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Commission Implementing Regulation (EU) 2015/498 of 24 March 2015 laying down implementing technical standards with regard to the supervisory approval procedure to use undertaking-specific parameters in accordance with Directive 2009/138/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2015/498

of 24 March 2015

laying down implementing technical standards with regard to the supervisory approval procedure to use undertaking-specific parameters in accordance with Directive 2009/138/EC of the European Parliament and of the Council

(Text with EEA relevance)

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)[1], and in particular Article 111(2) thereof,

Whereas:

(1) Applications to use undertaking-specific parameters 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.

(2) The information to be included by an insurance or reinsurance undertaking in its application should be specified to ensure a consistent basis for decision-making by supervisory authorities.

(3) The application to use undertaking-specific parameters is a strategic decision for risk management and capital planning purposes. Based on the ultimate responsibility of the administrative, management or supervisory body for compliance as set out in Article 40 of Directive 2009/138/EC, its involvement in the decision-making process on the application should be carefully considered.

(4) Rules should be set out for supervisory authorities to be in a position to adopt adequate procedures. Detailed rules on the assessment and the approval of the applications by the supervisory authorities should be laid down. They should be adapted proportionate to the complexity of the applications to manage the approval process. The approval process may take less than six months where proportionate to the complexity.

(5) The decision to apply for the use of undertaking-specific parameters should not be dictated only by lowering the capital requirement. The use of undertaking-specific parameters should however not prevent an undertaking from reverting to the standard

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parameters, if the undertaking-specific parameters are no longer reflecting its risk profile, in which case the undertaking should inform the supervisory authority of the reasons why these parameters are not appropriate anymore.

(6) The procedures for approval envisage ongoing communication between the supervisory authorities and insurance and reinsurance undertakings. That includes communication before a formal application is submitted to the supervisory authorities and, after an application has been approved, through the supervisory review process. Such ongoing communication is necessary to ensure that supervisory assessments are based on relevant and up-to-date information.

(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 Article 219 of Commission Delegated Regulation (EU) 2015/35[(2)]. To fulfil the requirement for the completeness of the data under Article 219 of that Regulation, the undertaking should use the undertaking-specific parameter values obtained by using the approved method with the most recent relevant data.

(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 those parameters will be similar or identical to the inputs used to calculate technical provisions.

(9) Due to interdependencies between different approval applications under Directive 2009/138/EC, when applying for approval of undertaking-specific parameters the insurance or reinsurance undertaking should inform the supervisory authority of other applications concerning the items in Article 308a(1) of Directive 2009/138/EC, which are currently ongoing or foreseen within the next six months. Such requirement is necessary to ensure supervisory assessments are based on transparent and unbiased information.

(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 of the European Parliament and of the Council[(3)].

(12) In order to enhance legal certainty about the supervisory regime during the phasing-in period provided for in Article 308a of Directive 2009/138/EC, which will start on 1 April 2015, it is important to ensure that this Regulation enters into force as soon as possible, on the day after that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

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Article 1

Application for approval of the use of undertaking-specific parameters

1 The insurance or reinsurance undertaking shall submit a written application for approval of the use of undertaking-specific parameters to replace a subset of parameters of the standard formula to the supervisory authority.

2 The application shall be submitted in one of the official languages of the Member State in which the insurance or reinsurance undertaking has its head office, or in a language that has been agreed upon with the supervisory authority.

3 The application by the insurance or reinsurance undertaking shall contain the following:

a documentary evidence of the insurance or reinsurance undertaking's internal decision-making process related to the application;

b a specific start date from which the use of the undertaking-specific parameters is requested;

c the subset of standard parameters which are requested to be replaced by undertaking-specific parameter

d for each segment the standardised method used and the insurance or reinsurance undertaking-specific parameter value obtained by using this method;

e the calculation of the undertaking-specific parameter the insurance or reinsurance undertaking applies to use and information that the calculation is adequate;

f evidence that data used to calculate the undertaking-specific parameters are complete, accurate and appropriate and they fulfil the requirements of Article 219 of Delegated Regulation (EU) 2015/35;

g 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.

4 In addition to the material specified in paragraph 3, the application shall also list all 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(1) of Directive 2009/138/EC, together with the corresponding application dates.

Article 2

Accuracy of the results

When demonstrating the accuracy of the results, insurance and reinsurance undertakings shall assess whether the standardised method is appropriate for the undertaking's data, whether their assumptions are fulfilled and whether data are relevant to the undertaking's risk profile.

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Article 3

Supervisory authority's assessment of the choice of the parameters and the method to calculate the parameters

1 The supervisory authority 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 The supervisory authorities shall assess the undertaking's justification for the choice of the standardised method to calculate undertaking-specific parameters. The 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 4

Assessment of the application

1 The supervisory authority shall confirm receipt of the application of the insurance or reinsurance undertaking.

2 The supervisory authority shall confirm whether the application is complete within 30 days of the date of receipt of the application. An application for approval of the use of undertaking-specific parameters shall considered to be complete by the supervisory authority if it includes all information and the documentary evidence set out in paragraph 3 and 4 of Article 1. Where the supervisory authority determines that the application is not complete, it shall immediately inform the insurance or reinsurance undertaking that the approval period has not begun and specify why the application is not considered to be complete.

3 Where the supervisory authority has confirmed an application to be complete, this shall not prevent that supervisory authority from requesting additional information necessary for carrying out its assessment. The request shall specify the additional information required and the reasons for the request.

4 The assessment of the application may include requests for adjustments from supervisory authorities to the way the undertaking proposes to apply the undertaking-specific parameter. Where the supervisory authority determines that it could be possible to approve the application of an undertaking-specific parameter subject to adjustments being made, it shall, without delay, notify the insurance or reinsurance undertaking in writing, of the adjustments required.

5 The days between the date the supervisory authority requests such information or adjustments, and the date the supervisory authority receives such information shall not be included within the six-month time period stated in paragraph 7.

6 The insurance or reinsurance undertaking shall inform the supervisory authority of any change to the details of its application. Where an insurance or reinsurance undertaking informs