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Commission Implementing Regulation (EU) 2015/460 of 19 March 2015 laying down implementing technical standards with regard to the procedure concerning the approval of an 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) 2015/460

of 19 March 2015

laying down implementing technical standards with regard to the procedure concerning the approval of an 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 the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)[1] and in particular Article 114(2) thereof,

Whereas:

(1) Insurance and reinsurance undertakings need to comply with Directive 2009/138/EC requirements for internal models. They may change their internal model in accordance with the approved policy for changing the model pursuant to Article 115 of Directive 2009/138/EC.

(2) Major changes to the internal model, a combination of minor changes that is considered a major change, and changes to the policy for changing the model are subject to prior supervisory approval. Rules with regard to the procedure to be followed concerning the approval process for internal models should apply in a consistent manner to the approval of major changes to the internal model and to any changes to the policy for changing the model.

(3) The inclusion of new elements in the internal model, such as the inclusion of additional risks not included in the scope of the internal model or business units, are subject to supervisory approval as laid down in Article 112 of Directive 2009/138/EC.

(4) Due to interdependencies between different approval applications under Directive 2009/138/EC, when applying for approval of an internal model, the insurance or reinsurance undertaking should inform the supervisory authority of other applications for approval of the items listed in Article 308a(1) of Directive 2009/138/EC, which are currently ongoing or foreseen within the next 6 months. Such a requirement is necessary to ensure supervisory assessments are based on transparent and unbiased information.

(5) The procedure to be followed for the approval of an internal model and major changes to the internal model should envisage ongoing communication between the supervisory

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authorities and the insurance or reinsurance undertaking. It is appropriate to begin the communication before the formal application is submitted to the supervisory authorities. That communication should continue after the internal model or major change is approved through the supervisory review process.

(6) During the approval process supervisory authorities should be able to request adjustments to the internal model or for a transitional plan as set out in Article 113 of Directive 2009/138/EC.

(7) The provisions set out in this Regulation on the procedures to be followed concerning the approval, the approval of changes to the internal model and the approval of the policy for changing the model for internal models used at individual level should apply in a consistent manner to the procedures for internal models for the calculation of the consolidated group Solvency Capital Requirement and for group internal models.

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

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

(10) 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

This Regulation specifies:

(a) the procedure referred to in Article 112 of Directive 2009/138/EC as regards the approval of applications submitted by insurance and reinsurance undertakings to use full and partial internal models for the calculation of the Solvency Capital Requirement;

(b) the procedure as regards the approval of applications submitted by insurance and reinsurance undertakings for a major change to the internal model and of changes to the policy for changing the internal model according to Article 115 of Directive 2009/138/EC.

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Article 2

Application to calculate the Solvency Capital Requirement using an internal model

1 An insurance or reinsurance undertaking shall submit a written application for approval to calculate the Solvency Capital Requirement using an internal model 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 authorities.

3 Where applying to use an internal model to calculate the Solvency Capital Requirement, insurance and reinsurance undertakings shall submit documentary evidence setting out how the internal model fulfils the requirements set out in Articles 101 and 120 to 125 of Directive 2009/138/EC, and in the case of a partial internal model also Article 113 of Directive 2009/138/EC. The supervisory authority may request additional information in accordance with Article 3.

4 The documentary evidence referred to in paragraph 3 shall include, at least, the following:

a a cover letter including:

(i) a request for approval to use an internal model to calculate the Solvency Capital Requirement starting from a specified date and a general explanation of the internal model including a brief description of the structure and the scope of the model;

(ii) a confirmation of the period prior to the application for which the internal model has been used in the risk management system and decision making processes in accordance with the requirements set out in Article 120 of Directive 2009/138/EC;

(iii) a confirmation that the application is complete and includes an accurate description of the internal model and that no relevant facts have been omitted;

(iv) a confirmation on whether the insurance or reinsurance undertaking is part of a group using an internal model for the calculation of the consolidated group Solvency Capital Requirement or whether an application to use any internal model for calculating the consolidated group Solvency Capital Requirement was submitted without having received the notification of the decision;

(v) a list of other applications submitted by the insurance or reinsurance undertaking or currently foreseen within the next 6 months for approval of any of the items listed in Article 308a(1) of Directive 2009/138/EC, together with the corresponding application dates;

(vi) contact information of the relevant personnel within the insurance and reinsurance undertaking involved in the activities related to the internal model, as well as to the relevant personnel within this undertaking to whom the requests for supplementary information can be submitted;

b an explanation of how the internal model covers all the material and quantifiable risks of the insurance or reinsurance undertaking. Where the application for the approval relates to a partial internal model, the explanation shall be limited to the material

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and quantifiable risks within the scope of the partial internal model and the insurance or reinsurance undertaking shall also provide an explanation of how the additional conditions referred to in Article 113 of Directive 2009/138/EC have been satisfied;

c an explanation of the adequacy and effectiveness of the integration of the internal model into the risk management system and the role it plays in the system of governance, including how the internal model allows the insurance or reinsurance undertaking to identify, measure, monitor, manage and report risks on a continuous basis; for this purpose, the application shall include the relevant extracts of the risk management policy referred to in Article 41(3) of Directive 2009/138/EC;

d an assessment and a justification by the insurance or reinsurance undertaking of the material strengths, weaknesses, and limitations of the internal model, including a self-assessment of the compliance with the requirements referred to in paragraph 2; the insurance or reinsurance undertaking shall also outline its plan for the future improvement of the internal model in order to address identified weaknesses or limitations or to develop or extend the internal model;

e where the insurance or reinsurance undertaking is part of a group using an internal model for the calculation of the Solvency Capital Requirement or where an application to use any internal model for calculating the consolidated group Solvency Capital Requirement was submitted without having received the notification of the decision, a justification on why the group internal model is not fit for the risk profile of the undertaking and the differences between the internal model to be used at individual level and the group internal model;

f the technical specifications of the internal model, including a detailed description of the structure of the internal model, together with a list and justification of the assumptions underlying the internal model where an adjustment to these assumptions would have a significant impact on the Solvency Capital Requirement;

g an explanation of the adequacy of the internal control system of the insurance or reinsurance undertaking taking into account the structure and coverage of the model;

h an explanation of the adequacy of the resources, skills and objectivity of the personnel responsible for the development and validation of the internal model;

i the policy for changing the internal model referred to in Article 115 of Directive 2009/138/EC;

j a description of the process which ensures the consistency between the methods used to calculate the probability distribution forecast with the methods used to calculate technical provisions according to Article 121(2) of Directive 2009/138/EC;

k a directory of data used in the internal model, specifying their source, characteristics and usage and a description of the process which ensures that data are accurate, complete and appropriate;

l the results of the last profit and loss attribution and the specification of the profit and loss attribution in accordance with Article 123 of Directive 2009/138/EC including the profit and loss, the major business units of the undertaking and the attribution of the overall profit or loss to the risk categories and major business units;

m a description of the independent validation process of the internal model and a report of the results of the last validation in accordance with Article 124 of Directive 2009/138/EC, including what recommendations were made and how they were acted upon;

n the inventory of the documents that form part of the documentation of the internal model set out in Article 125 of Directive 2009/138/EC;

o where an insurance or reinsurance undertaking uses a model or data obtained from a third party as referred to in Article 126 of Directive 2009/138/EC, a demonstration that the use of such external model or data does not impair the ability of the insurance or reinsurance undertaking to meet the requirements set out in Articles 101 and 120 to 125

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of that Directive and in the case of a partial internal model pursuant to Article 113 of that Directive, the suitability for the use of that model or data within the internal model and an explanation of the preference of external models or data to internal models or data;

p an estimation of the Solvency Capital Requirement calculated with the internal model at the most granular level according to the insurance or reinsurance undertaking risk categorisation, and an estimation of the Solvency Capital Requirement calculated with the standard formula at the most granular level of the standard formula for the last point in time prior to the date of the submission of the application where the Solvency Capital Requirement was calculated with the standard formula. In case of an application before any Solvency Capital Requirement is calculated, the estimation of the Solvency Capital Requirement according to the standard formula shall be calculated with the standard formula parameters and not parameters specific to the insurance or reinsurance undertaking;

q an identification of those parts of the business of the insurance or reinsurance undertaking which have been classified as a major business unit and a justification for this classification;

r in the case of partial internal models, an explanation of how the integration technique proposed fulfils the requirements set out in Article 113(1) of Directive 2009/138/EC, and, in case of a technique different from the default one referred to in Article 239(1) of the Commission Delegated Regulation (EU) 2015/35[(3)], a justification of the integration technique proposed.

5 The insurance and reinsurance undertaking shall submit documentary evidence of the approval of the application by the administrative, management or supervisory bodies as set out in Article 116 of Directive 2009/138/EC.

6 The insurance or reinsurance undertaking shall provide an inventory of all the documents and sets of evidence included in the application. Where the content of a document is relevant for other documents, the insurance or reinsurance undertaking shall highlight the nature of the relevance and include cross-references.

Article 3

Assessment of the application

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

2 The supervisory authorities shall determine whether the application is complete within 30 days from the date of the receipt of the application. An application to use an internal model to calculate the Solvency Capital Requirement shall be considered to be complete if it includes all the documentary evidence set out in Article 2(2).

3 Where the supervisory authorities determine that the application is not complete, they shall immediately inform the insurance or reinsurance undertaking which has submitted the application that the 6-month approval period has not begun and specify the reasons why the application is not complete.

4 Where the supervisory authorities determine that the application is complete, they shall inform the insurance or reinsurance undertaking which has submitted the application that the application is complete and the date from which the 6-month period starts. That date shall be the date on which the complete application was received.