

**Consultation Paper  
on  
the proposal for  
implementing technical  
standards  
with regard to the  
supervisory approval  
procedure to use  
undertaking-specific  
parameters**

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## 1. Responding to this paper

EIOPA welcomes comments on the Implementing Technical Standards with regard to the supervisory approval procedure to use undertaking specific parameters.

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-14-009@eiopa.europa.eu](mailto:CP-14-009@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 and in particular on the specific questions summarised in Annex II. 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 documents<sup>1</sup>. 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](http://www.eiopa.europa.eu) under the heading 'Legal notice'.

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<sup>1</sup> [Public access to documents](#)

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## 2. Consultation Paper Overview & Next Steps

EIOPA carries out consultations in the case of drafting Implementing Technical Standards in accordance to Article 15 of the EIOPA Regulation.

This Consultation Paper is being issued on the supervisory approval procedure to use undertaking specific parameters.

This Consultation Paper presents the draft Implementing Technical Standard and explanatory text.

The analysis of the expected impact from the proposed policy is covered under the Annex I Impact Assessment.

The explanatory text is presented for the purpose of the consultation. Any comments on the explanatory text and should be provided using the template for comments provided by EIOPA.

### **Next steps**

EIOPA will consider the feedback received and expects to publish a final report and to submit the Implementing Technical Standards for endorsement by the European Commission by 31 October 2014.

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### 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 supervisory approval procedure to use  
undertaking-specific parameters according to 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),<sup>2</sup> and in particular Article 111(1a) thereof.

Whereas:

- (1) This Regulation establishes the procedures to be followed for the supervisory approval to use undertaking-specific parameters.
- (2) Applications by insurance and reinsurance undertakings should be prepared on a prudent and realistic basis, and should include all relevant facts necessary for an assessment by the supervisory authorities. It should include an assessment of how the criteria for completeness, accuracy and appropriateness of the data used will be fulfilled.
- (3) The submission of an application should be approved by the administrative, management or supervisory body of the insurance and reinsurance undertaking.
- (4) The information to be included in an insurance or reinsurance undertaking's application should be specified to ensure a consistent basis for decision-making by supervisory authorities.
- (5) Supervisory authorities should adopt adequate procedures to manage the approval process and to ensure that decisions are made within six months.
- (6) The decision to apply to use of undertaking-specific parameters should not be dictated only by lowering the capital requirement.
- (7) As part of the approval process, supervisory authorities should, inter alia, assess the data used to calculate the undertaking-specific parameters and they should verify if the data used comply with the data quality criteria set out in Directive 2009/138/EC and the [draft implementing measures].delegated acts].
- (8) Insurance and reinsurance undertakings may only replace a subset of standard parameters within the underwriting risk modules by undertaking-specific parameters. This means that some of the inputs used to calculate these parameters will be similar or identical to the inputs used to calculate technical provisions.
- (9) The provisions in this Regulation shall apply in a consistent manner for groups and solo undertakings.

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<sup>2</sup> OJ L 335, 17.12.2009, p.1

- (10) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (11) 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 in accordance with Article 37 of Regulation (EU) No 1094/2010.

HAS ADOPTED THIS REGULATION:

*Article 1 – Application for approval of the use of undertaking-specific parameters*

- (1) The insurance and reinsurance undertakings shall submit the application for approval of the use of undertaking-specific parameters to replace a subset of parameters of the standard formula to the supervisory authority in writing 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.
- (2) The application shall be accompanied by a cover letter stating that the application complies with the requirements of Articles 2, 3, 7 and 8 of this Regulation. The cover letter shall endorse the application for submission to the supervisory authority.
- (3) The application shall be approved by the administrative, management or supervisory body of the insurance or reinsurance undertaking and the documentary evidence of the approval shall be submitted.
- (4) The application shall contain as a minimum the followings :
  - (a) a specific start date from which the use of the undertaking-specific parameters is requested;
  - (b) the subset of standard parameters which are requested to be replaced by undertaking-specific parameters;
  - (c) the standardised methods used and the undertaking-specific parameter values obtained by using these methods;
  - (d) the calculation of the undertaking-specific parameter the undertaking applies to use and information that the calculation is adequate;
  - (e) evidence that data used to calculate the undertaking-specific parameters are complete, accurate and appropriate and they fulfil the requirements set out in [Article 197 USP2];
  - (f) a justification that each standardised method to calculate the undertaking-specific parameter for a single segment provides the most accurate result for the fulfilment of the requirements set out in Article 101 of Directive 2009/138/EC.
- (5) In addition to the material specified in paragraphs 2 and 4, the application shall also include 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 2 – Request for information by the supervisory authorities*

- (1) By means of a decision stating the reasons, the supervisory authorities may require the insurance and reinsurance undertakings to provide additional information where necessary to assess the application.

#### *Article 3 – Accuracy of the results*

- (1) Where the insurance or reinsurance undertaking is not able to demonstrate the accuracy of the results of one standardised method over all the other standardised methods to calculate an undertaking-specific parameter, the method providing the most conservative result shall be used.
- (2) When demonstrating the accuracy of the results, insurance and reinsurance undertakings shall assess the appropriateness of the standardised method for the undertaking's data, whether their assumptions are fulfilled and whether data are relevant to the undertaking's risk profile.

#### *Article 4 – Supervisory authority's assessment of the choice of the parameters and the method to calculate the parameters*

- (1) Supervisory authorities shall assess the insurance or reinsurance undertaking's choice of:
  - a) the parameters to be replaced by considering whether the use of undertaking-specific parameters better reflects the underwriting risk profile of the undertaking;
  - b) the segments for which parameters have been calculated by considering whether the use of undertaking-specific parameters better reflects the underwriting risk profile of the undertaking.
- (2) Supervisory authorities shall assess the undertaking's justification for the choice of the standardised method to calculate undertaking-specific parameters. Supervisory authorities, when performing this assessment, shall consider whether the assumptions on standardised methods are satisfied and whether data are relevant to the undertaking's risk profile.

#### *Article 5 – Supervisory approval process decision*

- (1) The supervisory authority shall confirm receipt of the application of the insurance or reinsurance undertaking. The supervisory authorities shall determine whether the application is complete within 30 days from the date of the receipt of the application. The application for approval of the use of undertaking-specific parameters shall be considered as complete if it includes all information and the documentary evidence set out in Article 1 paragraph 4.
- (2) Where the supervisory authorities determine that the application is not complete, they shall immediately inform the insurance or reinsurance undertaking which has submitted the application that the six month approval period has not begun and specify the reasons why the application is not complete.
- (3) Where the supervisory authorities determine that the application is complete, they shall inform the insurance or reinsurance undertaking which has submitted the application that the application is complete and the date from which the six months approval period starts. The fact that the supervisory authorities have determined an application to be complete shall not prevent the supervisory authorities from requiring any further information from the insurance or reinsurance undertaking which has submitted the application that is necessary to assess the application for approval of the use of undertaking-specific parameters.
- (4) The days between the date the supervisory authority requests further information or adjustments and the date the supervisory authority receives such information shall not be included within the periods of time stated in paragraph 6.



- (5) If, following a request from the supervisory authority for further information or adjustments, an insurance or reinsurance undertaking makes a change to its application, this shall not be considered as a new application.
- (6) The supervisory authorities shall decide on the approval within six months from the receipt of a complete application. A decision by the supervisory authorities to reject the application shall state the reasons on which it is based. Supervisory authorities shall give approval to the application only if they are satisfied with the justification to replace a subset of parameters of the standard formula. The decision shall be communicated in writing in the same language as the application.
- (7) Supervisory authorities may decide to approve the application in respect of some but not all of the segments or of the parameters included in the application.
- (8) Failure by the supervisory authority to make a decision within the period referred to in paragraphs 6 shall not result in the application being considered as approved.

*Article 6 – Revert to standard formula parameters*

- (1) After the approval, insurance and reinsurance undertakings shall not revert to calculating the solvency capital requirement by using the standard formula parameters, except in duly justified circumstances and subject to the approval of the supervisory authorities.

*Article 7 – Updating the undertaking-specific parameter values*

- (1) Whenever the solvency capital requirement is calculated, provided that there has not been any significant change in the appropriateness of the use of the undertaking specific parameter, insurance and reinsurance undertakings shall apply the undertaking-specific parameter values obtained by using the approved method with the most recent relevant data. Insurance and reinsurance undertakings shall ensure that the data used comply with the requirements specified in [Article 197 USP2].

*Article 8 – Revocation of approval by the supervisory authority*

- (1) Where material changes occur to the appropriateness of the use of the undertaking-specific parameter, the supervisory authorities may revise its decision based on evidence provided by the insurance and reinsurance undertakings.

*Article 9 – 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*.
- (2) 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]*

## 4. Explanatory text

### *Article 1 - Application for approval of the use of undertaking-specific parameters*

- (1) The insurance and reinsurance undertakings shall submit the application for approval of the use of undertaking-specific parameters to replace a subset of parameters of the standard formula to the supervisory authority in writing 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.
- (2) The application shall be accompanied by a cover letter stating that the application complies with the requirements of Articles 2, 3, 7 and 8 of this Regulation. The cover letter shall endorse the application for submission to the supervisory authority.
- (3) The application shall be approved by the administrative, management or supervisory body of the insurance or reinsurance undertaking and the documentary evidence of the approval shall be submitted.
- (4) The application shall contain as a minimum the followings :
  - (a) a specific start date from which the use of the undertaking-specific parameters is requested;
  - (b) the subset of standard parameters which are requested to be replaced by undertaking-specific parameters;
  - (c) the standardised methods used and the undertaking-specific parameter values obtained by using these methods;
  - (d) the calculation of the undertaking-specific parameter the undertaking applies to use and information that the calculation is adequate;
  - (e) evidence that data used to calculate the undertaking-specific parameters are complete, accurate and appropriate and they fulfil the requirements set out in [Article 197 USP2];
  - (f) a justification that each standardised method to calculate the undertaking-specific parameter for a single segment provides the most accurate result for the fulfilment of the requirements set out in Article 101 of Directive 2009/138/EC.
- (5) In addition to the material specified in paragraphs 2 and 4 , the application shall also include 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.

4.1 The information submitted to the supervisory authority should satisfy the supervisory authority that:

- (a) the data meet criteria included in the [Delegated Acts];
- (b) the use of undertaking-specific parameters better reflects the underwriting risk profile of the undertaking, for this purpose undertakings should consider the Own Risk and Solvency Assessment (ORSA). The identification of where the SCR does not accurately reflect an undertaking's risks is required within the ORSA [Article 45(1) letter c) of the Level 1 text];
- (c) undertaking-specific parameters have been calculated following the standardised methods laid down in the [Delegated Acts], especially the risks covered by the undertaking-specific parameters are conceptually at least the same as those

covered by the standard formula parameters as well as the underlying assumptions in the standard formula parameters and behind undertaking-specific parameters are the same;

- (d) the use of undertaking-specific parameters for some but not all of the segments reflects the underwriting risk profile of the undertaking.
- 4.2 The replacement of standard parameters by the undertaking-specific ones cannot be a mechanical action. Undertakings should always check whether the assumptions of the standardised methods are fulfilled regarding its risk profile as the different value of parameters may also have quite substantial reason, for example another loss distribution which makes it impossible to use undertaking-specific parameters – undertaking may then apply for use of partial internal model. In such cases a partial internal model is desirable.
- 4.3 Insurance and reinsurance undertakings should elaborate on the data adjustments, especially on the adjustment for catastrophic claims to data used to calculate undertaking-specific parameters.
- 4.4 According to paragraph 4 letter (f), as a minimum, the insurance and reinsurance undertakings should explain the reasons for excluding any segments and discuss the appropriateness of standard parameters in such cases. The justification for the choice of parameters/segments should integrate the rationale for why some parameters/segments have been excluded and whether they were considered to be also included. If this is the case, the reason why they were abandoned or postponed (data shortcomings, standardised methods issues, etc.), otherwise, the reason why have not been considered at all (not significant part of business, standard formula parameters fit, with the explanation how it was assessed).
- 4.5 The supervisory authority should be satisfied by the justification that undertaking-specific parameters are not being used to “cherry-pick” the areas which gives the lowest Solvency Capital Requirement.

#### *Article 2 - Request for information by the supervisory authority*

- (1) By means of a decision stating the reasons, the supervisory authorities may require the insurance and reinsurance undertakings to provide additional information where necessary to assess the application.
- 4.6 For example, at the request of the supervisory authority, insurance and reinsurance undertakings should provide relevant data to the supervisory authority in order to enable it to reproduce the calculation of undertaking-specific parameters.

#### *Article 3 - Accuracy of the results*

- (1) Where the insurance or reinsurance undertaking is not able to demonstrate the accuracy of the results of one standardised method over all the other standardised methods to calculate an undertaking-specific parameter, the method providing the most conservative result shall be used.
- (2) When demonstrating the accuracy of the results, insurance and reinsurance undertakings shall assess the appropriateness of the standardised method for the undertaking’s data, whether their assumptions are fulfilled and whether data are relevant to the undertaking’s risk profile.

- 4.7 Insurance and reinsurance undertakings shall compare all available standardised methods including the results obtained if all the other available standardised methods could be applied.
- 4.8 If some deviations from the assumptions have been observed and their impact is material, the undertaking should provide for a more appropriate estimate, which means that undertaking should choose other possible standardised method which meets assumptions and provides for a more appropriate estimate.
- 4.9 The undertaking should compare the available methods for the purpose of calculation of undertaking-specific parameters if the available methods could be reasonably and appropriately applied, choose the methods which meet the criteria and are considered appropriate. Undertaking should also provide explanations with regard to the methods which were considered in its analysis and what are the conclusions and the results of the assessment of these methods.
- 4.10 Insurance and reinsurance undertakings should ensure that the methods applied to relevant data enable a robust and reliable estimation of undertaking-specific parameters. Insurance and reinsurance undertakings should assess also the model error which arises from the use of the standardised methods.

*Article 4 - Supervisory authority's assessment of the choice of the parameters and the method to calculate the parameters*

- (1) Supervisory authorities shall assess the insurance or reinsurance undertaking's choice of:
- a) the parameters to be replaced by considering whether the use of undertaking-specific parameters better reflects the underwriting risk profile of the undertaking;
  - b) the segments for which parameters have been calculated by considering whether the use of undertaking-specific parameters better reflects the underwriting risk profile of the undertaking.
- (2) Supervisory authorities shall assess the undertaking's justification for the choice of the standardised method to calculate undertaking-specific parameters. Supervisory authorities, when performing this assessment, shall consider whether the assumptions on standardised methods are satisfied and whether data are relevant to the undertaking's risk profile.
- 4.11 Insurance and reinsurance undertakings should not use as a criterion for the selection of the standard parameters to be replaced by the undertaking-specific parameters the ones where a lower Solvency Capital Requirement is generated. Supervisory authorities should assess whether the choice of the parameters reflects a sound risk management.
- 4.12 The supervisory authority should check whether the undertaking has chosen to use undertaking-specific parameters for the relevant risk modules. For example the undertaking should provide a justification of its choice if it chooses to use undertaking-specific parameters for a submodule or segment whereas it does not choose to use them in another one(s), having a much higher share in the overall capital requirements. The justification should be at least qualitative and if possible it can be also quantitative.
- 4.13 Where the underlying risks of a module are not reflected by an undertaking-specific parameter (or a partial internal model) while capital requirement for quite typical activity consistent with standard formula assumptions is calculated

using the undertaking-specific parameters should not be considered as an appropriate choice of parameters/segments.

- 4.14 Insurance and reinsurance undertakings should not choose the standardised method because it gives the lowest Solvency Capital Requirement. The choice should rather be based on the risk profile, for example whether data fulfil the requirements specific for given method.

#### *Article 5 - Supervisory approval process decision*

- (1) The supervisory authorities shall determine whether the application is complete within 30 days from the date of the receipt of the application. The application for approval of the use of undertaking-specific parameters shall be considered as complete if it includes all information and the documentary evidence set out in Article 1 paragraph 4.
  - (2) Where the supervisory authorities determine that the application is not complete, they shall immediately inform the insurance or reinsurance undertaking which has submitted the application that the six month approval period has not begun and specify the reasons why the application is not complete.
  - (3) Where the supervisory authorities determine that the application is complete, they shall inform the insurance or reinsurance undertaking which has submitted the application that the application is complete and the date from which the six months approval period starts. The fact that the supervisory authorities have determined an application to be complete shall not prevent the supervisory authorities from requiring any further information from the insurance or reinsurance undertaking which has submitted the application that is necessary to assess the application for approval of the use of undertaking-specific parameters.
  - (4) The days between the date the supervisory authority requests further information and the date the supervisory authority receives such information shall not be included within the periods of time stated in paragraph 6.
  - (5) If, following a request from the supervisory authority for further information or adjustments, an insurance or reinsurance undertaking makes a change to its application, this shall not be considered as a new application.
  - (6) The supervisory authorities shall decide on the approval within six months from the date specified in paragraph 3. A decision by the supervisory authorities to reject the application shall state the reasons on which it is based. Supervisory authorities shall give approval to the application only if they are satisfied with the justification to replace a subset of parameters of the standard formula. The decision shall be communicated in writing in the same language as the application.
  - (7) Supervisory authorities may decide to approve the application in respect of some but not all of the segments or of the parameters included in the application.
  - (8) Failure by the supervisory authority to make a decision within the period referred to in paragraphs 6 shall not result in the application being considered as approved.
- 4.15 Even if the application is considered complete, at a later stage of the approval process some doubts may arise which require additional information and therefore the undertaking should be aware that it has to provide it for the purpose of approval.
- 4.16 EIOPA is also of the opinion that the undertaking-specific parameters approval process can involve, from the supervisory authority side, a workload similar to an approval of a very simple partial internal model. The technicalities involved in the methodologies and data quality checking are substantially more time consuming than those for approval of ancillary own funds, therefore the six month time period has been established.

- 4.17 EIOPA is of the opinion that a partial approval should be possible. There is no reason to reject the whole application if some parameters are calculated properly. Additionally, such approach allows to avoid splitting the application into several ones for separate parameters/segments.
- 4.18 In absence of the explicit supervisory approval, undertakings are not allowed to use undertaking-specific parameters in the calculation of the Solvency Capital Requirement and should calculate it using the standard formula parameters. Approval would only be effective when directly and explicitly confirmed in writing to the undertaking by the supervisory authority.
- 4.19 When insurance and reinsurance undertakings put forward the application to replace standard parameters by the undertaking-specific parameters, they should put forward this application in advance to enable the supervisory authority to assess the application.
- 4.20 The six months period can be suspended for the period where the supervisory authority requests some additional information and until the supervisory authority receives the requested information from the undertaking.

# Annex I: Impact Assessment

## Procedural issues and consultation of interested parties

Consultation Paper on the Proposal for Guidelines and Recommendations on Undertaking Specific Parameters: Approval process and data quality was pre-consulted at the end of 2011 and the beginning of 2012. Stakeholders in the pre-consultations, except comments to the issues covered in Directive 2009/138/EC (Directive), Level 2 text or in ITS on standardised methods for undertaking-specific parameters, requested mainly that:

- Any change to the method should not be classified as partial internal model. According to EIOPA, even minor change should be classified as partial internal model because it is no longer standardised method required by Level 1 text. However, necessary data adjustments are not considered as a change in the standardised methods.
- Six month period for approval for the use of the undertaking-specific parameters is an extraordinary long time. EIOPA is of the opinion that the undertaking-specific parameters approval process can involve, from the supervisory authority side, a workload similar to an approval of a very simple partial internal model and the technicalities involved in the methodologies and data quality checking can be substantially time consuming. EIOPA withdrew possibility to extend the approval time-limits.
- Definition or further clarification should be provided concerning the catastrophic event for adjustment for catastrophic claims. EIOPA has provided further clarification in "Consultation Paper On the Proposal for Guidelines on Undertaking Specific Parameters: data quality and approval process of group-specific parameters." In addition to this a specific clarification on this issue is added in the explanatory text for article 1.

## Problem definition

The Directive provides for the approval by supervisory authorities to use undertaking-specific parameters by (re)insurance undertakings. Draft Delegated Acts for Solvency II provide:

- the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by undertaking-specific parameters,
- the standardised methods to be used by the insurance or reinsurance undertaking to calculate the undertaking-specific parameters,
- criteria with respect to the completeness, accuracy, and appropriateness of the data used to calculate the undertaking-specific parameters.



With respect to the high-level principles outlined in the Directive, additional clarification is needed to ensure consistent implementation by Member States, in order to mitigate risks of divergent supervisory practices.

Therefore it can be expected that if approval is required, (re)insurance undertakings need to put forward application including basic information for what they apply: scope, dates, values and standardised method to be used.

However, there may be divergent views among insurance companies and supervisory authorities as to the level of detail of the information submitted and the period of analysis for granting approval.

This technical standard proposes a standardised package of data and information to be introduced with view of the harmonization of approval process among Member States, as well as procedures to be followed when conditions to use undertaking-specific parameters are no longer satisfied.

### **Proportionality**

With respect to the approval process of USP, the more simple the undertaking's risk profile is, the easier it will be in the approval process to demonstrate that data requirements are fulfilled. Also naturally, the more segments and parameters an undertaking or reinsurance undertaking is applying for the use of USP, the more documents will have to be submitted; however, the supervisor will still have to decide within six months.

### **Baseline**

When analysing the impact from proposed policies, the Impact Assessment methodology foresees that a baseline scenario is applied 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 EU insurance and reinsurance markets, 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 elements of its framework other than these technical standards.

In particular the baseline will include:

- The content of Directive 138/2009/EC and any amendment already agreed to it;
- Where 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 act and technical standards developing the aforementioned directive.

## **Objective pursued**

Objective 1: To ensure consistent implementation of the procedures to be followed for the supervisory approval to use undertaking-specific parameters between member states;

Objective 2: To provide clarity for insurance and reinsurance undertakings regarding the combined effect of the Directive and Delegated Acts Solvency II.

These objectives correspond to the following specific Solvency II objective "risk-sensitive capital requirements" and the Solvency II general objective "Enhances policy holder protection".

## **Policy options**

**Policy issue 1:** As far as article 1 par. 4 points e-f and article 3 (application package) are concerned, EIOPA has considered whether:

- (Re)insurance undertakings shall present, together with the USP application, evidence and justification that requirements specified in Delegated Acts Solvency II are met, or
- Supervisory authorities should assume, when granting approval, that requirements specified in Delegated Acts Solvency II are met and meeting of this requirement would be verified during inspection in selected undertakings.

**Policy issue 2:** As far as article 2 (date relevant for USP calculation) is concerned, EIOPA has considered whether:

- (Re)insurance undertakings shall always provide relevant data based on which undertaking specific parameters were calculated,
- (Re)insurance undertakings shall provide relevant data, based on which undertaking specific parameters were calculated, on request of the supervisory authority, or
- (Re)insurance undertakings do not provide relevant data and supervisory authority is not allowed to require (re)insurance undertaking to provide data.

**Policy issue 3:** As far as article 4 (supervisory authority's assessment) is concerned, EIOPA has considered whether:

- harmonize the scope of supervisory authority's assessment, or
- not to harmonize the scope of supervisory authority's assessment.

**Policy issue 4:** As far as article 5 par. 1 (the time for checking whether application is complete) is concerned, EIOPA has considered whether:

- EIOPA should not state the maximum time for informing (re)insurance undertakings whether application is complete but supervisory authority should do in on a timely basis, or

- EIOPA should provide maximum 30 days period for informing (re)insurance undertakings whether application is complete (as for internal models).

**Policy issue 5:** As far as article 5 par. 5 (stop-the-clock provision) is concerned, EIOPA has considered whether:

- The time taken by the undertaking to provide the supervisory authority with further information to execute the adjustments is not included within the overall time period for a decision on the application (automatic 'stop-the-clock' mechanism)
- When the supervisory authority requests further information 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 6:** As far as article 5 par. 6 (the time for approval) is concerned, EIOPA has considered whether:

- EIOPA should not state the maximum time for taking the decision on the application,
- EIOPA should provide maximum 6 months period for taking the decision on the application (as for internal models), or
- EIOPA should provide maximum 3 months period for approval with possibility to extend time for approval.

**Policy issue 7:** As far as articles 7 and 8 (use of USP in following years) are concerned, EIOPA has considered whether:

- After receiving approval to use USP, in following years the approval process should be the same as for the first time,
- After receiving approval to use USP, in following years the approval process should be simplified compared to the first approval process, or
- After receiving approval to use USP, in following years the (re)insurance undertaking may calculate the USP with approved method and provide relevant information in ORSA report, provided that there has not been any significant change in the appropriateness of the use of the USP.

## Analysis of impacts

In particular, articles have following costs and benefits:

Article	Costs (burdens, cons)	Benefits (pros)
1, 3	Industry: preparing additional information Supervisors: no additional costs Policyholders: no additional costs	Industry: quicker approval process, limits the risk of additional questions from supervisors  Supervisors: evidence and justification that use of USP meets Level 1 and Level 2 requirements, as well as support of the USP assessment (risk profile, risk management, assessment of appropriateness of method and parameter)

<b>Article</b>	<b>Costs</b> (burdens, cons)	<b>Benefits</b> (pros)
		Policyholders: no additional benefits
2	Industry: some (re)insurers will prepare and provide relevant data to authority Supervisors: no additional costs Policyholders: no additional costs	Industry: no need to provide relevant data with the application for USP Supervisors: possibility to verify calculation of UPS during off-site supervision Policyholders: no additional benefits
4	Industry: no additional costs Supervisors: less freedom in assessment of application and USP Policyholders: no additional costs	Industry: for international insurance groups harmonization of supervisory authority's assessment of USP for members of group from different countries Supervisors: harmonization of scope of assessment Policyholders: no additional benefits
5 paragraph 4	Industry: planning costs associated with time period for a decision on an application not being fixed Supervisors: no additional costs Policyholders: no additional costs	Industry: establishes an automated process which is clear to all stakeholders involved and does not require additional discussions between undertakings and supervisory authorities. It also ensures that an undertaking has adequate time to address the request from the supervisory authority without jeopardising the approval of the application. Supervisors: ensures that they have time to assess the information or adjusted application and therefore minimises administrative costs arising from the rejection of an application or additional subsequent applications. Policyholders: no additional benefits
5 paragraph 6	Industry: no additional costs Supervisors: time limit Policyholders: no additional costs	Industry: information whether application is complete, maximum time for assessment of application (for example when to put forward application in advance to receive approval before end of a year) Supervisors: no additional benefits Policyholders: no additional benefits
7, 8	Industry: additional information in ORSA Supervisors: no additional costs Policyholders: no additional costs	Industry: no need to prepare and put forward the new application Supervisors: smaller number of applications Policyholders: no additional benefits

## Comparing the options

Based on above analysis of costs and benefits, EIOPA has decided to:

- (in articles 1 and 3)

- harmonize the scope of application package in order to accelerate the approval process and to limit the supervisory requests for additional information or documents
- require (re)insurance undertakings to provide justification of the appropriateness of the USP calculation in order to allow supervisors to better assess the application (whether application and USP meets regulatory requirements, especially whether SCR standard formula with USP will better reflect risk profile of the (re)insurance undertaking)
- (in article 2) choose the middle option – it allows supervisors to verify calculation of UPS during off-site supervision (and not on on-site inspections) and to limit (re)insurers' costs connected with preparing and providing additional information or data;
- (in article 4) harmonize the supervisory authority's assessment (provide hints to supervisory authorities in different members states that approved USP properly represents the underlying risks associated to the business;
- (in article 5 par.1) propose to introduce 30 days period for informing (re)insurance undertakings whether application is complete as for internal models;
- (in article 5 par.3 ) propose six month period for approval for the use of the undertaking-specific parameters since the undertaking-specific parameters approval process can involve, from the supervisory authority side, a workload similar to an approval of a very simple partial internal model and the technicalities involved in the methodologies and data quality checking can be substantially time consuming;
- (in article 5 par. 5) propose an automatic stop the clock provision as 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. The safeguard to any unjustified delay to the assessment period would be that a request for further information by the supervisory authority has to be necessary for the assessment of the application, such that without such information, they may not be in a position to approve the application.
- (in articles 7 and 8) choose the approach with the smallest costs for (re)insurance undertakings and which is similar to internal models ((re)insurance undertakings are not required to put forward each year application to use internal model to calculate SCR).

Overall with respect to costs, EIOPA is of the opinion that the ITS do not impose considerable additional burden on undertakings or supervisors as the requirements or obligations derive from Directive 2009/138/EC and would apply regardless of the existence of the ITS.

The main costs for (re)insurance undertaking are connected with preparation of evidence and justification that requirements specified in Delegated Acts Solvency II are met. The main costs for supervisory authorities are connected with the assessment of the undertaking's justification for the choice of: the parameters to be replaced by USP, the segments for which USP will be used and the standardised methods used to calculate USP.

These costs are usually the working hours of employees and salaries for them to conduct above tasks.

With respect to the benefits which are expected to flow from this ITS, EIOPA considers that the ITS provide additional clarity both for undertakings and supervisory authorities thereby enhancing a consistent and harmonised application of the relevant provisions of Directive 2009/138/EC.

In particular the ITS promotes:

- Harmonisation and convergence across Member States of the supervisory approval processes for undertaking specific parameters;
- Greater clarity on the part of undertakings regarding what the supervisory approval process involves, leading to fewer queries to supervisory authorities regarding the process;
- Increased efficiency of the application process. Undertakings and supervisory authorities will be aware what documentation undertakings should provide in support of their applications, the timeframe for consideration of applications and other considerations affecting supervisory approval.