

Comments Template on Consultation Paper on the proposal for implementing technical standards on internal models approval processes

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

Name of Company:	Insurance Europe	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-005@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper on the proposal for implementing technical standards with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items.</p>		
Reference	Comment	
General Comments	<p>Insurance Europe welcomes the opportunity to comment on this consultation Paper on the Implementing Technical Standards with regard to the Supervisory Approval Procedure to use Internal Models.</p> <p>The issues related to this paper and which are of great concern for us are the following:</p> <p><u>Group internal model - Policy for changing the model (Art.231)</u> More information is needed about the policy for changing the model and the changes to this policy, in particular in the case when the internal model is a group internal model. It is not certain if the procedure and the</p>	

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requirements followed at group level under Art. 231, should be the same as those describe in this ITS at local level. The only reference to the Groups is the one described in recital 8. However there is some specificity to take into account when the internal model is a group internal model under the Art. 231.

In particular it is not clear if a major change at individual level should or should not be considered a major change at group level and, if so, who will approve it. It is also not clear if there is one policy for changing the model at individual level for each undertaking using the internal model or one policy for changing the model at group level that covers all the changes (individual vs group).

Group internal model – individual requirements (Art. 231)

In the case of a group internal model under Art. 231, there is only an approval process at group level. Nevertheless the supervisory authorities concerned may be able, with the group supervisor coordination, to directly request information at local level from the undertaking it supervises to assess the compliance of the group internal model with the tests and standards and other relevant requirements in respect of the Solvency Capital Requirement of this related undertaking.

Policy for Changing the Model:

When the insurance undertaking is applying for approval of a major change and of changes to the policy for changing the internal model, a temporary approval may be needed to avoid situations where no approved model exists. Supervisory authorities may decide, on a case-by-case basis, to grant a conditional approval of a major change in the full or partial internal model on a temporary basis. The temporary approval can be withdrawn at any time if the insurance or reinsurance undertaking fails to comply or ceases to comply with required conditions. The internal model has to be used in the system of governance on a continuous basis. Thus, a temporary approval may be needed to avoid situations where no approved model exists.

Otherwise the undertaking will use an inadequate model, the old approved that no longer fit to

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	<p>the risk profile, to calculate its SCR.</p> <p><u>The lack of approval or a clear process defining the way forward if no response from supervisor is reached within the deadline.</u></p> <p>Further clarity should be provided in this respect. If the timeline for approval has elapsed, the undertaking should be able to consider its internal model as approved and be allowed to use it. There is no justification for leaving an undertaking in a situation of uncertainty when the application is complete and submission has been acknowledged. The approval process should have a clearly-defined ending and there should be no possibility of its becoming a never-ending process, as this will discourage undertakings from taking this route. Additionally, other interdependencies (e.g. use of SPV) need to be taken into account in the internal model and further clarification should be specified with regards to these interdependencies (e.g. what happen with the application for the use of an internal model if the use of an SPV has not been granted by the supervisor? How is this mitigated by supervisors?)</p> <p>We also note that the paper remains silent on what happens when the supervisor breaches the 30 days' timeline for notifying that the application is complete and the 6 months allotted to render its decision on approval of the application. Further clarification is required.</p>	
Recital (1)		
Recital (2)		
Recital (3)		
Recital (4)	<p>The Art. 112 does not refer to supervisory approval with regards to the inclusion of “new elements”. Therefore this appears to be a new policy requirement rather than a technical standard. We would welcome clarification on what “new elements” means.</p>	
Recital (5)		
Recital (6)	<p>“During approval process supervisors should be able to give recommendations...” The term “recommendation” is not defined within the scope of the ITS, resulting in uncertainty as to the nature, scope and required response to recommendations</p>	

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Recital (7)		
Recital (8)		
Recital (9)		
Recital (10)		
Article 1		
Article 2 (1)		
Article 2 (2)	Duplicates art 112.3 in Solvency II Directive	
Article 2 (3)	<p>ii. The definition of the <i>internal model</i> is unclear Redraft suggestion: <i>'A description of which aspects of the internal model has been in use in risk management and decision making processes prior to the application'</i></p> <p>According to Art.4 (2) of this ITS, it is the supervisory authority who assess whether the application is complete upon reception of the application, i.e, not the insurance or reinsurance undertaking. ..." a confirmation that the application is complete" ... should be deleted.</p> <p>v. This paragraph should be deleted. The supervisory authority should have internally the information about other approval process.</p> <p>(b) The first sentence covers all internal models, full internal models as well as partial internal models, whereas the second sentence provides additional requirements in the case of partial internal models. Requiring the internal model in the first sentence to cover all the material risks would not make it applicable to partial internal models. Suggestion: delete <u>all</u> in the first sentence.</p> <p>(d) The undertaking should (...) "also outline its plan for the future <u>material</u> improvements of the internal model..."</p> <p>Is missing the expression: (...) "identified weakness or limitations or, <u>where applicable</u>, to develop</p>	

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	<p>or extend the internal model”.</p> <p>It should be acknowledged that undertakings, beyond any processes they have to manage their internal models, may not know their plans to improve their internal models in advance, as this can depend, to some extent, on decisions made by top management that impact the business and, in turn, the risk profile and the internal model. Enough flexibility with regards to this plan shall be given to undertakings</p> <p>(f) The definition of <i>‘significant impact’</i> should be up to undertakings. Supervisors need only to ensure minimum consistency among undertakings.</p> <p>(g) Demonstrating adequacy of the internal control system should be restricted to the internal model: <i>“With respect to the internal model and its uses the undertaking should ...”</i></p> <p>(p) <i>Allocation of estimated SCR at the most granular level</i> is not clear and needs further clarification; it could imply reporting on e.g. each instrument or each contract which in our opinion would be at a too granular level, or, if the internal model risk categorisation differs from the standard formula, does this requirement make sense? It may be questioned whether the provision of such SCR data at the most granular level would actually be beneficial to the decision making process.</p> <p>(...) <i>“in case of an application before any Solvency Capital Requirement is calculated, an estimation of the Solvency Capital Requirement at the most granular level ...”</i>. It is important to clarify that this point in time the entire Pillar I requirements are in force.</p>	
Article 2 (4)		
Article 2 (5)		
Article 3	(b) It is unclear if the inclusion of <i>“new elements”</i> in the model should trigger a new approval	

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	<p>process. There is no mention in the Directive of “<i>new elements</i>”. A requirement that they trigger resubmission is a policy issue and should appear in the Delegated Acts, not the ITS. Use of the phrase “<i>such as</i>” here is vague and risks imposing a requirement for resubmission for quite minor changes.</p> <p>It is not clear here whether a new business unit would or would not trigger resubmission of the entire internal model. Clarification should be provided but we strongly disagree that a new portfolio or a new business unit will trigger the resubmission of the entire internal model – this should be limited to the the new risk and/or business units and all related interdependencies with existing business prior to the integration of the new risks and/or business units.</p> <p>(c) Further explanation should be given in the case that the internal model is a group internal model (Art. 231). The following case should be clarified further, (including but not limited to):</p> <ul style="list-style-type: none"> - How is a major change at solo level classified at group level?; - Is the policy for changing the model only one policy at group level?; - At what level the combination of minor changes should be seen (group level vs. solo level)? - What are the authorized people who sign-off the major changes (group level vs. local level)? 	
Article 4 (1)		
Article 4 (2)	In order to be aligned with other approval processes, supervisors should confirm completeness of the application to use an internal model within 30 days.	
Article 4 (3)		
Article 4 (4)		
Article 4 (5)	The unrestricted power of supervisory authorities to request (...)“any further information...to assess the application to use the internal model”... seems to give too much unjustified freedom in requesting documentation and creates a risk to ensure convergence and effectiveness of application of the regulation.	

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	<p>Please add the following: <i>“as long as it pertains to article 2 (2)”</i>.</p> <p>In addition to this concern, it is unclear whether this additional information requirement can be request at a local level when applying for the group internal model under Art. 231. If so, the risk of creating a lack of convergence inside the group is high.</p>	
Article 4 (6)	<p>Not all documents will be available in electronic form. For example, documentation on elements of the internal model based on the implementing software supplied by an external services provider may not be available to the insurance or reinsurance in an electronic form. Provision should be made for documentation provided from vendor models when there is no clear mention of documentation in any clause in the services level agreement between the undertaking and the external services provider.</p>	
Article 4 (7)	<p>Some additional text is needed to know on what basis adjustments can or may be requested in order to ensure harmonisation and consistency. Clarification and justification for asking these <i>“adjustments”</i> is needed.</p> <p>It is not clear if those adjustments can be request at solo level when applying for a group internal model under Art. 231. If so, how does this request will work at a local level as a supervisory authority concerned? Authorization for asking this <i>“adjustments”</i> is needed at college level?</p>	
Article 4 (8)		
Article 4 (9)	<p>It is unclear if the new expiry date starts from the beginning or starts from the suspension date.</p> <p>Nothing is said about when the undertaking needs to submit a transitional plan, as set out in Art.113. May the undertaking request a suspension of these six months?</p>	
Article 5		
Article 6 (1)	<p>The sentence is the negative form of Art. 112 (5). Clarification is required to understand the need for it.</p>	
Article 6 (2)		
Article 6 (3)	<p>We strongly disagree with this paragraph. Directive Article 112(4) is clear that <i>“supervisory authorities shall decide on the application within six months from the receipt of the complete</i></p>	

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	<p>application". Failure by supervisory authorities to make a decision on internal model approval within six months is therefore in direct contravention of the Directive, yet there are no provisions in these standards for enforcing that obligation. The "six months' approval period" to which the standards refer is therefore of limited significance, since supervisory authorities can exceed it with impunity. There are risks that supervisory authorities will take considerably longer to consider an application, leaving an undertaking in a situation of uncertainty when the application is complete and receipt has been received. We suggest that this article is removed.</p>	
Article 6 (4)	<p>(b) This statement does not give clear direction as to what kind of terms and conditions are deemed acceptable. This statement can opens up a wide range of terms and conditions. Further clarity is required.</p> <p>(d) It is unclear if, when the supervisory authority has required a transitional plan in accordance with Art. 113, the decision of approval is dependent on this transitional plan. Art 7 (2) says that "Supervisory authorities shall evaluate the plan..." not approve it.</p>	
Article 6 (5)		
Article 6 (6)		
Article 7 (1)		
Article 7 (2)		
Article 7 (3)		
Article 8 (1)		
Article 8 (2)		
Article 8 (3)	<p>Text refers to minor changes where "<i>appropriate</i>": this type of wording is too broad and vague</p> <p>We disagree that all minor changes have to be communicated to the supervisor as this can generate additional unnecessary work (production of a report, etc). However, undertakings shall agree internally on the minor changes and have a process to manage them. As a combination of minor changes may constitute a major change in accordance with ITS Art 3(1)(c) on the model change policy, there is no need to report on minor changes to the supervisor.</p>	

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	It should be clarified what the minor changes should refer to if the undertaking is in the approval process for a major change.	
Article 9 (1)		
Article 9 (2)	Text refers to " <i>if satisfied that scope is comprehensive</i> ": This type of wording is too broad and vague	
Article 10		
Annex I		