EIOPA-CP-14/061

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Consultation Paper on the proposal for draft Implementing Technical Standards on the procedures for the application of the transitional measure for the calculation of the equity risk sub-module

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Responding to this paper

EIOPA welcomes comments on the proposal for draft Implementing Technical Standard on the procedures for the application of the transitional measure for the calculation of the equity risk sub-module.

Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Please send your comments to EIOPA in the provided Template for Comments, by email Consultation_Set2@eiopa.europa.eu, by 2 March 2015.

Contributions not provided in the template for comments, or sent to a different email address, or after the deadline will not be processed.

Publication of responses

Contributions received will be published on EIOPA's public website 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.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents[1].

Contributions will be made available at the end of the public consultation period.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. They will only be used to request clarifications if necessary on the information supplied.

EIOPA, as a European Authority, will process any personal data in line with Regulation (EC) No 45/2001 on the protection of the individuals with regards to the processing of personal data by the Community institutions and bodies and on the free movement of such data. More information on data protection can be found at https://eiopa.europa.eu/ under the heading 'Legal notice'.

[1] https://eiopa.europa.eu/fileadmin/tx_dam/files/aboutceiops/Public-Access-(EIOPA-MB-11-051).pdf

Consultation Paper Overview & Next Steps

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

This Consultation Paper presents the draft Implementing Technical Standard.

The analysis of the expected impact from the proposed policy is covered under 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 Consultation Paper for adoption by the Board of Supervisors.

1. Draft Technical Standard

EUROPEAN COMMISSION

Brussels, 29.6.2011
C(20..) yyy final

COMMISSION DELEGATED REGULATION (EU) No …/..

of [ ]

COMMISSION IMPLEMENTING REGULATION (EU) No …/... laying down implementing technical standards with regard to the procedures for the transitional measure for the equity risk sub-module according to Article 308b(13) of Directive 2009/138/EC of the European Parliament and of the Council

of [ ]

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/138/EC of 25 of November of 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 308b(13) thereof,

Whereas:

(1) This Regulation establishes the procedures to be followed for the application of the transitional measure set out in Article 308b(13) of Directive 2009/138/EC when calculating the equity risk sub-module in accordance with the standard formula without the option set out in Article 304 of that Directive.

(2) Insurance and reinsurance undertakings should adopt procedures for the appropriate identification and documentation of equities subject to the transitional measure.

[2] OJ L 335, 17.12.2009, p.1

(3) Each time insurance and reinsurance undertakings calculate the Solvency Capital Requirement they should be able to identify any changes affecting the amount of type 1 equities which are subject to the transitional measure.

(4) Insurance and reinsurance undertakings should be able to make appropriate adjustments for sales and purchases of the same equity following 1 January 2016 and for changes to the underlying type 1 equities in funds to which a look-through approach applies in accordance with Article 84 of the Implementing Measures.

(5) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.

(6) 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

Procedures for undertakings

Where insurance and reinsurance undertakings do not increase the parameter referred to in Article 308b(13)(b) of Directive 2009/138/EC to 100% during the year 2016, they shall:

(a) adopt procedures to properly document which type 1 equities as defined in Article 168 of the Implementing Measures have been purchased on or before 1 January 2016.
(b) adopt procedures to identify, as of 1 January 2016, the equities referred to in paragraph 1 on each occasion they calculate the Solvency Capital Requirement using the transitional measure set out in Article 308b(13) of Directive 2009/138/EC.
(c) keep relevant evidence to demonstrate the purchasing date of the equities referred to in paragraph 1 until 31 December 2022.
(d) upon request of the competent supervisory authority, provide that authority with all necessary information supporting the identification of equities referred to in this article.

Article 2

Entry into force

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]

[For the Commission
On behalf of the President]

[Position]

Annex: Impact Assessment

Section 1: Procedural issues and consultation of interested parties

According to Article 15 of EIOPA Regulation, EIOPA conducts analysis of costs and benefits when drafting implementing technical standards. The analysis of costs and benefits is undertaken according to an Impact Assessment methodology.

The draft ITS and its Impact Assessment are subject to public consultation.

Section 2: Problem definition

Directive 2014/51/EU provides for the application of a transitional measure when calculating the equity risk sub-module in accordance with the standard formula without the option set out in Article 304.

The transitional measure for standard equity risk is set out in Article 308b (13) of the Directive 2014/51/EU.

It is to be applied to type 1 equities that were purchased on or before 1 January 2016 and which are not subject to the duration-based equity risk pursuant to Article 304 of Directive 2009/138/EC.

During the transitional period, the standard parameters to be used for equities that are subject to transitional period shall be calculated as the weighted average of the standard parameter in accordance with Article 304 and the standard parameter in accordance without the option set out in Article 304.

In order to ensure uniform conditions of application of that transitional period, EIOPA is empowered to develop draft implementing technical standards on the procedures for the application of this transitional measure.

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, taking account of the progress towards the implementation of the Solvency II framework achieved at this stage by insurance and reinsurance undertakings and supervisory authorities.

In particular the baseline will include:

- The content of Directive 2009/138/EC as amended by Directive 2014/51/EU.

- The relevant Implementing Measures.

Section 3: Objective pursued

The objectives of this ITS are:

- Objective 1: to facilitate the application of the transitional measure for equities; and
- Objective 2: to ensure a consistent implementation of such transitional measure across all insurance and reinsurance undertakings.

Section 4: Policy options

With the intention to meet the objectives set out in the previous section, EIOPA has analysed different policy options in relation to the policy issues described below.

Policy issue 1: EIOPA has considered whether to prescribe any specific procedures for managing equities subject to the transitional measure.

- ✓ Option1.1: Specific procedures for documenting and identifying equities subject to transitional period.
- ✓ Option 1.2: No specific procedures for transitional equities.

Option 1.2 was discarded at an early stage since the adoption of specific procedures for the identification and the documentation of equities subject to the transitional measure are considered to be the minimum requirement to ensure a correct application of such transitional measure, without introducing unnecessary costs for undertakings.

Policy issue 2: EIOPA has considered whether supervisory authorities shall put in place specific procedures for monitoring undertakings applying the transitional measure on equities.

- ✓ Option 2.1: Specific monitoring procedures for supervisors.
- ✓ Option 2.2: No specific monitoring procedures for supervisors.

Policy option 2.1 was discarded in an early stage since the general mechanisms in the supervisory review process under SII are deemed sufficient for monitoring the proper application of the transitional measure on equities.

Furthermore, EIOPA initially considered whether (re)insurance undertakings shall provide for an additional reporting with regard to equities subject to the transitional measure. However this possibility was discarded at an early stage; reporting requirements are not deemed relevant for the scope of this ITS.

Section 5: Analysis of impacts

As described in the previous section, EIOPA has considered from the very beginning of the policy development process that this ITS should focus its content on requiring specific procedures for undertakings for documenting and identifying equities subject to the transitional period. The impacts of this proposal for the different types of stakeholders are summarized in the table below:

	Costs (burdens, cons)	**Benefits** (pros)
Option 1.1	Industry: costs for putting in place regular procedures to document the purchasing date and to identify equities subject to the transitional measure. Supervisors: no additional costs Policyholders: no additional costs	Industry: more clarity about the expectations of supervisors. Supervisors: Lower costs as undertakings have more clarity on the requirements they have to meet. Policyholders: Indirect benefits (see benefits for industry and supervisors)

Undertakings would in any case have to introduce procedures for identifying the type 1 equities purchased until 1 January 2016 on each occasion they calculate their Solvency Capital Requirement. It is also obvious that they would have to properly document the purchasing date and keep the relevant information as long as they use the transitional. The ITS has nevertheless considerable benefits as it avoids uncertainties regarding the requirements that undertakings have to meet. On the other side there are no meaningful costs for undertakings. Supervisory authorities benefit as it is less likely that undertakings use the transitional without proper processes for its application in place. There is consequently less need for discussions between undertakings and supervisors. Policy holder benefit indirectly as unnecessary costs are avoided.