of a matching adjustment.
- (3) In order for an application to be considered complete, it should include all relevant information necessary for an assessment and decision by the supervisory authority. To provide a harmonised basis for assessment and decision by supervisory authorities, an application should include evidence demonstrating that each of the conditions set out in Article 77b of Directive 2009/138/EC are met, as set out in Articles 3 to 6 of this Regulation.
- (4) The procedures to be followed envisage ongoing communication between the supervisory authorities and insurance and reinsurance undertakings. This includes communication before a formal application is submitted to the supervisory authorities and, after an application has been approved, through the supervisory review process. Such ongoing communication is necessary to ensure that supervisory judgements are based on relevant and up-to-date information and evidence.
- (5) To ensure a smooth and efficient process, supervisory authorities should be able to request that insurance and reinsurance undertakings make alterations to an application before deciding whether to accept or reject that application.
- (6) The provisions shall apply in a consistent manner for groups and solo undertakings.

² OJ L 335, 17.12.2009, p.1-155

- (7) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (8) 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 Insurance and Reinsurance Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010.

HAS ADOPTED THIS REGULATION:

Article 1 - Subject matter and scope

- (1) This Regulation lays down the procedures to be followed for the approval of the application of a matching adjustment referred to in Article 77b of Directive 2009/138/EC.

Article 2 – Application to use a Matching Adjustment

- (1) Insurance and reinsurance undertakings applying to use a matching adjustment shall submit a written application for prior supervisory approval.
- (2) The application shall be submitted in one of the official languages of the Member State in which an insurance or reinsurance undertaking has its head office, or in a language previously authorised by the supervisory authority, and shall contain at least the information required by Articles 3 to 6 of this Regulation.
- (3) Insurance and reinsurance undertakings shall ensure that the application includes any other relevant information that may be necessary for an assessment and decision by the supervisory authority.
- (4) Where a single application is submitted in respect of more than one portfolio of insurance or reinsurance obligations, the application shall set out the evidence required by Articles 3 to 6 of this Regulation separately for each portfolio that is covered by the application.
- (5) The application shall be approved by the administrative, management or supervisory body of the insurance or reinsurance undertaking. Documentary evidence of this approval shall be submitted.

Article 3 – Content of the Written Application relating to the Assigned Portfolio of Assets

- (1) In relation to the assigned portfolio of assets required by Article 77b(1)(a) of Directive 2009/138/EC, the application shall include at least the following:
 - (a) evidence that the assigned portfolio of assets meets all of the relevant criteria specified in Article 77b(1) of Directive 2009/138EC;

- (b) details of the assets within the assigned portfolio, which shall consist of line-by-line asset information together with the procedure used to group such assets by asset class, credit quality and duration for the purposes of determining the fundamental spread referred to in paragraph 1(b) of Article 77c of Directive 2009/138/EC;
- (c) a description of the process used to maintain the assigned portfolio of assets in accordance with Article 77b(1)(a) of Directive 2009/138/EC, including the process for maintaining the replication of expected cash-flows where these have materially changed.

Article 4 – Content of the Written Application relating to the Portfolio of Insurance or Reinsurance Obligations

- (1) In relation to the portfolio of insurance or reinsurance obligations to which the matching adjustment is intended to apply, the application shall contain at least the following:
 - (a) evidence that the insurance or reinsurance obligations meet all of the criteria specified in Article 77b(1)(d), (e), (g) and (j) of Directive 2009/138/EC;
 - (b) where mortality risk is present, quantitative evidence that the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5% under the mortality risk shock specified in [Article 42].

Article 5 – Content of the Written Application relating to Cash-flow Matching and Portfolio Management

- (1) In relation to the cash-flow matching and management of the eligible portfolio of obligations and the assigned portfolio of assets, the application shall contain at least the following:
 - (a) quantitative evidence that the criteria of Article 77b(1)(c) of Directive 2009/138/EC are met, including a quantitative and qualitative assessment of whether any mismatch gives rise to risks which are material in relation to the risks inherent in the insurance business to which the matching adjustment is intended to be applied;
 - (b) evidence that adequate processes are in place to properly identify, organise and manage the portfolio of obligations and assigned portfolio of assets separately from other activities of the undertaking, and to ensure that the assigned assets will not be used to cover losses arising from other activities of the undertaking, in accordance with Article 77b(1)(b) of Directive 2009/138/EC;
 - (c) evidence that the own funds have been adjusted in accordance with [Article 70 RFFOF2] to reflect any reduced transferability;

- (d) evidence that the Solvency Capital Requirement appropriately reflects any reduced scope for risk diversification. Where relevant this shall include evidence of compliance with [Articles 194 RFFSCR1 and 195 RFFSCR2].

Article 6 – Additional Content of the Written Application

- (1) In addition to the material specified in Articles 3 to 5 of this Regulation, the application shall also include:
- a) confirmation that the conditions of Article 77b(3) of Directive 2009/138/EC are met;
 - b) the liquidity plan required under Article 44(2) of Directive 2009/138/EC;
 - c) the assessments required under Article 44(2a)(b) of Directive 2009/138/EC;
 - d) the assessments required under Article 45(2a) of Directive 2009/138/EC;
 - e) a detailed explanation and demonstration of the calculation process used to determine the matching adjustment in accordance with the requirements of Article 77c of Directive 2009/138/EC;
 - f) information about other applications submitted by the insurance or reinsurance undertaking, or currently foreseen within the next six months, for approval of any of the items listed in Article 308a(2) of Directive 2009/138/EC, together with the corresponding application dates.

Article 7 – Assessment of the Application

- (1) The supervisory authority shall confirm receipt of the application of the insurance or reinsurance undertaking. The supervisory authority shall not consider an application to be complete until the application contains all of the evidence required by Articles 2 to 6 of this Regulation. Where the supervisory authority has considered an application to be complete, this shall not prevent the supervisory authority from requesting additional evidence relevant for the purpose of its assessment and decision, should this be necessary during the assessment.
- (2) Within 30 days of the receipt of an application, the supervisory authority shall determine whether the application is complete and communicate this in writing. Where an application is determined to be incomplete, the supervisory authority shall specify what additional information and evidence is required to complete the application.
- (3) The assessment of the application shall involve ongoing communication with the insurance or reinsurance undertaking and may include requests for adjustments from supervisory authorities to the way the undertaking proposes to apply a matching adjustment. If the supervisory authority determines that it is possible to approve the application of a matching adjustment subject to adjustments to the application being made, it may notify this to the insurance and reinsurance undertaking.

- (4) The supervisory authority shall ensure that the time period to consider the application and communicate its decision does not exceed 6 months from the receipt of the complete application.
- (5) Notwithstanding paragraph 4, the days between the date the supervisory authority requests further evidence or adjustments and the date the supervisory authority receives such information shall not be included within the period of time stated in paragraph 4.
- (6) Failure by the supervisory authority to make a decision within the period referred to in paragraph 5 shall not result in the application being considered as approved.
- (7) Insurance and reinsurance undertakings shall ensure that all the evidence required by the supervisory authority is made available to it, including in electronic form, throughout the assessment of the application.
- (8) If, following a request from the supervisory authority for further evidence or adjustments, an undertaking makes a change to its application, this shall not be considered as a new application.
- (9) Where an undertaking informs the supervisory authority of a change to its application other than in the situation described in paragraph 8 above, this shall be treated as a new application unless the supervisory authority considers that the change does not significantly affect the assessment and decision on the approval of the application within the time period set out in paragraph 3.
- (10) An undertaking may withdraw an application by notification in writing at any stage prior to the decision of the supervisory authority. In the case that an application is withdrawn, any updated or resubmitted application shall be treated as a new application.

Article 8 – Decision on the application

- (1) The supervisory authority shall only approve an application for the use of a matching adjustment if, on the basis of the written application, and any additional information received, the criteria set out in Article 77b and the calculation requirements set out in Article 77c of Directive 2009/138/EC are satisfied.
- (2) The supervisory authority may consider other factors relevant to the use of a matching adjustment by insurance and reinsurance undertakings when reaching a decision on the approval of the application.
- (3) The supervisory authority's decision as to whether to approve the application shall be communicated in writing in the same language as the application.
- (4) Where a single application has been received in respect of more than one portfolio of insurance or reinsurance obligations, the supervisory authority may decide to approve the application in respect of some but not all of the portfolios included in the application. In this

case, the written communication of the decision shall specify to which portfolios of insurance and reinsurance obligations a matching adjustment can be applied.

- (5) Where the supervisory authority decides to reject an application, for some or all of the portfolios included within an application, it shall state clearly the reasons for this decision.
- (6) Insurance and reinsurance undertakings shall not use a matching adjustment for a portfolio until its application in respect of that portfolio has been assessed and approved by the supervisory authority. Insurance and reinsurance undertakings shall not consider an application in respect of a portfolio to have been approved until written notification of the approval has been received from the supervisory authority.

Article 9 – Revocation of approval by the supervisory authority

- (1) Where the supervisory authority considers that an insurance or reinsurance undertaking with approval to use a matching adjustment has ceased to comply with the conditions set out in Articles 77b or 77c of Directive 2009/138/EC, it shall inform the insurance or reinsurance undertaking immediately and explain the nature of the non-compliance. In this case, the insurance or reinsurance undertaking shall:
 - a) restore compliance with these conditions within two months;
 - b) remedy any governance failure that led to the non-compliance with these conditions not being identified or reported to the supervisory authority in accordance with Article 77b(2) of Directive 2009/138/EC;
 - c) and demonstrate to the satisfaction of the supervisory authority that it has done so.
- (2) Where an insurance or reinsurance undertaking is unable to restore compliance with the conditions specified in Article 77b and 77c of Directive 2009/138/EC within two months, it shall cease applying the matching adjustment to any of the insurance or reinsurance obligations within the portfolio(s) for which these conditions have been breached. The insurance or reinsurance undertaking shall not apply the matching adjustment to the relevant portfolio(s) again for a period of 24 months, and then only after prior approval by the supervisory authority in accordance with the procedures set out in Articles 2 to 8 of this Regulation.

Article 10 - Entry into force

- (1) 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

Procedural issues and consultation of interested parties

This impact assessment was developed by EIOPA during the drafting of the implementing technical standards (ITS) on procedures to be followed for approval of the application of a matching adjustment. It presents the key policy questions and associated policy options that were considered when developing the draft ITS.

Problem definition

Article 77b of Directive 2009/138/EC permits insurance and reinsurance undertakings to apply a matching adjustment to the relevant risk-free interest rate term structure when calculating the best estimate of a portfolio of life insurance or reinsurance obligations, including annuities stemming from non-life insurance or reinsurance contracts, subject to prior approval by the supervisory authorities where certain specified conditions are met.

The principles for the calculation of the matching adjustment are specified in Article 77c.

The ITS specify the procedures to be followed by:

- Insurance and reinsurance undertakings when applying for approval of the use of a matching adjustment; and
- supervisory authorities in considering approval for the use of a matching adjustment.

In the absence of an ITS specifying the procedure for supervisory approval of the matching adjustment, supervisory authorities and insurance and reinsurance undertakings would need to make their own interpretation of the Level 1 and Level 2 requirements for this procedure.

This could result in very different interpretations of the Solvency II regulatory text, not just between undertakings and national supervisory authorities within a Member State, but also between stakeholders in different Member States. This could result in a lack of harmonisation and consistency in supervisory practices across Member States, hindering effective competition.

For the supervisory authority to assess an application against the required criteria, they must have access to a well-documented written application that provides full, clear and accurate information. Documentation also helps to aid transparency and creates an audit trail for supervisory decision-making and judgement.

To maximise efficient use of resources and to ensure a process that is proportionate and focused, there is a need for clear, on-going communication between undertakings and supervisory authorities during the application process. For transparency and clarity, important decisions should be communicated in writing.

Once a complete application has been received, the supervisory authority must make a decision on the application and communicate that decision within a reasonable

amount of time. There is a trade-off between allowing the supervisory authority enough time to make a considered decision, and providing a timely response to the undertaking. Because of differences in national administrative law, it is also necessary to set out clearly how an undertaking should interpret the situation where a supervisory authority does not reach a decision on the application before the expiry of the allotted time period.

After an undertaking has received initial approval to use a matching adjustment, there may be changes, for example to the assigned portfolio of assets or obligations, to the undertaking's risk profile, or to the way that the undertaking wishes to identify, organise and manage the matched portfolio. These changes may impact the calculation, size or application of the matching adjustment without necessarily making the undertaking ineligible to apply the matching adjustment to the portfolio. The supervisor will need to be confident that following any changes, the undertaking remains eligible to apply the adjustment.

Baseline

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

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 2009/138/EC and any amendment already agreed to it; and
- where relevant, and provided 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 of Level 2 delegated acts and technical standards developing the aforementioned directive.

Section 3. Objectives pursued

Policy Objective:

Consistent implementation of the approval process for the Matching Adjustment across Member States, including: the required evidence; the factors for the supervisor to consider; the timeframes; and the communication between undertakings and supervisors.

This policy objective corresponds to the following specific and general objectives for the Solvency II Directive:

Specific objectives

- advance supervisory convergence and cooperation; and
- improved risk management of EU insurers.

General objectives

- enhanced policyholder protection.

Section 4. Policy Options

Note on options discarded during the policy-making process

EIOPA has received legal feedback that an approval process that does not refer to specific, already existing portfolios is incompatible with the Level 1 Directive. Therefore, other approaches (e.g. approaches involving the granting of approval for prospective portfolios) have not been considered as available policy options.

EIOPA has also received confirmation that the Level 1 Directive requires the verification of the conditions to be met to apply a matching adjustment for each relevant portfolio during the approval process. Therefore other approaches (e.g. approaches involving a general assessment of the ability of insurance and reinsurance undertakings to meet the conditions for using a matching adjustment) have not been considered as available policy options.

Note on areas of the ITS where there is no policy alternatives

For certain aspects of the ITS, EIOPA does not consider that there was any policy alternative. This is particularly the case for aspects of the ITS that directly reflect the requirements of the Level 1 and Level 2 Text. For example, the required content of the application set down in Articles 2 to 6 of the ITS reflects the eligibility criteria in Article 77b. The requirement to demonstrate how the calculation of the Matching Adjustment has been performed is necessary to ensure the undertaking's compliance with Article 77c. The liquidity plan, sensitivity analysis and ORSA assessment of on-going compliance with capital requirements are risk management tools that are required of all undertakings using a matching adjustment, and provide additional evidence as to whether the use of a matching adjustment is appropriate.

Policy issue 1: Structure of the written application (Articles 2 to 6)

Option A: Specify what information must be provided in an application, but allow undertakings freedom over the documentation format.

Option B: Specify a standardised template in which the required information should be submitted.

Policy issue 2: Ability to submit a single written application for multiple portfolios of obligations (Article 2.4)

Option A: Allow undertakings to submit a single application in respect of multiple portfolios of insurance or reinsurance obligations (provided the evidence required for each portfolio is set out separately).

Option B: Require a separate application for each portfolio of insurance or reinsurance obligations.

Policy issue 3: Time limit to determine whether an application is complete (Article 7.2)

Option A: Specify that a supervisory authority should determine whether an application is complete within 30 days of receiving the application.

Option B: No prescribed time limit for a supervisory authority to determine that an application is complete.

Policy issue 4: Time limit to assess and decide on an application (Article 7.4)

Option A: Specify that the time taken by the supervisory authority to assess and decide on an application should not exceed six months.

Option B: No prescribed time limit for the supervisory authority to assess and decide on a complete application.

Policy issue 5: Interpretation of silence of the supervisory authority (if no decision is reached or communicated within the time limit) (Article 7.6)

Option A: Specify that silence by the supervisory authority does not imply acceptance of an application.

Option B: Do not specify the meaning of the supervisory authority's silence; the interpretation follows the usual practice of national administrative law.

Policy issue 6: Copy of documentation and evidence in electronic format (Article 7.7)

Option A: Require a copy of all documentation and evidence to be provided in electronic format.

Option B: Do not require a copy of all documentation and evidence to be provided in electronic format.

Policy issue 7: Time taken by undertakings to provide any further evidence or adjustments requested by the supervisory authority (Article 7.5)

Policy option A: The time taken by the undertaking to provide the supervisory authority with further evidence or to execute the adjustments is not included within the overall time period for a decision on the application (automatic 'stop-the-clock' mechanism)

Policy option B: When the supervisory authority requests further evidence or adjustments the undertaking may request a suspension of the time period for a decision on the application ('stop-the-clock' mechanism only at the request of the undertaking)

Policy issue 8: Request for adjustments to an application (Article 8.3)

Option A: Rather than providing only a "yes/no" decision, allow supervisory authorities to request adjustments to an application, or to notify an undertaking that it would be possible to approve an application subject to certain adjustments.

Option B: Require supervisory authorities to provide only a "yes/no" decision to undertakings that have applied to use a matching adjustment.

Section 5. Analysis of Impacts

Policy issue 1: Structure of the written application (Articles 2 to 6)

Option A: Specify the required information to be provided in an application, but allow undertakings freedom regarding how the information is documented.

- Benefits
 - Provides flexibility in preparation of matching adjustment applications by undertakings.
 - Ensures that relevant information is not omitted from an application solely because a request for that information does not appear in the template.
 - Information relating to an application to use a matching adjustment is undertaking-specific. A free-form application containing the required information allows the undertaking-specific nature of the matching adjustment portfolio to be fully reflected in the application.
- Costs
 - No costs identified for EIOPA or policyholders.
 - Potential small additional cost for supervisory authorities due to inconsistency between applications submitted by different undertakings. This could translate into a small additional cost for undertakings because of a slight delay in receiving a decision on (a) whether the application is complete and (b) whether the complete application is approved.

Option B: Provide a standardised template on which the required information should be submitted.

- Benefits

- A standardised template provides consistency between applications submitted by different undertakings. It may also allow supervisory authorities to identify missing information in applications more quickly.
- A standardised template may lead to fewer incomplete applications submitted to supervisory authorities. This could reduce administration costs, requests for additional information, and possibly expedite decisions by supervisory authorities.
- Costs
 - Development and maintenance of templates for the submission of required information would create resourcing costs for EIOPA.
 - A standardised template may not reflect the undertaking-specific nature of information required by supervisory authorities to consider an application to use a matching adjustment. As such, it would not rule out requests for additional information by supervisory authorities.
 - Adherence to standardised templates may obscure or divert attention away from matters of substance, restricting the supervisory authority's ability to reach a timely decision.

Policy issue 2: Ability to submit a single written application for multiple portfolios of obligations (Article 2.4)

Option A: Undertakings may choose to submit a single written application seeking approval to apply a matching adjustment in respect of multiple portfolios of insurance or reinsurance obligations (provided the evidence required for each portfolio is set out separately).

- Benefits
 - This option streamlines the application process, reducing the paperwork and submission costs incurred by undertakings seeking approval to apply a matching adjustment to multiple portfolios of obligations.
 - A single application may make it easier for undertakings to manage the application process. For supervisory authorities, fewer separate applications should reduce administrative burden and facilitate clearer communication with undertakings regarding their applications. This option still allows an undertaking to submit separate applications for separate portfolios if it wishes to do so, and thus does not restrict undertakings' choice in this respect.
- Costs
 - Potential cost to undertakings, in that a request by the supervisory authority for additional evidence in respect of one portfolio (or a subset of portfolios) will "stop the clock" on all other portfolios included in the application, regardless if no additional evidence is required in respect of those portfolios.
 - No costs identified for EIOPA, supervisory authorities, and policyholders.

Option B: A separate written application should be submitted in respect of each portfolio of obligations to which an undertaking wishes to apply a matching adjustment.

- Benefits
 - No additional benefits versus Option A have been identified for this option, as Option A permits undertakings to pursue this approach should they wish to do so.
- Costs
 - Mandating the use of separate written applications would potentially lead to additional costs for both undertakings (in preparation of multiple separate applications) and supervisory authorities (in consideration of multiple separate applications).

Policy issue 3: Upper limit of 30 days to determine whether an application is complete (Article 7.2)

Option A: The supervisory authority should determine whether an application is complete within 30 days of receipt of an application.

- Benefits
 - A 30 day period is consistent with the (solo) Internal Model Approval Process (IMAP). A 30 day period should provide a reasonable amount of time for a supervisory authority to check the evidence submitted with an application and decide on whether or not an application is complete.
 - The 30 day period represents an *upper limit*. For simple applications, supervisory authorities are free to communicate this decision to undertakings sooner.
 - A 30 day upper limit should lead to broadly consistent timeframes across different Member States for supervisory authorities to decide on whether applications are considered complete.
- Costs
 - A 30 day time limit might lead to additional costs for supervisory authorities, especially in the event of large volumes of applications being received in respect of the matching adjustment alongside other approval processes (e.g. IMAP, Ancillary Own Funds, etc.).

Option B: Do not specify a time limit in which a supervisory authority should determine whether an application is complete, and leave it to supervisory authorities to determine an appropriate time frame.

- Benefits
 - Potentially lower costs for supervisory authorities than Option A (as the supervisor can use its discretion to manage the resource burden of assessing a large volume of simultaneous applications).
- Costs
 - Under this option, undertakings would have far less clarity on the overall time required to receive a decision on a matching adjustment application.

- Under this option, there would be no way to ensure a consistent and harmonised timeframe in which supervisory authorities decide whether or not matching adjustment applications are considered complete.
- There is a risk that supervisory authorities take much longer than 30 days to decide on whether or not an application is considered complete. This could lead to increased cost via uncertainty and extra resource burden for undertakings.

Policy issue 4: Upper limit of 6 months on the consideration period of a written application (Article 7.4)

Option A: Specify within the ITS that the consideration period for applications should not exceed six months.

- Benefits
 - A consideration period capped at 6 months is consistent with the 6 month decision period allowed for the Internal Model Approval Process. As a matching adjustment application is very unlikely to be more complicated than an application to use an Internal Model, a decision period for the matching adjustment that is longer than the decision period for the Internal Model would be inappropriate. A six month decision period should provide a reasonable amount of time for a supervisory authority to come to a considered decision on even the most complex applications to use the matching adjustment.
 - For simpler applications where the full six month consideration period is not required to reach a decision, supervisory authorities are free to communicate their decision to undertakings sooner.
 - A six month cap should lead to broadly consistent consideration periods for assessment of matching adjustment applications between different Member States.
- Costs
 - A six month time limit might lead to additional costs for supervisory authorities (due to resource costs of meeting the deadline), especially if large volumes of applications are received simultaneously in respect of the matching adjustment and other approval processes (e.g. IMAP, AOF, etc.).

Option B: Do not specify a consideration period within the ITS, and leave it to supervisory authorities to determine an appropriate time frame.

- Benefits
 - This option would allow a supervisory authority the freedom to set the consideration period according to the specifics of each application, thereby allowing the administrative burden of considering the application to be managed and the consideration period being tailored to the complexity of the application.
- Costs
 - Under this option, there would be no way to ensure a consistent and harmonised timeframe between supervisory authorities. This may cause

particular difficulties and lead to increased costs for supervisory authorities in respect of group supervision.

- There is a risk that supervisory authorities take longer than 6 months to reach a decision on applications, especially during busy periods. This could lead to increased cost via uncertainty and extra resource burden for undertakings. It could also interfere with decisions on other applications (e.g. AOF, IMAP, etc.), leading to increased costs for both undertakings and supervisory authorities.

Policy issue 5: Silence of Supervisory Authority after 6 months should not be taken as approval (Article 7.6)

Option A: Silence after the consideration period is not taken as acceptance, consistently across all jurisdictions.

- Benefits
 - This option would ensure that if the consideration period ends and a supervisory authority has not yet reached a decision, an undertaking will not incorrectly conclude that its application has been approved.
 - It would also ensure consistency between jurisdictions.

- Costs
 - No costs identified for EIOPA or policyholders.
 - Should a supervisor fail to reach a judgement after 6 months, they will need to communicate this to the undertaking. As the undertaking cannot take silence to indicate approval, they may incorrectly assume that silence indicates a rejection of the application.

Option B: Supervisors follow the usual practice of their local jurisdiction.

- Benefits
 - This option would ensure that once the consideration period has ended, the undertaking could draw a conclusion (according to usual local practice) if it does not receive any communication from the supervisor. The treatment of the matching adjustment application would be consistent with local practice for other similar regulatory applications.

- Costs
 - The conclusion the undertaking draws may not actually match the decision the supervisory authority wishes to make (albeit that the supervisor was unable to reach that decision within the six month consideration period). This option might lead to undertakings applying the matching adjustment where this would not be appropriate (or not applying it where they would be eligible).
 - This option would lead to a lack of harmonisation across jurisdictions.

Policy issue 6: Should undertakings be required to provide evidence in electronic format? (Article 7.7)

Option A: Require undertakings to provide evidence in support of an application in electronic format.

- Benefits
 - This will facilitate more efficient assessment of matching applications by supervisory authorities, which is ultimately likely to lead them to reach more robust decisions in a more timely manner.
- Costs
 - No costs identified for undertakings, who are very likely to produce evidence in electronic format when compiling a matching adjustment application.
 - No costs identified for EIOPA, supervisory authorities and policyholders.

Option B: Do not specify the format in which undertakings provide evidence in support of an application.

- Benefits
 - This option leads to flexibility, in that it does not restrict the format in which undertakings can submit evidence in respect of a matching adjustment application.
 - Under this option, undertakings may choose to submit evidence in electronic format, and so does not restrict undertakings' choice in this respect.
- Costs
 - This option may lead to significant/material costs for supervisory authorities if undertakings submit quantitative evidence in non-electronic format (i.e. if supervisory authorities need to input hardcopy data into electronic format). This would increase the burden of assessing matching adjustment applications, potentially leading to longer application consideration periods.

Policy issue 7: Time taken by undertakings to provide any further evidence or adjustments requested by the supervisory authority (article 7.5)

Policy option A: The time taken by the undertaking to provide the supervisory authority with further evidence or to execute the adjustments is not included within the overall time period for a decision on the application (automatic 'stop-the-clock' mechanism)

- *Benefits*
 - This option would establish an automated process which should be clear to all stakeholders involved and would not require additional discussions between undertakings and supervisory authorities.

- This option would ensure that an undertaking has adequate time to address the request from the supervisory authority without jeopardising the approval of the application.

- Costs

- The overall time period for a decision on an application would not be fixed and may ultimately be longer than the time allowed for in the regulation, in particular where a supervisory authority needs to request further information or adjustments on multiple occasions. A fixed time period would be expected to assist undertakings in their planning, in particular if they submit a number of different applications to supervisory authorities simultaneously.

Policy option B: When the supervisory authority requests further evidence or adjustments the undertaking may request a suspension of the time period for a decision on the application ('stop-the-clock' mechanism only at the request of the undertaking)

- Benefits

- The undertaking would have certainty that the maximum amount of time that the supervisory authority will take to decide on their application will be fixed, unless the undertaking itself requests a suspension.

- Costs

- The likelihood of an undertaking needing to submit subsequent applications is expected to be increased under this option. Where an undertaking did not request a suspension of the time period, the supervisory authority may not have sufficient time to review the evidence or adjustments and be satisfied that the necessary conditions for approval are met. The undertaking would then have to decide if it wishes to submit a new application.
- Significant additional costs both to undertakings and supervisory authorities from having to submit an additional application where a previous application was rejected. This would entail administrative costs, for example, each application will need to be approved by the administrative, management and supervisory body of the undertaking, and similarly the decision to reject an application will require approval at a senior level within the supervisory authority. More importantly, the need for the undertaking to wait for up to a further six months, before potentially being able to to apply the matching adjustment] (subject to supervisory approval of the resubmitted application), would present significant opportunity costs to the undertaking.
- As the process would not be automatic, there would need to be additional communication between the supervisory authority and the undertaking, thereby resulting in some minor additional costs to both parties.

Policy issue 8: Should supervisory authorities be able to suggest amendments to an application rather than a simple yes/no answer? (Article 8.3)

Option A: Rather than providing only a yes/no decision, supervisory authorities may notify an undertaking regarding amendments to an application if it determines that it would be possible to approve the application subject to those amendments.

- Benefits
 - This option permits flexible assessment of applications by supervisory authorities. In particular, for applications which supervisory authorities feel it might be possible to approve subject to amendments to the application, this option would expedite approval, which might otherwise only be possible through rejection and re-submission of an amended application by undertakings.
 - Under this option, supervisory authorities may choose to provide a yes/no decision (along with justifications if an application is declined), so it does not restrict the supervisor's choice in this respect. This is likely to be relevant if an application is poorly compiled, with weak supporting evidence, or if the undertaking is unwilling to engage in constructive dialogue with the supervisory authority during the assessment process.
- Costs
 - This option might lead to increased costs for supervisory authorities in respect of communication and management of an application in the case where the decision is not on a yes/no basis. However, the added flexibility is likely to reduce costs overall for supervisory authorities and undertakings, compared with the alternative of declining an application and subsequent re-submission of a new amended application by undertakings.

Option B: Supervisory authorities should provide a yes/no decision to undertakings in respect of an application to use a matching adjustment.

- Benefits
 - Supervisory authorities may be able to reach yes/no decisions more quickly, thereby expediting consideration of applications.
- Costs
 - Potentially significant additional costs for undertakings in preparation of, and for supervisory authorities in consideration of, follow-up applications following an initial rejection.

Section 6. Comparison of Options

Policy issue 1: Structure of the written application (Articles 2 to 6)

The preferred policy option for this policy issue is **Option A**: specify the required information to be provided in an application, but allow undertakings freedom regarding how the information is documented. This option should not lead to further costs for undertakings, but extra costs are likely to be incurred by supervisory authorities, in respect of considering inconsistent applications submitted by different undertakings. Despite these additional costs, this flexible approach should enable supervisory authorities to reach the desired outcome in a consistent way, as specified in the objective: a flexible application process resulting in applications which are fit-for-purpose, and reflect the undertaking-specific nature of the matching adjustment portfolio.

Option B has been disregarded because the benefits afforded by this option are not guaranteed to materialise, whereas the costs for this option are likely to be material.

Policy issue 2: Ability to submit a single written application for multiple portfolios of obligations (Article 2.4)

The preferred policy option for this policy issue is **Option A**: undertakings may choose to submit a single written application seeking approval to apply a matching adjustment in respect of multiple portfolios of insurance or reinsurance obligations (provided the evidence required for each portfolio is set out separately). This option has the potential to reduce costs and administrative burden for both undertakings and supervisory authorities, and does not prevent undertakings from submitting separate applications for each portfolio should they wish to do so. This flexible approach supports the objective for this ITS.

Option B has been disregarded because it leads to additional costs and administrative burden compared with option A, with no additional benefits. Undertakings will be required to submit the same information for both options A and B, with option A offering the ability for undertakings to use a condensed format that avoids unnecessary duplication.

Policy issue 3: Upper limit of 30 days to determine whether an application is complete (Article 7.2)

The preferred policy option for this issue is **Option A**: specify within the ITS that a supervisory authority should determine whether an application is complete within 30 days of receipt of an application. This option provides a reasonable period of time in which supervisory authorities can initially assess applications for completeness, which is consistent with protocols for other approval processes (e.g. solo Internal Model Approval Process). Furthermore, this option does not restrict supervisory authorities from reaching a decision on the completeness of applications and communicating this decision to undertakings before the 30 day limit has elapsed, if it is in a position to do so. A common 30 day cap across all Member States will help to achieve the objective for this ITS, and should help to ensure decisions are reached and communicated to undertakings within a reasonable period of time. It will also provide clarity for both undertakings and supervisory authorities regarding the operating timeframe around initial consideration of matching adjustment applications.

Option B has been discarded because national supervisory authority discretion does not contribute towards achieving the objective of this ITS, i.e. consistent implementation across Member States, and without a mandated initial application completeness consideration period, there is a risk that supervisory authorities might

take an unreasonable amount of time to communicate to undertakings on the completeness of their matching adjustment applications. This option is also inconsistent with other approval processes (e.g. Ancillary Own Funds and IMAP), and could lead to considerable uncertainty for undertakings with respect to their matching adjustment application(s).

Policy issue 4: Upper limit of 6 months on the consideration period of a written application (Article 7.4)

The preferred policy option for this issue is **Option A**: specify within the ITS that the consideration period for applications should not exceed six months. This option gives supervisory authorities the ability to consider applications within a reasonable period of time, which is consistent with the consideration period allowed for in the Internal Model Application Process. In addition, option A does not restrict supervisory authorities from reaching a decision before the full six month consideration period has elapsed, if it is in a position to do so. This option will help towards achieving the objective, i.e. consistent implementation between Member States, and means that undertakings will receive decisions in respect of applications within a reasonable period of time. It will also provide clarity for both undertakings and supervisory authorities regarding the operating timeframe around full consideration of matching adjustment applications.

Option B has been discarded because national supervisory authority discretion does not contribute towards achieving the objective of this ITS, i.e. consistent implementation between Member States, and without a mandated consideration period, there is a danger that supervisory authorities might take an unreasonable amount of time to consider applications. This option is also inconsistent with other approval processes (e.g. AOF and IMAP), and could lead to considerable uncertainty for undertakings with respect to their matching adjustment application(s).

Policy issue 5: Silence of Supervisory Authority after 6 months should not be taken as approval (Article 7.6)

The preferred policy option for this issue is **Option A**: Silence after the consideration period is not taken as acceptance, consistently across all jurisdictions. This option provides a clear and consistent message across all Member States that an undertaking should not consider silence from the supervisor to indicate approval of a matching adjustment application (which supports the objective for this ITS). It also supports the desired outcome that an undertaking can only apply a matching adjustment if it receives prior supervisory approval. Furthermore, this option leads to no additional costs for any stakeholders.

Option B has been disregarded because of the danger that an undertaking misinterprets silence from the supervisor as indicating either acceptance or rejection when this is in fact contrary to the decision the supervisor wishes to make. This option would not support the objective of achieving consistent implementation across Member States.

Policy issue 6: Should undertakings be required to provide evidence in electronic format? (Article 7.7)

The preferred policy option for this issue is **Option A**: require undertakings to provide evidence in support of an application in electronic format. This option will not lead to additional costs for undertakings, who are very likely to produce evidence in this format. As a common requirement across all Member States this option will support the objective. This option will also enhance supervisory consideration of matching adjustment applications, and should help reduce the time required by supervisory authorities to consider applications.

Option B, while providing optionality for undertakings regarding the format in which they submit evidence for matching adjustment applications, could increase the time and cost burden of assessing matching adjustment applications by supervisory authorities.

Policy issue 7: Time taken by undertakings to provide any further evidence or adjustments requested by the supervisory authority (Article 7.5)

EIOPA concluded that **Option A** was the preferred option; the days between a request by a supervisory authority for further evidence or adjustments and receipt of such evidence or the execution of adjustments is not included within the overall time period for the application.

EIOPA considered option 1 to be a practical and workable approach which balances the need for undertakings to have certainty, with the costs associated with the rejection of an application. It was felt that the potential costs of an undertaking having to submit a new application for approval were greater than the costs associated with the fact that the time period for a supervisory authority to decide on an application may be extended. It was also noted that it should be possible for undertakings to manage the uncertainty arising from the possible revisions to the time period. Upon receiving the request from the supervisory authority, the undertaking would know that it needs to readjust its planning based on the nature of the request from the supervisory authority. Furthermore, this approach would only add marginally to the uncertainty that the undertaking will need to manage owing to the fact that the application may not be approved. EIOPA also believed that an automated process was preferable, since it would not require additional communication between undertaking and supervisory authority as to whether the undertaking intends to suspend the time period.

The safeguard to any unjustified delay to the assessment period would be that a request for further evidence by the supervisory authority has to be necessary for the assessment of the application, such that without such evidence, they may not be in a position to approve the application. EIOPA considered whether there was a sufficient incentive for undertakings to either provide the evidence or execute the adjustments immediately or, where this is not possible, to request a suspension of the time period. EIOPA felt that, whilst in general this incentive would be sufficient, there would be instances where de facto the evidence or adjusted application is not provided on a timely basis. This could mean that the supervisory authority would not have time to assess the evidence or adjusted application and would need to reject the application.

Policy issue 8: Should supervisory authorities be able to suggest amendments to an application rather than a simple yes/no answer? (Article 8.3)

The preferred policy option for this issue is **Option A:** rather than providing only a yes/no decision, supervisory authorities may notify an undertaking regarding amendments to an application if it determines that it may be possible to approve the application subject to those amendments. This option permits flexible assessment of applications by supervisory authorities, supporting the objectives for this ITS. While it may lead to increased cost for supervisory authorities in respect of initial matching adjustment applications by undertakings, it is more than likely to reduce the costs associated with rejection and subsequent consideration of potential new applications following a “no” decision. In so far as it is likely to improve/enhance communication between supervisory authorities and undertakings, this option is likely to lead to positive outcomes for the objective. In addition, this option does not prevent supervisory authorities from providing a yes/no decision (along with justifications if the application is declined) if it wishes to do so.

Option B was discarded because the potential benefits were minimal and the costs associated with this option were expected to be significant for both undertakings and supervisory authorities.