Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/461. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2015 No. 461 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2015/461 of 19 March 2015 laying down implementing technical standards with regard to the process to reach a joint decision on the application to use a group internal model in accordance with Directive 2009/138/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2015/461

of 19 March 2015

laying down implementing technical standards with regard to the process to reach a joint decision on the application to use a group internal model 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 231(4) thereof,

Whereas:

(1) An efficient exchange of appropriate information between the national supervisory authorities concerned is essential for the provision of an effective process for the reaching of a joint decision on group internal models.

(2) In order to ensure a consistent application of the process for reaching a joint decision, it is important that each step be well defined. A clear process also facilitates exchange of information, promotes mutual understanding, develops relationships between the supervisory authorities concerned and promotes effective supervision.

(3) Timely and realistic planning for the joint decision process is essential. Every supervisory authority concerned should provide the group supervisor with relevant information on a timely basis.

(4) Establishing and documenting clear processes for the content and implementation of the joint decision should ensure that it is fully reasoned.

(5) The process to reach a joint decision on the application to use a group internal model should be consistent for the joint decision on major changes and for changes to the policy for changing the model for group internal models.

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

(7) EIOPA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and

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benefits and requested the opinion of the Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(2)],

(8) 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:

Article 1

Subject matter and Scope

This Regulation specifies the procedures to be followed by the supervisory authorities in order to reach a joint decision, referred to in Article 231(2) of Directive 2009/138/EC, on the application for permission to use a group internal model to calculate the consolidated group Solvency Capital Requirement, as well as the Solvency Capital Requirement of insurance and reinsurance undertakings in the group.

Article 2

Definition

For the purpose of this Regulation, 'supervisory authorities concerned' are the supervisory authorities of all the Member States in which the head offices of each related insurance and reinsurance undertakings applying for the use of a group internal model to calculate their Solvency Capital Requirement are situated.

Article 3

Agreement on the process

1 The supervisory authorities concerned shall agree on the process to reach and the way to formalise a joint decision including timeline, main steps and deliverables, also taking into account the requirements set out in Directive 2009/138/EC as further specified in the Commission Delegated Regulation (EU) 2015/35[(3)] supplementing Directive 2009/138/EC. In order to do everything within their power to reach a joint decision according to Article 231(2) of Directive 2009/138/EC, every supervisory authority concerned shall ensure that the main steps and deliverables set out for the agreed process are followed in a timely way.

2 The supervisory authorities concerned shall take into account when agreeing on the process, any legal impediments or internal processes that may restrict them to give their formal view on the application within the specified timeframe. To this end, all supervisory authorities concerned shall inform the other ones about any legal impediments or internal processes that may exist in their respective supervisory authority.

3 The supervisory authorities concerned shall provide the other authorities concerned with any information that may be relevant for the decision on the application as soon as practical.

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4 In the case a supervisory authority concerned raises a matter regarding the process, in particular when consensus on a decision is not likely to be reached, it shall explain the reasons for this to the other supervisory authorities concerned and indicate whether it intends to refer the matter to EIOPA according to Article 231(3) of Directive 2009/138/EC. The group supervisor shall discuss with all supervisory authorities concerned with the aim to find a solution to the matter. The supervisory authorities shall agree on a timeframe to reach a solution.

5 If no satisfactory solution is reached in the agreed timeframe and the relevant supervisory authority decides to refer the matter to EIOPA, it shall do it without delay.

Article 4

Proposal for a decision

1 Before making a proposal for a decision, the supervisory authorities concerned shall confirm that the assessment of the application has been finalized and that the outcome of this assessment constitutes the basis for making a decision on the application.

2 The other supervisory authorities concerned shall give their input on the proposal for a decision to the group supervisor in writing by summarising the outcome of the assessment made.

3 The group supervisor, with the input of the other supervisory authorities concerned referred to in paragraph 2, shall draft a written proposal for a decision, including, if applicable, the terms and conditions the proposed decision is subject to. This proposal shall include the reasons for the decision and, if applicable, for the terms and conditions.

4 When drafting a proposal for a decision, the group supervisor shall consider, if appropriate, the views expressed during the assessment of the application by the other supervisory authorities concerned regarding the appropriateness of the group internal model for the calculation of the consolidated group Solvency Capital Requirement. If relevant, the group supervisor shall also take into consideration the views from the other supervisory authorities within the college of supervisors regarding the group internal model.

5 The group supervisor shall send the proposal for a decision to the supervisory authorities concerned and, where appropriate, to the other members and participants of the college.

6 The other supervisory authorities concerned shall provide in writing to the group supervisor their opinion on the proposal for a decision, including, if applicable, their opinion on the terms and conditions to which the proposed decision is subject. The group supervisor shall aggregate the opinions received and provide a synthesis of them to the other supervisory authorities concerned.

7 The group supervisor shall organise at least a session with the other supervisory authorities concerned to discuss the proposal for a decision and the opinions provided. These sessions may take place as a physical meeting or, when agreed by all the supervisory authorities concerned, through other means. The discussion shall aim at reaching consensus on a joint decision. Every supervisory authority concerned shall then confirm its views or send in writing its final views and reservations to the group supervisor.