

Comments Template on Implementing Technical Standards On the procedures to be followed for the approval of the application of a matching adjustment		Deadline 30 June 2014
Name of Company:	Insurance and Reinsurance Stakeholder Group (IRSG)	
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-14-007@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering refers to Implementing Technical Standards on the procedures to be followed for the approval of the application of a matching adjustment.</p>		
Reference	Comment	
General Comment	<ul style="list-style-type: none"> ▪ Existing business: <ul style="list-style-type: none"> ○ Article 20.1.B.(a)(ii) of Life Directive 2002/83/EC allows insurance undertakings to fully recognize the effects of long term asset-liability management (ALM) strategies in valuing their insurance liabilities and the corresponding assigned assets backing them ○ Therefore, there are countries where life insurance undertakings already apply a measure very similar to the matching adjustment. The starting point is not the same in all EU jurisdictions ○ For these countries the procedures of the Draft ITS would lead to the supervisor receiving and having to assess a very large number of applications in respect of many existing portfolios of insurance obligations, with only nine months in which to do so, from 1 April 	

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2015 to 31 December 2015

- The proportionality principle has to be interpreted taking into account the effects that an ITS such as this may have both on the insurance undertakings and on the supervisors in the various EU jurisdictions, and solutions need to be found to ensure that this principle is not breached in any of them as a result of differences among the respective markets.
- **New Business:**
 - For new business, the 6 month consideration period could constitute a serious obstacle to offering new products with long-term guarantees
 - An insurance undertaking intending to sell a product to which it wishes to apply the matching adjustment cannot wait for 6 months or even more to be able to do so. Product design and launching and investment decisions take place in much shorter timeframes
 - The strategic or policy decision underlying the package of LTG measures, and in particular the matching adjustment, is to ensure the maintenance of the supply of insurance products with long-term guarantees, not only as regards the past (existing business) but also for the future (new business)
 - The formal requirements set forth in the ITS, and especially the 6-month consideration period, should not constitute an obstacle for the insurance sector to still provide long-term guarantees to the benefit of consumers. Otherwise it would be extremely detrimental both for consumers and for the long-term financing of the European economy.
- **Possible solution**
 - **Consider all products to which the matching adjustment is applied as a single portfolio of insurance obligations**
 - Article 77ter(1)(b) of the Directive considers all the products to which the matching adjustment is to be applied as a single portfolio of insurance obligations, and all the assets assigned to it as a single portfolio of assets
 - This would make it possible to lighten the huge administrative workload which otherwise would burden markets that have been applying a measure very similar to the matching adjustment for many years
- In addition to the foregoing comments, to further decrease the burden both on the supervisory authorities and the undertakings **“fast-track” processes should be put in place**, meaning that when undertakings already received supervisory approval to apply the Matching Adjustment (MA)

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	to a portfolio, they should be able to use again the application or refer to it when requesting approval for eg a new product which has similar characteristics. The period to get the approval should also be much shorter in such cases.	
Recital (1)		
Recital (2)		
Recital (3)		
Recital (4)		
Recital (5)		
Recital (6)		
Recital (7)		
Recital (8)		
Article 1 (1)		
Article 2 (1)		
Article 2 (3)		
Article 2 (4)		
Article 2 (5)	<ul style="list-style-type: none"> As stated here the written application to use the MA has to be approved by the administrative, management or supervisory body (AMSB); perhaps it should be clarified who is meant here in a two-tier board system, management or the board of supervisors 	
Article 3 (1) a		
Article 3 (1) b	<ul style="list-style-type: none"> As regards the requirement to provide information on details of assets consisting of line-by-line asset information within the assigned portfolio it may be helpful to clarify if “line-by-line”-basis refers to the SII balance sheet or if this may also mean the financial statements balance sheet can be taken 	
Article 3 (1) c		

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Article 4 (1) a	<p>Simplify the content of the application / Allow supervisors to require evidence, as the case may be, only of those requirements of the matching adjustment that have not been previously assessed</p> <ul style="list-style-type: none"> - A simplification of the requirements for quantitative and qualitative evidence accompanying the application is needed in terms of proportionality and operational practicality - The draft ITS should allow the supervisors to require evidence, as the case may be, only of the requirements of the matching adjustment that differ from those in the current local legislation, and not of the requirements that have been previously assessed by the supervisor 	
Article 4 (1) b		
Article 5 (1) a	<p>Simplify the content of the application / Allow supervisors to require evidence, as the case may be, only of those requirements of the matching adjustment that have not been previously assessed</p> <ul style="list-style-type: none"> - A simplification of the requirements for quantitative and qualitative evidence accompanying the application is needed in terms of proportionality and operational practicality - The draft ITS should allow the supervisors to require evidence, as the case may be, only of the requirements of the matching adjustment that differ from those in the current local legislation, and not of the requirements that have been previously assessed by the supervisor 	
Article 5 (1) b		
Article 5 (1) c		
Article 5 (1) d		
Article 6 (1) a	<p>Simplify the content of the application / Allow supervisors to require evidence, as the case may be, only of those requirements of the matching adjustment that have not been previously</p>	

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	<p>assessed</p> <ul style="list-style-type: none"> - A simplification of the requirements for quantitative and qualitative evidence accompanying the application is needed in terms of proportionality and operational practicality - The draft ITS should allow the supervisors to require evidence, as the case may be, only of the requirements of the matching adjustment that differ from those in the current local legislation, and not of the requirements that have been previously assessed by the supervisor 	
Article 6 (1) b		
Article 6 (1) c		
Article 6 (1) d		
Article 6 (1) e		
Article 6 (1) f		
Article 7 (1)		
Article 7 (2)		
Article 7 (3)		
Article 7 (4)	<ul style="list-style-type: none"> • The consideration/approval period should be shortened to a maximum of 3 months (instead of 6 months). The consideration/approval period should be capped at a maximum of 3 months, as in the case of the draft ITS on the assessment of the application of ancillary own-fund items • As regards the assessment of the application, the period of time in which the supervisory authority has to react on an application which is complete is the same for the application of a MA as it is for the application on an ancillary own fund item; however the wording in the papers is different. For ancillary own fund items the supervisory authority has to communicate its decision “on a timely basis” to the applying undertaking; as regards the MA the “timely basis” is lacking. In order to avoid an “over-interpretation” of differences perhaps the wording in the two papers should be aligned to each other 	

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Article 7 (5)	<p>Leave to usual local practice the interpretation of silence of Supervisory Authority</p> <ul style="list-style-type: none"> - Administrative law is not harmonised at EU level. In some EU jurisdictions the usual local practice is taking silence after the consideration period as acceptance. Therefore usual local practice should prevail 	
Article 7 (6)	<ul style="list-style-type: none"> • Art. 7 par. 6 and Art. 8 Par. 6 both seem to lead to the same consequences, i.e. both want to avoid an undertaking using a MA before approval by supervisory authorities; perhaps Art. 7 par 6 may be omitted 	
Article 7 (7)		
Article 7 (8)		
Article 7 (9)		
Article 7 (10)		
Article 8 (1)		
Article 8 (2)	<ul style="list-style-type: none"> • It is stated here that the supervisory authority “may consider other factors” (than those required to be fulfilled according to the OII-Directive) when reaching a decision on the approval of the application. One gains the impression here that the supervisory authority can deny the application of a MA even in cases in which all criteria required in the directive are fulfilled. Normally, ITS should only specify/concretize the requirements of the directive; here the supervisory authority seems to be provided with administrative discretion going beyond the provisions in the directive. It seems questionable if this is meant by the directive. Apart from that it would be helpful to list some examples for possible factors in order to be able to understand the idea behind this paragraph. 	
Article 8 (3)		
Article 8 (4)		
Article 8 (5)		
Article 8 (6)	<ul style="list-style-type: none"> • Art. 7 par. 6 and Art. 8 Par. 6 both seem to lead to the same consequences, i.e. both want to avoid an undertaking using a MA before approval by supervisory authorities; perhaps 	

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