



**eiopa**  
EUROPEAN INSURANCE  
AND OCCUPATIONAL PENSIONS AUTHORITY

# Legal instruments of EIOPA

Insurance and Reinsurance Stakeholder Group Meeting  
Frankfurt, 21 February 2014

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# The new rules of the Lisbon Treaty



- As of 1 December 2009 a new world in Comitology had begun
- Two separate legal basis and two different systems of
- **Delegated Acts:** to SUPPLEMENT or AMEND the NON-ESSENTIAL ELEMENTS of a legislative act
- **Implementing Acts:** to IMPLEMENT legislative acts

- The basic legal acts must contain all “essential elements”
- The legislator must empower the COM to prepare DA or IA
- The choice of the instrument (DA or IA) cannot be justified by political sensitivity or financial impact of the instrument
- Improper choice – wrong legal basis - can cause the invalidity of the acts subsequently adopted by the COM
- Procedural rules for IA: Regulation 182/2011 EU
- Procedural rules for DA: Common understanding on delegated acts (Cover note by the Council of 04 April 2011)

- Delegated acts are **always acts of general application**
- Delegated acts may **amend**, i.e. **formally modify the legislative act** (such as annex that legally forms part of the legislative instrument)
- Delegated acts may **supplement: non-essential rules which change the contents of the legislative act**, notably by adding new obligations

- Implementing acts can have **general and individual application**
- Implementing act is a pure implementation of rules of the legislative act
- Implementing act **cannot add, insert, delete or modify anything**
- **Comitology** procedures to be followed

# Regulatory tools under Regulation (EU) 1094/2010



- Regulatory and implementing technical standards (Article 10-15)
- Guidelines and recommendations (Article 16)
- Opinions (Article 29(1)(a))
- Other regulatory tools, e.g. Q&A (Article 29(2))

<b>Objective</b>	Technical regulation in specific policy areas
<b>Empowerment</b>	Required, in Regulations/Directives
<b>Legal force</b>	Binding as issued in a form of delegated/implementing act
<b>Addressees</b>	Subject specific
<b>Consultation</b>	Required, including IRSG/OPSG
<b>Endorsement</b>	by the European Commission

# Guidelines and recommendations

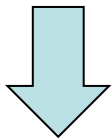
<b>Objective</b>	Supervisory convergence and consistent application of Union law
<b>Empowerment</b>	Not required, own initiative
<b>Legal force</b>	Non-binding, but make every effort to comply
<b>Addressees</b>	Supervisory authorities and/or financial institutions
<b>Consultation</b>	Required, including IRSG/OPSG
<b>Adoption</b>	by EIOPA Board of Supervisors



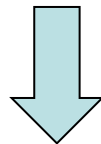
# Comply or explain mechanism (guidelines, recommendations)

- Supervisory authorities shall respond to EIOPA within two months of the issuance if they
  - ➡ comply
  - ➡ intend to comply
  - ➡ no comply/non-intend to comply
- EIOPA publishes the responses received from the supervisory authorities
- No comply responses must be reasoned and EIOPA may publish these reasons
- EIOPA shall inform the EP, the Council and the Commission on non-compliance and shall propose further actions that can ensure compliance

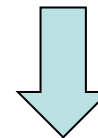
- Opinion: to supervisory authorities for building consistent supervisory practices
- EIOPA may develop new practical instruments and convergence tools – Q&A, Best practices, etc.



own initiative



non-binding



supervisory convergence



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**Thank you for your attention!**

**Szabolcs Dispiter**

Senior Legal Expert

email: [szabolcs.dispiter@eiopa.europa.eu](mailto:szabolcs.dispiter@eiopa.europa.eu)

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