

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:	Lloyd's	
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>Lloyd's welcomes the opportunity to respond to this consultation paper on implementing technical standards (ITS) on internal models approval processes.</p> <p>Lloyd's is a society of members which operates as an insurance and reinsurance market in London. In line with existing EU insurance directives and the Solvency II Directive, Lloyd's is and will be authorised to carry on insurance and reinsurance business as a single entity. It proposes to use an internal model to calculate its Solvency Capital Requirement, subject to supervisory approval.</p>	

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Recital (1)		
Recital (2)		
Recital (3)		
Recital (4)	<p>This Recital goes beyond the Directive. Directive Article 115 says that « major changes to the internal model...shall always be subject to prior supervisory approval ». The Directive does not require supervisory approval of « the inclusion of new elements in the internal model ».</p> <p>ITS « shall be technical, shall not imply strategic decisions or policy choices and their content shall be to determine the conditions of application... » of the legislative act under which they are made (Article 15 Regulation No. 1094/2010). We therefore question whether a recital to an ITS should make an assertion about supervisory policy that does not conform with the policy set out in the underlying legislative act. It go beyond ensuring « uniform conditions of application » of the relevant Directive Articles, to constitute the imposition of a new regulatory requirement on insurance undertakings. We therefore suggest that this recital is removed.</p>	
Recital (5)		
Recital (6)		
Recital (7)		
Recital (8)		
Recital (9)		
Recital (10)		
Article 1	<p>Paragraph (b) is not in line with Directive Article 114(2). The two provisions read as follows :</p> <p>Directive Article 114(2) :</p> <p>« EIOPA shall develop draft implementing technical standards on the procedures to be followed concerning :</p>	

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	<p>...</p> <p>(b) <u>the approval of major changes</u> to an internal model... »</p> <p>ITS Paragraph (b) :</p> <p>The ITS specifies « ...the procedure to be followed <u>as regards the applications submitted by insurance and reinsurance undertakings for approval</u> of a major change to the internal model... ».</p> <p>The ITS should not therefore be restricted to covering only procedures relating to applications for approval of major changes. To meet the Directive's requirements, they should cover all the procedures relating to approval of major changes, including procedures that supervisory authorities should follow when they are considering giving approval.</p> <p>Paragraph (b) should therefore be redrafted to read :</p> <p>« ...the procedure to be followed as regards <u>the approval of major changes</u> to the internal model... »</p> <p>Changes are therefore required to ITS Article 8. As drafted, this Article is addressed entirely to undertakings and imposes requirements on their applications. It should also contain provisions regarding the procedures supervisory authorities should follow when approving major changes.</p>	
Article 2 (1)		
Article 2 (2)		
	(p) It is unclear what « an estimation of the Solvency Capital Requirement at the most granular level according to the insurance or reinsurance undertaking risk categorisation » means.	
Article 2 (3)	Calculating the SCR with an internal model at the level of granularity which the model uses is a	

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	<p>tautology. Reporting a split at that level is likely to entail providing information on a vast number of risk categories, which would be of no benefit to supervisors. It is not clear what this means for calculation of the SCR using the standard formula.</p> <p>We suggest that this requirement is re-drafted. The words « at the most granular level according to the insurance or reinsurance undertaking risk categorisation » should be removed, both here and later on in the paragraph. They do not provide useful clarification of the application of the rules.</p>	
Article 2 (4)		
Article 2 (5)		
Article 3	<p>(b) As noted in our comments on Recital (4), the reference to « new elements » introduces a new requirement which does not appear in the Directive or the draft Delegated Acts. This is contrary to Article 15 of Regulation No. 1094/2010.</p> <p>If the policy for changing the internal model must not cover the inclusion of « new elements », it appears that undertakings using internal models will have to submit an application for approval of a new internal model every time they take on additional risks or business units, irrespective of the materiality of the change to their risk profiles, although this is not entirely clear. Such a requirement goes significantly further than the Directive and could make it difficult or impossible for some undertakings (and groups) ever to have an approved model.</p> <p>An ITS is not an appropriate instrument to introduce an entirely new regulatory concept such as « new elements » with significant implications for undertakings. In any case, the term « new elements » requires clear definition, as otherwise it will be a source of uncertainty for supervisors and undertakings alike.</p> <p>We therefore suggest that this condition be removed.</p>	

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Article 4 (1)		
Article 4 (2)	The words « and communicate this in writing » should be inserted at the end of the first sentence. This will align the process for internal models with other processes for supervisory approval.	
Article 4 (3)		
Article 4 (4)		
Article 4 (5)		
Article 4 (6)		
Article 4 (7)	We suggest the following amendment « ...and, <u>in the case of a partial internal model</u> , for a transitional plan as set out in Article 113...». This will ensure proper alignment with Article 113 of the Directive.	
Article 4 (8)		
Article 4 (9)		
Article 5		
Article 6 (1)		
Article 6 (2)		
Article 6 (3)	<p>This provision negates Directive Article 112(4), which says « The supervisory authorities shall decide on the application within six months from the receipt of the complete application ».</p> <p>Supervisory authorities that do not decide on an application within six months will directly contravene the Directive. The ITS should recognise this and include enforceable obligations on supervisory authorities to comply with this requirement. Otherwise, the ITS will have been drafted so as to render a Directive provision ineffective.</p>	
Article 6 (4)		
Article 6 (5)		
Article 6 (6)		

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Article 7 (1)		
Article 7 (2)		
Article 7 (3)		
	<p>Please see our comments on Article 1.</p> <p>This Article should cover the procedures that supervisory authorities should follow when approving major changes.</p> <p>It would be helpful and appropriate for the Article to suggest the time period within which supervisory authorities should normally reach a decision on major changes. Furthermore, the ITS should provide guidance on which model an undertaking should use whilst the supervisory authority is considering the request for approval. Should it use the « old », approved version, even though it may no longer fit its risk profile ? Or should it use the « new », amended version, even though it has not yet been approved ?</p>	
Article 8 (1)		
Article 8 (2)		
Article 8 (3)	<p>We suggest that this provision is discretionary rather than mandatory and that supervisory authorities have discretion over its application.</p> <p>The process of providing constant reports on minor changes may well entail a great deal of work for both the supervisor and the undertaking and a supervisor may find that, in practice, it is unnecessary and does not contribute usefully to its supervision of the undertaking. Supervisors may therefore want the ability to vary or disapply this provision.</p> <p>We therefore suggest that the word « shall » in the first and second sentences is replaced by « may ».</p>	
Article 9 (1)		
Article 9 (2)		

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Article 10		
Annex I		