



ΕΒΡΟΠΕΪΚΟ ΠΑΡΛΑΜΕΝΤΟ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
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Omnibus II Trilogue (COM(2011)0008 - 2011/0006 (COD))

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COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
Title			
<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority</p>	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority</p>	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>amending Directives 2002/92/EC, 2003/71/EC and 2009/138/EC and Regulation (EC) No 1060/2009 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority)</p>	

Citations				
	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Cit. 1	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50, 53, 62, and 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50, 53, 62, and 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50, 53, 62, and 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50, 53, 62, and 114 thereof,
Cit. 2	Having regard to the proposal from the Commission ,	Having regard to the proposal from the Commission ,	Having regard to the proposal from the Commission ,	Having regard to the proposal from the Commission ,
Cit. 3	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,



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Cit. 4	Having regard to the opinion of the European Economic and Social Committee,	Having regard to the opinion of the European Economic and Social Committee,	Having regard to the opinion of the European Economic and Social Committee,	Having regard to the opinion of the European Economic and Social Committee,
Cit. 5	Having regard to the opinion of the European Central Bank ,	Having regard to the opinion of the European Central Bank ,	Having regard to the opinion of the European Central Bank ,	Having regard to the opinion of the European Central Bank ,
Cit. 6	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,

Recitals				
	Whereas:	Whereas:	Whereas:	
Rec. -1 (new)			<i>-1. The financial crisis in 2007 and 2008 exposed important shortcomings in financial supervision, both in particular cases and in relation to the financial system as a whole. Nationally based supervisory models have lagged behind financial globalisation and the integrated and interconnected reality of European financial markets, in which many financial institutions operate across borders. The crisis exposed shortcomings in the areas of cooperation, coordination, consistent application of Union law and trust between national competent authorities.</i>	
Rec. -1a (new)			<i>(-1a) In a number of resolutions adopted before and during the financial crisis, the European Parliament called for a move towards more integrated European supervision, in order to ensure a truly level playing field for all actors at Union level, and for such supervision to reflect the increasing integration of financial markets in the Union (in particular, in its resolutions of 13 April 2000 on the Commission communication on implementing the framework for</i>	



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			<p><i>financial markets: Action Plan, of 21 November 2002 on prudential supervision rules in the European Union, of 11 July 2007 on financial services policy (2005-2010) – White Paper, of 23 September 2008 with recommendations to the Commission on hedge funds and private equity, and of 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: Future Structure of Supervision, and in its positions of 22 April 2009 on the amended proposal for a directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and of 23 April 2009 on the proposal for a regulation of the European Parliament and of the Council on Credit Rating Agencies).</i></p>	
Rec. -1b (new)			<p><i>(-1b) In November 2008 the Commission instructed a High-Level Group chaired by Jacques de Larosière to make recommendations on how to strengthen European supervisory arrangements with a view to better protecting Union citizens and rebuilding trust in the financial system. In its final report presented on 25 February 2009 (the ‘de Larosière Report’), the High-Level Group recommended that the supervisory framework be strengthened to reduce the risk and severity of future financial crises. It recommended far-reaching reforms to the supervisory structure of the financial sector within the Union. The de Larosière Report also</i></p>	



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			<i>recommended that a European System of Financial Supervision (ESFS) be created, comprising three European supervisory authorities – one for each of the banking, the securities and the insurance and occupational pensions sectors – and a European Systemic Risk Council.</i>	
Rec. -1c (new)			<i>(-1c) Financial stability is a prerequisite if the real economy is to provide jobs, credit and growth. The financial crisis has revealed serious shortcomings in financial supervision, which has failed to anticipate adverse macro-prudential developments or to prevent the accumulation of excessive risks within the financial system.</i>	
Rec. 1	(1) On 23 September 2009, the Commission adopted proposals for three Regulations establishing the European System of Financial Supervisors including the creation of the three European Supervisory Authorities (ESA).	(1) On 23 September 2009, the Commission adopted proposals for three Regulations establishing the European System of Financial Supervisors including the creation of the three European Supervisory Authorities (ESA).	(1) On 24 November 2010, the <i>European Parliament and the Council</i> adopted three Regulations establishing <i>the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), the European Supervisory Authority (European Banking Authority) (EBA) and the European Supervisory Authority (European Securities and Markets Authority) (ESMA) (collectively referred to as the European Supervisory Authorities (ESAs), which are part of the European System of Financial Supervision.</i>	
Rec. 1a (new)			<i>(1a) In its conclusions following its meeting of 18 and 19 June 2009, the European Council recommended that a European System of Financial Supervisors, comprising three new ESAs, be established. It also</i>	



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			<i>recommended that the system should be aimed at upgrading the quality and consistency of national supervision, strengthening the oversight of cross-border groups, establishing a single European rulebook applicable to all financial institutions in the internal market. It emphasised that the ESAs should also enjoy supervisory powers in respect of credit rating agencies, and invited the Commission to prepare concrete proposals as to how the ESFS could play a strong role in crisis situations.</i>	
Rec. 2	(2) In order for the European System of Financial Supervisors (ESFS) to work effectively, changes to Union legislation in the field of operation of the three Authorities are necessary. Such changes concern the definition of the scope of certain powers of the ESAs, the integration of certain powers in existing processes established in relevant Union legislation and amendments to ensure a smooth and effective functioning of the ESA in the context of the ESFS.	(2) In order for the European System of Financial Supervisors (ESFS) to work effectively, changes to Union legislation in the field of operation of the three Authorities are necessary. Such changes concern the definition of the scope of certain powers of the ESAs, the integration of certain powers in existing processes established in relevant Union legislation and amendments to ensure a smooth and effective functioning of the ESA in the context of the ESFS.	(2) In order for the ESFS to work effectively, changes to Union legislation in the field of operation of the three ESAs are necessary. Such changes concern the definition of the scope of certain powers of the ESAs, the integration of certain powers in existing processes established in relevant Union legislation and amendments to ensure a smooth and effective functioning of the ESAs in the context of the ESFS.	
Rec. 3	(3) The establishment of three ESAs should be accompanied by the development of a single rule book to ensure consistent harmonisation and uniform application and thus contribute to a more effective functioning of the internal market. The regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption in	(3) The establishment of three ESAs should be accompanied by the development of a single rule book to ensure consistent harmonisation and uniform application and thus contribute to a more effective functioning of the internal market. The regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption in	(3) The establishment of three ESAs should therefore be accompanied by the development of a single rule book to ensure consistent harmonisation and uniform application and thus contribute to the even more effective functioning of the internal market and the more effective implementation of micro-level supervision . The regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant	



	accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) by means of delegated or implementing acts. Whereas Directive .../.... [Omnibus I] has identified a first set of such areas, this Directive should identify a further set of areas, in particular for Directive 2003/71/EC and Directive 2009/138/EC, without prejudice to adding further areas in the future.	accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) by means of delegated or implementing acts. Whereas Directive 2010/78/EU has identified a first set of such areas, this Directive should identify a further set of areas, in particular for Directive 2003/71/EC and Directive 2009/138/EC, without prejudice to adding further areas in the future.	legislation, to be submitted to the Commission for adoption in accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) by means of delegated or implementing acts. Whereas Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority)¹ has identified a first set of such areas, this Directive should identify a further set of areas, in particular for Directives 2002/92/EC, 2003/71/EC and Directive 2009/138/EC, and Regulation 1060/2009. Directive 2003/41/EC, for which the Commission should put forward a proposal for revision before the end of 2012, should not be covered by this Directive.	
Rec. 4	(4) The relevant legislation should define those areas where the ESAs are empowered to develop draft technical standards and how such standards should be adopted. The relevant legislation should lay down the elements, conditions and specifications as detailed in Article 290 TFEU in the case of delegated acts.	(4) The relevant legislation should define those areas where the ESAs are empowered to develop draft technical standards and how such standards should be adopted. The relevant legislation should lay down the elements, conditions and specifications as detailed in Article 290 TFEU in the case of delegated acts.	(4) The relevant legislation should define those areas where the ESAs are empowered to develop draft technical standards and how such standards should be adopted. The relevant legislation should lay down the elements, conditions and specifications as detailed in Article 290 TFEU in the case of delegated acts.	
Rec. 5	(5) The identification of areas for technical standards should strike an	(5) The identification of areas for technical standards should strike an	(5) The identification of areas for technical standards should strike an	

¹ *OJ L 331, 15.12.2010, p. 120.*



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	appropriate balance between building a single set of harmonised rules and avoiding unduly complicated regulation and enforcement. The only areas selected should be those in which consistent technical rules will contribute significantly and effectively to the achievement of the objectives of the relevant legislation, while ensuring that policy decisions are taken by the European Parliament, the Council and the Commission in accordance with their usual procedures.	appropriate balance between building a single set of harmonised rules and avoiding unduly complicated regulation and enforcement. The only areas selected should be those in which consistent technical rules will contribute significantly and effectively to the achievement of the objectives of the relevant legislation, while ensuring that policy decisions are taken by the European Parliament, the Council and the Commission in accordance with their usual procedures.	appropriate balance between building a single set of harmonised rules and avoiding unduly complicated regulation and enforcement. The only areas selected should be those in which consistent technical rules will contribute significantly and effectively to the achievement of the objectives of the relevant legislation, while ensuring that policy decisions are taken by the European Parliament, the Council and the Commission in accordance with their usual procedures.
Rec. 6	(6) Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts. The technical standards adopted as delegated acts should further develop, specify and determine the conditions for consistent harmonisation of the rules included in basic instruments adopted by the European Parliament and the Council, supplementing or amending certain non-essential elements of the legislative act. On the other hand, technical standards adopted as implementing acts should set conditions for the uniform application of legally binding Union acts. Technical standards should not involve policy choices.	(6) Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts. The technical standards adopted as delegated acts should further develop, specify and determine the conditions for consistent harmonisation of the rules included in basic instruments adopted by the European Parliament and the Council, supplementing or amending certain non-essential elements of the legislative act. On the other hand, technical standards adopted as implementing acts should set conditions for the uniform application of legally binding Union acts. Technical standards should not involve policy choices.	(6) Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts. Regulatory technical standards adopted as delegated acts should further develop, specify and determine the conditions for consistent harmonisation of the rules included in basic instruments adopted by the European Parliament and the Council, supplementing or amending certain non-essential elements of the legislative act. On the other hand, implementing technical standards adopted as implementing acts should set conditions for the uniform application of legally binding Union acts. Technical standards should not involve policy choices.
Rec. 7	(7) In the case of regulatory technical standards it is appropriate to introduce the procedure provided for in Articles 10 to 14 of Regulation (EU) No .../2010 [EBA], of Regulation (EU) No .../2010 [ESMA], and of Regulation (EU) No .../2010 [EIOPA]. Implementing	(7) In the case of regulatory technical standards it is appropriate to introduce the procedure provided for in Articles 10 to 14 of Regulation (EU) No <u>1093/2010</u> [EBA], of Regulation (EU) No <u>1095/2010</u> [ESMA], and of Regulation (EU) No <u>1094/2010</u> [EIOPA]. Implementing	(7) In the case of regulatory technical standards it is appropriate to apply the procedure provided for in Articles 10 to 14 of Regulation (EU) No 1093/2010 , of Regulation (EU) No 1094/2010 , and of Regulation (EU) No 1095/2010 , respectively . Implementing technical



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	<p>technical standards should be adopted in accordance with the procedure provided for in Article 15 of Regulation (EU) No .../2010 [EBA], of Regulation (EU) No .../2010 [ESMA], and of Regulation (EU) No .../2010 [EIOPA]. The European Council endorsed the four-level 'Lamfalussy' approach to make the regulatory process for Union financial legislation more efficient and transparent. The Commission is empowered to adopt level-2 measures in many areas, and a large number of level-2 Commission regulations and directives are in force. In cases where the technical standards are designed to further develop, specify or determine the conditions of application of such level-2 measures, they should be adopted only once the relevant level-2 measures has been adopted and should respect the content of that level-2 measure.</p>	<p>technical standards should be adopted in accordance with the procedure provided for in Article 15 of Regulation (EU) No <u>1093/2010</u> [EBA], of Regulation (EU) No <u>1095/2010</u> [ESMA], and of Regulation (EU) No <u>1094/2010</u> [EIOPA]. The European Council endorsed the four-level 'Lamfalussy' approach to make the regulatory process for Union financial legislation more efficient and transparent. The Commission is empowered to adopt level-2 measures in many areas, and a large number of level-2 Commission regulations and directives are in force. In cases where the technical standards are designed to further develop, specify or determine the conditions of application of such level-2 measures, they should be adopted only once the relevant level-2 measures has been adopted and should respect the content of that level-2 measure.</p>	<p>standards should be adopted in accordance with the procedure provided for in Article 15 of Regulation (EU) No <i>1093/2010</i>, of Regulation (EU) No <i>1094/2010</i>, and of Regulation (EU) No <i>1095/2010, respectively. It should be recognised that regulatory technical standards are adopted as delegated acts under Article 290 TFEU and implementing technical standards are adopted as implementing acts under Article 291 TFEU.</i></p>	
Rec. 8	<p>(8) Binding technical standards contribute to a single rulebook for financial services legislation as endorsed by the European Council in its conclusions of June 2009. To the extent that certain requirements in Union legislative acts are not fully harmonised, and in accordance with the precautionary principle on supervision, binding technical standards developing, specifying or determining the conditions of application for those requirements should not prevent Member States from requiring additional information or imposing more stringent requirements. Technical standards should therefore allow Member States to do so in specific</p>	<p>(8) Binding technical standards contribute to a single rulebook for financial services legislation as endorsed by the European Council in its conclusions of June 2009. To the extent that certain requirements in Union legislative acts are not fully harmonised, and in accordance with the precautionary principle on supervision, binding technical standards developing, specifying or determining the conditions of application for those requirements should not prevent Member States from requiring additional information or imposing more stringent requirements. Technical standards should therefore allow Member States to do so in specific</p>	<p>(8) <i>Regulatory and implementing</i> technical standards <i>should</i> contribute to a single rulebook for financial services legislation as endorsed by the European Council in its conclusions of June 2009. To the extent that certain requirements in Union legislative acts are not fully harmonised, and in accordance with the precautionary principle on supervision, <i>regulatory and implementing</i> technical standards developing, specifying or determining the conditions of application for those requirements should not prevent Member States from requiring additional information or imposing more stringent requirements. <i>Regulatory and</i></p>	



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	areas, where those legislative acts provide for such discretion.	areas, where those legislative acts provide for such discretion.	implementing technical standards should therefore allow Member States to do so in specific areas, where those legislative acts provide for such discretion.	
Rec. 9	(9) As set out in the regulations establishing the ESFS, before submitting the technical standards to the Commission, the ESA should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits.	(9) As set out in the regulations establishing the ESFS, before submitting the technical standards to the Commission, the ESA should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits.	(9) As set out in the regulations establishing the <i>ESAs</i> , before submitting regulatory or implementing technical standards to the Commission, the <i>ESAs</i> should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits.	
Rec. 10	(10) It should be possible for technical standards to provide for transitional measures subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.	(10) It should be possible for technical standards to provide for transitional measures subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.	(10) It should be possible for regulatory and implementing technical standards to provide for transitional measures subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.	
Rec. 10a (new)			<i>(10a) At the moment of adoption of this Directive, the work relating to the preparation of and the consultation to the first set of measures to implement the framework rules under 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 is well underway. In the interests of an early finalisation of those measures, it is appropriate to allow the Commission, for a transitional period, to adopt some of the regulatory technical standards provided for in this Directive, in accordance with the procedure for the</i>	

¹ OJ 335, 17.12.2009, p. 1.



			<i>adoption of delegated acts. Any amendments to such standards or, after the transitional period has expired, any new measures to implement Directive 2009/138/EU, should be adopted in accordance with the procedure referred to in this Directive.</i>	
Rec. 10b (new)			<i>(10b) Due to the extensive nature of the delegated acts and the regulatory technical standards provided for in this Directive, the European Parliament and the Council should have three months from the date of notification to object to a delegated act or a regulatory technical standard. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by a further three months.</i>	
Rec. 11	(11) The Regulations establishing the ESFS provide for a mechanism to settle disagreements between competent national authorities. Where a competent authority disagrees with the procedure or content of an action or inaction by another competent authority in areas specified in legal acts of the Union in accordance with Regulation (EU) No .../2010 [EBA], Regulation (EU) No .../2010 [ESMA] and Regulation (EU) No .../ 2010 [EIOPA], where the relevant legislation requires cooperation, coordination or joint decision-making by competent national authorities from more than one Member State, the ESA, at the request of one of the competent authorities concerned, should be able to assist the authorities in reaching an agreement within the time limit set by the	(11) The Regulations establishing the ESFS provide for a mechanism to settle disagreements between competent national authorities. Where a competent authority disagrees with the procedure or content of an action or inaction by another competent authority in areas specified in legal acts of the Union in accordance with Regulation (EU) No 1093/2010 [EBA], Regulation (EU) No 1095/2010 [ESMA] and Regulation (EU) No 1094/2010 [EIOPA], where the relevant legislation requires cooperation, coordination or joint decision-making by competent national authorities from more than one Member State, the ESA, at the request of one of the competent authorities concerned, should be able to assist the authorities in reaching an agreement within the time limit set by the	(11) The Regulations establishing the ESAs provide for a mechanism to settle disagreements between national supervisory authorities. Where a supervisory authority disagrees with the procedure or content of an action or inaction by another supervisory authority in areas specified in legal acts of the Union in accordance with Regulation (EU) No 1093/2010 ■ , Regulation (EU) No 1094/2010 ■ and Regulation (EU) No 1095/2010 ■ , where the relevant legislation requires cooperation, coordination or joint decision-making by ■ national supervisory authorities from more than one Member State, the competent ESA, at the request of one of the supervisory authorities concerned, should be able to assist the authorities in reaching an agreement within the time	



	ESA which should take into account any relevant time limits in the relevant legislation, and the urgency and complexity of the disagreement. In the event that such disagreement persists, the ESA should be able to settle the matter.	ESA which should take into account any relevant time limits in the relevant legislation, and the urgency and complexity of the disagreement. In the event that such disagreement persists, the ESA should be able to settle the matter.	limit set by the ESA which should take into account any relevant time limits in the relevant legislation, and the urgency and complexity of the disagreement. In the event that such disagreement persists, the competent ESA should be able to settle the matter.	
Rec. 12	(12) The regulations establishing the ESAs require that the cases where the mechanism to settle disagreements between competent national authorities may be applied are to be specified in the sectoral legislation. This Directive should identify a first set of such cases and should be without prejudice to adding further cases in the future. This Directive should not prevent the ESAs from acting in accordance with other powers or fulfilling tasks specified in their establishing regulations, including non-binding mediation and contributing to the consistent, efficient and effective application of legal acts of the Union. Moreover, in those areas where some form of non-binding mediation is already established in the relevant legal act, or where there are time limits for joint decisions to be taken by one or more competent national authorities, amendments are needed to ensure clarity and minimum disruption of the process for reaching a joint decision, but also that where necessary, the ESAs should be able to resolve disagreements. The binding procedure for the settlement of disagreements is designed to solve situations where competent supervisors cannot resolve, among themselves,	(12) The regulations establishing the ESAs require that the cases where the mechanism to settle disagreements between competent national authorities may be applied are to be specified in the sectoral legislation. This Directive should identify a first set of such cases and should be without prejudice to adding further cases in the future. This Directive should not prevent the ESAs from acting in accordance with other powers or fulfilling tasks specified in their establishing regulations, including non-binding mediation and contributing to the consistent, efficient and effective application of legal acts of the Union. Moreover, in those areas where some form of non-binding mediation is already established in the relevant legal act, or where there are time limits for joint decisions to be taken by one or more competent national authorities, amendments are needed to ensure clarity and minimum disruption of the process for reaching a joint decision, but also that where necessary, the ESAs should be able to resolve disagreements. The binding procedure for the settlement of disagreements is designed to solve situations where competent supervisors cannot resolve, among themselves,	(12) The regulations establishing the ESAs require that the cases where the mechanism to settle disagreements between national supervisory authorities may be applied are to be specified in the sectoral legislation. This Directive should identify a second set of such cases and should be 1 . This Directive should not prevent the ESAs from acting in accordance with other powers or fulfilling tasks specified in their establishing regulations, including non-binding mediation and contributing to the consistent, efficient and effective application of legal acts of the Union. Moreover, in those areas where some form of non-binding mediation is already established in the relevant legal act, or where there are time limits for joint decisions to be taken by one or more national supervisory authorities, amendments are needed to ensure clarity and minimum disruption of the process for reaching a joint decision, but also that where necessary, the ESAs should be able to resolve disagreements. The binding procedure for the settlement of disagreements is designed to solve situations where national supervisory authorities cannot resolve, among themselves, procedural or substantive	



	procedural or substantive issues relating to compliance with legal acts of the Union.	procedural or substantive issues relating to compliance with legal acts of the Union.	issues relating to compliance with legal acts of the Union.	
Rec. 13	(13) This Directive should therefore identify situations where a procedural or a substantive issue of compliance with Union law may need to be resolved and the supervisors may not be able to resolve the matter on their own. In such a situation, one of the supervisors involved should be able to raise the issue with the competent ESA. That ESA should act in accordance with the procedure set out in its establishing regulation and in this Directive. It should be able to require the competent authorities concerned to take specific action or to refrain from action in order to settle the matter and to ensure compliance with Union law, with binding effects on the competent authorities concerned. In cases where the relevant legal act of the Union confers discretion on Member States, decisions taken by a ESA should not replace the exercise of discretion by the competent authorities in compliance with Union law.	(13) This Directive should therefore identify situations where a procedural or a substantive issue of compliance with Union law may need to be resolved and the supervisors may not be able to resolve the matter on their own. In such a situation, one of the supervisors involved should be able to raise the issue with the competent ESA. That ESA should act in accordance with the procedure set out in its establishing regulation and in this Directive. It should be able to require the competent authorities concerned to take specific action or to refrain from action in order to settle the matter and to ensure compliance with Union law, with binding effects on the competent authorities concerned. In cases where the relevant legal act of the Union confers discretion on Member States, decisions taken by a ESA should not replace the exercise of discretion by the competent authorities in compliance with Union law.	(13) This Directive should therefore identify situations where a procedural or a substantive issue of compliance with Union law may need to be resolved and the <i>national supervisory authorities</i> may not be able to resolve the matter on their own. In such a situation, one of the <i>national supervisory authorities concerned</i> should be able to raise the issue with the competent ESA. That ESA should act in accordance with its establishing regulation and <i>with</i> this Directive. It should be able to require the <i>supervisory</i> authorities concerned to take specific action or to refrain from action in order to settle the matter and to ensure compliance with Union law, with binding effects on the <i>supervisory</i> authorities concerned. In cases where the relevant legal act of the Union confers discretion on Member States, decisions taken by <i>an</i> ESA should not replace the exercise of discretion by the <i>supervisory</i> authorities in compliance with Union law.	
Rec. 14	(14) 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 provides for joint decisions as regards the approval of applications to use an internal model at group and subsidiary levels, the approval	(14) 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) ² provides for joint decisions as regards the approval of applications to use an internal model at group and subsidiary levels, the approval	(14) Directive 2009/138/EC provides for joint decisions as regards the approval of applications to use an internal model at group and subsidiary levels, the approval of applications to make a subsidiary subject to Articles 238 and 239 of that Directive and the identification of the group supervisor on a different basis from	

¹ OJ L 335, 17.12.2009 p. 1-155

² OJ L 335, 17.12.2009 p. 1-155



	<p>of applications to make a subsidiary subject to Articles 238 and 239 of that Directive and the identification of the group supervisor on a different basis from the criteria set out in Article 247 of that Directive. In all of these areas, an amendment should clearly state that in the event of disagreement, the European Insurance and Occupational Pensions Authority (EIOPA) may resolve the disagreement using the process outlined in Regulation .../... [EIOPA]. This approach would make it clear that disagreements can be resolved and cooperation strengthened before a decision is made or issued to an institution. EIOPA's role in resolving disagreements is to mediate between the conflicting views of the supervisory authorities rather than to substitute judgements in the matters concerned. The fact that EIOPA has acted to mediate a specific disagreement should not be understood as meaning that EIOPA should have an ongoing role in the supervision of the subject matter of the application.</p>	<p>of applications to make a subsidiary subject to Article 238 [...] of that Directive and the identification of the group supervisor on a different basis from the criteria set out in Article 247 of that Directive. In all of these areas, an amendment should clearly state that in the event of disagreement, the European Insurance and Occupational Pensions Authority (EIOPA) may resolve the disagreement using the process outlined in Regulation (EU) No 1094/2010. This approach would make it clear that disagreements can be resolved and cooperation strengthened before a decision is made or issued to an institution. EIOPA's role in resolving disagreements is to mediate between the conflicting views of the supervisory authorities rather than to substitute judgements in the matters concerned. The fact that EIOPA has acted to mediate a specific disagreement should not be understood as meaning that EIOPA should have an ongoing role in the supervision of the subject matter of the application.</p>	<p>the criteria set out in Article 247 of that Directive. In all of these areas, an amendment should clearly state that in the event of disagreement, ■ EIOPA may resolve the disagreement using the process outlined in <i>Regulation (EU) No 1094/2010</i>. This approach <i>makes</i> it clear that <i>while EIOPA should not replace the exercise of discretion by the supervisory authorities in compliance with Union law, it should be possible for</i> disagreements <i>to</i> be resolved and cooperation <i>to be</i> strengthened before a <i>final</i> decision is <i>taken by the national supervisory authority</i> or issued to an institution. EIOPA <i>should resolve</i> disagreements <i>by mediating</i> between the conflicting views of the supervisory authorities ■.</p>
Rec. 15	<p>(15) The new supervisory architecture established by the ESFS will require national supervisory authorities to cooperate closely with the ESAs. Amendments to the relevant legislation should ensure there are no legal obstacles to the information sharing obligations included in the regulations proposed by the Commission establishing the ESAs.</p>	<p>(15) The new supervisory architecture established by the ESFS will require national supervisory authorities to cooperate closely with the ESAs. Amendments to the relevant legislation should ensure there are no legal obstacles to the information sharing obligations included in the regulations proposed by the Commission establishing the ESAs.</p>	<p>(15) The new supervisory architecture established by the ESFS will require national supervisory authorities to cooperate closely with the ESAs. Amendments to the relevant legislation should ensure <i>that</i> there are no legal obstacles to the information-sharing obligations included in the regulations ■ establishing the ESAs <i>and that the provision of data does not give rise to unnecessary red tape.</i></p>



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Rec. 15a (new)			<p><i>(15a) Supervisory knowledge of the assets held by insurance and reinsurance undertakings is an important tool with respect to macroeconomic surveillance. A full list of an undertaking's assets can be essential for supervisory authorities to assess financial risks properly, and in particular for insurance and reinsurance undertakings that are significant in terms of their size, internal organisation, and the nature, scale and complexity of risks inherent to their business. Supervisory authorities should therefore be able to require insurance and reinsurance undertakings to submit a full list of assets on an item-by-item basis when such information is necessary for them to effectively undertake their supervisory role. A full list of assets is not essential for supervisory authorities concerned to assess risks with respect to financial stability where insurance and reinsurance undertakings concerned do not play a major role in financial markets. This is particularly relevant for undertakings which do not hold a significant part of the total market share of a Member State's life or non-life insurance market.</i></p>	
Rec. 16	(16) In areas where the Commission is currently empowered by Directive 2009/138/EC to adopt implementing measures where these measures are non-legislative acts of general application to supplement or amend certain non-essential elements of that Directive in the	(16) In areas where the Commission is currently empowered by Directive 2009/138/EC to adopt implementing measures where these measures are non-legislative acts of general application to supplement or amend certain non-essential elements of that Directive in the	(16) In areas where the Commission is currently empowered by Directive 2009/138/EC to adopt implementing measures where these measures are non-legislative acts of general application to supplement or amend certain non-essential elements of that Directive in the	



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	sense of Article 290 TFEU, the Commission should be empowered to adopt delegated acts in accordance with that Article.	sense of Article 290 TFEU, the Commission should be empowered to adopt delegated acts in accordance with that Article.	sense of Article 290 TFEU, the Commission should be empowered to adopt delegated acts in accordance with that Article <i>or regulatory technical standards in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i>	
Rec. 16a (new)		<u>(16a) In order to ensure that the same treatment is applied to all insurance and reinsurance undertakings calculating the Solvency Capital Requirements on the basis of the standard formula, or to take account of market developments, the Commission should be empowered to adopt delegated acts in relation to Solvency Capital Requirement on the basis of the standard formula.¹</u>		
Rec. 16b (new)		<u>(16b) In order to address risks which are not adequately covered by a sub-module, the Commission should be empowered to adopt delegated acts in relation to quantitative limits and asset eligibility criteria for the Solvency Capital Requirement on the basis of the standard formula.² Those delegated acts should apply to assets covering technical provisions, excluding assets held in respect of life insurance contracts where the investment risk is borne by the policy holders.</u>		
Rec. 16c (new)		<u>(16c) In order to ensure a harmonised approach to the use of internal models throughout the Community and to enhance the better assessment of the risk profile and management of the business of insurance and reinsurance</u>		

¹ recital taking over initial part of Art 111(1) from 2009/138

² recital taking over initial part of Art 111(2) from 2009/138



		<u>undertakings, the Commission should be empowered to adopt delegated acts in relation to the use of internal models.¹</u>		
Rec. 16d (new)		<u>(16d) The Commission should ensure that the new prudential regime avoids undesirable impacts in its treatment of insurance business with long term guarantees. While adopting delegated acts, the Commission should also ensure that the continuity and further development of insurance activities with long term guarantees is not impaired.</u>		
Rec. 17	(17) In order to allow for the consistent calculation of technical provisions by insurance and reinsurance undertakings under Directive 2009/138/EC, it is necessary for a central body to derive, publish, and update certain technical information related to the risk-free interest rate term structure, which takes account of observations in the financial market, and for the body to be able to do this on a regular basis. Given the technical and insurance related nature of these tasks, they should be carried out by EIOPA.	(17) In order to allow for the consistent calculation of technical provisions by insurance and reinsurance undertakings under Directive 2009/138/EC, it is necessary for a central body to derive, publish, and update certain technical information related to the risk-free interest rate term structure, which takes account of observations in the financial market, and for the body to be able to do this on a regular basis. Given the technical and insurance related nature of these tasks, they should be carried out by EIOPA.	(17) In order to allow for the consistent calculation of technical provisions by insurance and reinsurance undertakings under Directive 2009/138/EC, it is necessary for a central body to derive, publish, and update certain technical information relating to the risk-free interest rate term structure on a regular basis, taking account of observations in the financial market. The manner in which the risk-free interest rate term structure is derived should be transparent in such a manner that insurance and reinsurance undertakings are able to use this term-structure in their risk management policies. Given the technical and insurance related nature of these tasks, they should be carried out by EIOPA.	
Rec. 17a (new)			(17a) The risk-free interest rate term structure should be determined on the basis of a holistic and consistent approach to the setting of all assumptions and parameters on which	

¹ recital taking over initial part of Art 127 from 2009/138



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			<p><i>the curve is based ensuring consistency over time and avoiding artificial volatility of technical provisions and eligible own funds in excess of the capital requirements. The choice of the starting points of the extrapolation of risk-free interest rates should allow undertakings to match with bonds the cash-flows which are discounted with non-extrapolated rates in the calculation of the best estimate. Under market conditions similar to those at the date of adoption of this Directive, the starting point for the extrapolation of risk-free interest rates in euro should be 20 years.</i></p>	
Rec. 18	<p>(18) In order to ensure that certain technical inputs to the Solvency Capital Requirement (SCR) using the standard formula are provided on a harmonised basis, for instance to allow for harmonised approaches toward the use of ratings, specific tasks should be assigned to EIOPA. The detailed manner for the exercise of such tasks should be further specified in measures to be adopted by delegated act.</p>	<p>(18) In order to ensure that certain technical inputs to the Solvency Capital Requirement (SCR) using the standard formula are provided on a harmonised basis, for instance to allow for harmonised approaches toward the use of ratings, specific tasks should be assigned to EIOPA. The detailed manner for the exercise of such tasks should be further specified in measures to be adopted by delegated act.</p>	<p>(18) In order to ensure that certain technical inputs to the Solvency Capital Requirement (SCR) using the standard formula are provided on a harmonised basis, for instance to allow for harmonised approaches <i>towards</i> the use of ratings, specific tasks should be assigned to EIOPA. <i>Recognition of rating agencies should be aligned and made consistent with Directive 2006/48/EC, including the upcoming revision of that Directive, and Regulation (EC) No 1060/2009. Overlap with Regulation (EC) No 1060/2009 should be avoided and therefore a role for the Joint Committee of supervisory authorities is justified. EIOPA should make optimal use of ESMA's competences and experience.</i> The detailed manner for the exercise of such tasks should be further specified in measures to be adopted by delegated <i>or implementing</i> act.</p>	<p><u>Comments:</u> COM = keep the recital as in the EP text Council = does it make sense to have the Joint Committee involved?</p>



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Rec. 19	(19) In order to ensure a harmonised approach under Directive 2009/138/EC in determining where an extension to the recovery period in cases of breaches of the SCR is permitted, the conditions which constitute "an exceptional fall in the financial markets" should be specified. EIOPA, upon request from the supervisory authority concerned, should be responsible for determining whether those conditions have been fulfilled and the Commission should be empowered to adopt measures by means of delegated acts specifying the relevant procedures to be followed.	(19) In order to ensure a harmonised approach under Directive 2009/138/EC in [...] <u>declaring</u> where an extension to the recovery period in cases of breaches of the SCR is permitted, the conditions which constitute "an exceptional fall in the financial markets" <u>that may exist in one or more Member States</u> should be specified. EIOPA, upon request from the supervisory authority concerned, should be responsible for [...] <u>declaring</u> whether those conditions have been fulfilled and the Commission should be empowered to adopt measures by means of delegated acts specifying the relevant procedures to be followed.	(19) In order to ensure a harmonised approach under Directive 2009/138/EC in determining where an extension to the recovery period in cases of breaches of the SCR is permitted, the conditions which constitute 'an exceptional fall in the financial markets' should be specified. EIOPA █ should be responsible for determining whether those conditions have been fulfilled and the Commission should be empowered to adopt measures by means of delegated and implementing acts specifying the relevant procedures to be followed.	
Rec. 20	(20) In order to ensure cross-sectoral consistency and to remove the misalignment between the interests of firms that "repackage" loans into tradable securities and other financial instruments (originators) and the interests of insurance or reinsurance undertakings that invest in such securities or instruments, the Commission should be empowered to adopt measures by means of delegated act in the context of investments in repackaged loans under Directive 2009/138/EC, specifying not only the requirements but also the consequences of breaching those requirements.	(20) In order to ensure cross-sectoral consistency and to remove the misalignment between the interests of firms that "repackage" loans into tradable securities and other financial instruments (originators) and the interests of insurance or reinsurance undertakings that invest in such securities or instruments, the Commission should be empowered to adopt measures by means of delegated act in the context of investments in repackaged loans under Directive 2009/138/EC, specifying not only the requirements but also the consequences of breaching those requirements.	(20) In order to ensure cross-sectoral consistency and to remove the misalignment between the interests of firms that "repackage" loans into tradable securities and other financial instruments (originators) and the interests of insurance or reinsurance undertakings that invest in such securities or instruments, the Commission should be empowered to adopt measures by means of delegated act in the context of investments in repackaged loans under Directive 2009/138/EC, specifying not only the requirements but also the consequences of breaching those requirements.	
Rec. 21	(21) In order to allow for greater convergence on procedures for supervisory approvals provided for in Directive 2009/138/EC of undertaking specific parameters, model change policies, special purpose vehicles and the setting and removal of capital add-ons,	(21) In order to allow for greater convergence on procedures for supervisory approvals provided for in Directive 2009/138/EC of undertaking specific parameters, model change policies, special purpose vehicles and the setting and removal of capital add-ons,	(21) In order to allow for greater convergence on procedures for supervisory approvals provided for in Directive 2009/138/EC of undertaking specific parameters, model change policies, special purpose vehicles and the setting and removal of capital add-ons,	



	the Commission should be empowered to adopt measures by means of delegated act specifying procedure in these areas.	the Commission should be empowered to adopt measures by means of delegated act specifying procedure in these areas.	the Commission should be empowered to adopt measures by means of delegated act specifying procedure in these areas.	
Rec. 22	(22) The development of international convergence toward risk-based solvency regimes should be encouraged. In order to acknowledge that some third countries may need more time to adapt and implement a solvency regime that would fully satisfy the criteria for being recognised as equivalent, it is necessary to enable Commission measures adopted by means of delegated act to specify transitional arrangements in relation to the treatment of such third country regimes, particularly where a public commitment to converge to a regime equivalent to Directive 2009/138/EC has been made.	(22) The development of international convergence toward risk-based solvency regimes should be encouraged. In order to acknowledge that some third countries may need more time to adapt and implement a solvency regime that would fully satisfy the criteria for being recognised as equivalent, it is necessary to enable Commission measures adopted by means of delegated act to specify transitional arrangements in relation to the treatment of such third country regimes, particularly where a public commitment to converge to a regime equivalent to Directive 2009/138/EC has been made.	(22) The development of international convergence toward risk-based solvency regimes should be encouraged. In order to acknowledge that some third countries may need more time to adapt and implement a solvency regime that would fully satisfy the criteria for being recognised as equivalent, it is necessary to <i>specify conditions</i> in relation to the treatment of such third country regimes <i>in order for these third countries to be recognised temporarily</i> equivalent. <i>It should also be stressed that, in the case of third countries, risk-based supervision is not enough: third countries must also have group supervision systems similar to that of the Union.</i>	
Rec. 23	(23) In order to enable the European Cooperative Society, established in Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), to provide insurance and reinsurance services, it is necessary to extend the list of permissible legal forms of insurance and reinsurance undertakings under Directive 2009/138/EC to include the European Cooperative Society (SCE).	(23) In order to enable the European Cooperative Society, established in Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), to provide insurance and reinsurance services, it is necessary to extend the list of permissible legal forms of insurance and reinsurance undertakings under Directive 2009/138/EC to include the European Cooperative Society (SCE).	(23) In order to enable the European Cooperative Society, established in Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) ¹ , to provide insurance and reinsurance services, it is necessary to extend the list of permissible legal forms of insurance and reinsurance undertakings under Directive 2009/138/EC to include the European Cooperative Society (SCE).	
Rec. 24	(24) The amounts in euro of the Minimum Capital Requirement floor for captive reinsurance undertakings should be adapted. Such an adaptation arises out of the periodic adjustment of the existing	(24) The amounts in euro of the Minimum Capital Requirement floor for captive reinsurance undertakings should be adapted. Such an adaptation arises out of the periodic adjustment of the existing	(24) The amounts in euro of the Minimum Capital Requirement floor for <i>insurance and</i> reinsurance undertakings should be adapted. Such an adaptation arises out of the periodic adjustment of	

¹ OJ L 207, 18.8.2003, p. 1.



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	capital requirement floors for such undertakings to take account of inflation.	capital requirement floors for such undertakings to take account of inflation.	the existing capital requirement floors for such undertakings to take account of inflation.	
Rec. 24a (new)			<i>(24a) The calculation of the SCR for health insurance should reflect national equalisation systems and should also account for changes in the national health legislation, as they are a fundamental part of the insurance system within those national health markets.</i>	
Rec. 25	(25) In order to better reflect the date which marks the end of the financial year for the majority of insurance undertakings (31 December) and to enable a smoother transition between the old and new regimes, the relevant transposition, repeal and application dates in Directive 2009/138/EC should be extended by two months.	(25) In order to better reflect the date which marks the end of the financial year for the majority of insurance undertakings (31 December) and to enable a smoother transition between the old and new regimes, the relevant transposition, repeal and application dates in Directive 2009/138/EC should be extended by two months.	(25) In order to better reflect the date which marks the end of the financial year for the majority of insurance undertakings (31 December) and to enable a smoother transition between the old and new regimes, the relevant transposition, repeal and application dates in Directive 2009/138/EC should be extended by two months.	
Rec. 26	(26) Certain implementing powers designed under Article 202 of the Treaty establishing the European Community (EC Treaty) should be replaced with the appropriate provisions in accordance with Article 290 TFEU.	(26) Certain implementing powers designed under Article 202 of the Treaty establishing the European Community (EC Treaty) should be replaced with the appropriate provisions in accordance with Article 290 TFEU.	(26) Certain implementing powers designed under Article 202 of the Treaty establishing the European Community (EC Treaty) should be replaced with the appropriate provisions in accordance with Article 290 TFEU.	
Rec. 27	(27) The alignment of comitology procedures to the TFEU and, in particular, to Article 290 thereof, should be effected on a case-by-case basis. In order to take account of the technical developments in the financial markets and to specify the requirements laid down in the directives amended by this Directive, the Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU. In particular, the delegated acts should be adopted in	(27) The alignment of comitology procedures to the TFEU and, in particular, to Article 290 thereof, should be effected on a case-by-case basis. In order to take account of the technical developments in the financial markets and to specify the requirements laid down in the directives amended by this Directive, the Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU. In particular, the delegated acts should be adopted in	(27) The alignment of comitology procedures to the TFEU and, in particular, to Article 290 thereof, should be effected on a case-by-case basis. In order to take account of the technical developments in the financial markets and to specify the requirements laid down in the directives amended by this Directive, the Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU. In particular, the delegated acts should be adopted in	



	respect of details concerning governance requirements, valuation, supervisory reporting and public disclosure, the determination and classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement (including any consequential changes in the area of capital add-ons) and the choice of methods and assumptions for the calculation of technical provisions.	respect of details concerning governance requirements, valuation, supervisory reporting and public disclosure, the determination and classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement (including any consequential changes in the area of capital add-ons) and the choice of methods and assumptions for the calculation of technical provisions.	respect of details concerning governance requirements, valuation, supervisory reporting and public disclosure, the determination and classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement (including any consequential changes in the area of capital add-ons) and the choice of methods and assumptions for the calculation of technical provisions.	
Rec. 27a (new)		<u>(27a) In the Declaration (No 39) on Article 290 TFEU, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, the Conference took note of the Commission's intention to continue to consult experts appointed by the Member States in the preparation of draft delegated acts in the financial services area, in accordance with its established practice.¹</u>		
Rec. 28	(28) The European Parliament and the Council should have two months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by one month with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections. Such early approval of delegated acts is particularly appropriate when deadlines need to be met, for	(28) The European Parliament and the Council should have [...] <u>three</u> months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by [...] <u>three</u> months with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections. Such early approval of delegated acts is particularly appropriate when deadlines need to be met, for	(28) The European Parliament and the Council should have three months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by three months with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections. Such early approval of delegated acts is particularly appropriate when deadlines need to be met, for	<u>(28) The European Parliament and the Council should have three months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by three months with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections. Such early approval of delegated acts is particularly appropriate when deadlines need to be met, for example where there are timetables in</u>

¹ Corresponds to recital 25 of Omnibus 1



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	example where there are timetables in the basic act for the Commission to adopt delegated acts.	example where there are timetables in the basic act for the Commission to adopt delegated acts.	example where there are timetables in the basic act for the Commission to adopt delegated acts.	<u>the basic act for the Commission to adopt delegated acts.</u>
Rec. 28a (new)			<i>(28a) In the light of the financial crisis and the pro-cyclical mechanisms that contributed to its origin and aggravated its effect, the Financial Stability Board, BCBS, and the G20 made recommendations to mitigate the pro-cyclical effects of financial regulation. Those recommendations have direct relevance to insurance and reinsurance undertakings as important components of the financial system.</i>	
Rec. 28b (new)			<i>(28b) In order to achieve coherent application and to assure macro-prudential oversight across the Union, it is appropriate that the European Systemic Risk Board develops principles tailored for the Union economy and is responsible to monitor the application of the counter-cyclical buffer.</i>	
Rec. 28c (new)			<i>(28c) The financial crisis highlighted that financial institutions massively underestimated the level of counterparty credit risk associated with over-the-counter (OTC) derivatives. This prompted the G20, in September 2009, to call for more OTC derivatives to be cleared through a central counterparty. Furthermore, they asked to subject those OTC derivatives that could not be cleared centrally to higher capital requirements in order to reflect properly the higher risks associated with them.</i>	
Rec. 28d (new)			<i>(28d) The sovereign debt crisis and the statement of 26 October 2011 of the Heads of State or Government of</i>	<u>Comments:</u> Council = Consult MS before next meeting

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			<p><i>Member States whose currency is the euro have demonstrated that a zero-risk treatment for government bonds no longer corresponds with economic reality. The Commission should submit a report to the European Parliament and the Council proposing options to adapt the calculation of own funds requirements for such exposures accordingly as soon as possible, while taking into account potentially destabilising effects of tabling such proposals during periods of market stress.</i></p>	
Rec. 29	<p>(29) In order to allow for a smooth transition under Directive 2009/138/EC to a new regime, it is necessary to provide for transitional requirements relating to governance requirements, valuation, supervisory reporting and public disclosure, the determination and classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement (including any consequential changes in the area of capital add-ons) and the choice of methods and assumptions for the calculation of technical provisions. Where such changes are made at the level of the individual undertaking, corresponding and consequential changes should be made to the calculation of group solvency, and supervisory reporting and public disclosure at group level. Where such changes concern group supervisory reporting and group public disclosure, the appropriate transitional provisions should apply mutatis mutandis at group level. In</p>	<p>(29) In order to allow for a smooth transition under Directive 2009/138/EC to a new regime, it is necessary to provide for transitional requirements relating to <u>insurance and reinsurance undertakings which have closed their activity, [...] the [...] classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement, [...] the choice of methods and assumptions for the calculation of technical provisions, and occupational retirement provision by insurance undertakings. The transitional requirements relating to the classification of own funds should relate to basic own-fund items, including subordinated mutual member accounts, preference shares and subordinated liabilities, which have been issued in compliance with the laws, regulations and administrative provisions adopted pursuant to Directive 2002/83/EC, Directive 73/239/EEC and Directive 2005/68/EC.</u></p>	<p>(29) In order to allow for a smooth transition under Directive 2009/138/EC to a new regime, it is necessary to provide for <i>phasing in and specific</i> transitional periods.</p>	



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	relation to group solvency, Article 218(2) and (3) provide the basis for solvency requirements for supervision in cases of application of group supervision mentioned in Article 213. The methods and principles for calculating group solvency referred to in Article 218 are set out in more detail in Articles 220 to 235. Those methods and calculations apply (whether directly or by analogy) to cases of application of group supervision mentioned in Article 218. To the extent that such group solvency rules make reference to solvency rules at the level of the individual undertaking and where a transitional solvency regime is applied at individual level corresponding adaptations may need to be made to the group solvency rules.			
Rec. 29a (new)		(29a) Where such changes are made at the level of the individual undertaking, corresponding and consequential changes should be made to the calculation of group solvency [...]. Article 218(2) and (3) provide the basis for solvency requirements for supervision in cases of application of group supervision mentioned in Article 213. The methods and principles for calculating group solvency referred to in Article 218 are set out in more detail in Articles 220 to 235. Those methods and calculations apply (whether directly or by analogy) to cases of application of group supervision mentioned in Article 218. To the extent that such group solvency rules make reference to solvency rules at the level of the individual undertaking and where a		



		transitional solvency regime is applied at individual level corresponding adaptations may need to be made to the group solvency rules.		
Rec. 30	(30) The transitional requirements should aim at avoiding market disruption and limiting interferences with existing products as well as ensuring the availability of insurance products. The provisions of transitional requirements should also allow proper consideration to be taken of the significant and valuable industry -wide information to be obtained from the quantitative impact study (QIS5). The transitional provisions set out in Directive 2009/138/EC should further specify non-essential elements to be determined by delegated acts. While the maximum periods for the transitional provisions are to be set out in Directive 2009/138/EC, the actual time period selected in any delegated act may be for a shorter period and should reflect the specific characteristics of the provisions and facilitate the application of the new regime. The transitional requirements should at least be equivalent, in effect, to the existing framework on insurance and reinsurance directives and should not result in more favourable treatment for insurance and reinsurance undertakings, or lower protection for policy holders, than currently exists. In terms of solvency requirements, this means that these should during any possible transitional period be no higher than the Solvency Capital Requirement and no lower than the sum of the Minimum Capital	(30) The transitional requirements should aim at avoiding market disruption and limiting interferences with existing products as well as ensuring the availability of insurance products. The provisions of transitional requirements should also allow proper consideration to be taken of the significant and valuable industry -wide information to be obtained from the quantitative impact study (QIS5). The transitional provisions set out in Directive 2009/138/EC should further specify non-essential elements to be determined by delegated acts. While the [...] periods for the transitional provisions are to be set out in Directive 2009/138/EC, <u>further specifications should be introduced through delegated acts and should reflect the specific characteristics of the provisions and facilitate the application of the new regime.</u> The transitional requirements should at least be equivalent, in effect, to the existing framework on insurance and reinsurance directives and should not result in more favourable treatment for insurance and reinsurance undertakings, or lower protection for policy holders, than currently exists. The transitional requirements should encourage undertakings to move towards compliance with the particular requirements of the new regime as soon as possible.	(30) The transitional <i>periods</i> should aim at avoiding market disruption ■. The transitional <i>periods</i> should encourage undertakings to move towards compliance with the particular requirements of the new regime as soon as possible.	



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	Requirement and fifty per cent of the difference between the Solvency Capital Requirement and the Minimum Capital Requirement. The transitional requirements should encourage undertakings to move towards compliance with the particular requirements of the new regime as soon as possible.			
Rec. 30a (new)		<u>(30a) The period for the transitional provisions in relation to third country equivalence are to be set out in Directive 2009/138/EC, the actual time period should end on the date on which, in accordance with this Directive, the solvency regime of the third country concerned has been deemed to be equivalent to that laid down in Directive 2009/138/EC.</u>		
Rec. 30b (new)		<u>(30b) In order for the solvency regime laid down in this Directive to operate effectively, supervisory authorities should have the necessary powers to require insurance and reinsurance undertakings to provide them at an early stage with an implementation plan which will enable them to monitor the progress achieved by undertakings in view of the consistent and timely application of this Directive [...].To achieve this aim EIOPA should develop guidelines concerning the content of the implementation plan. Supervisory authorities may require insurance and reinsurance undertakings to provide any information on the actions outlined in the implementation plan.</u>		
Rec. 30c		<u>(30c) The guidelines to be issued by EIOPA as regards the requirements</u>		



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(new)		<u>related to the implementation plan should provide the necessary flexibility for supervisory authorities to take into account the actual level of preparedness a particular insurance or reinsurance undertaking has achieved. These guidelines should also ensure the proper application of the proportionality principle.</u>		
Rec. 30d (new)		<u>(30d) Notwithstanding the anticipated application of the Solvency II provisions particularly for the purposes of the assessments related to the approval of internal models, ancillary own funds, classification of own funds, undertaking specific parameters, special purpose vehicles, the duration based equity risk sub-module, and the transitional provision on the calculation of the best estimate with respect to insurance or reinsurance obligations corresponding to paid-in premiums for existing contracts, the provisions of Solvency I (Directives 64/225/EEC, 73/239/EEC, 73/240/EEC, 76/580/EEC, 78/473/EEC, 84/641/EEC, 87/344/EEC, 88/357/EEC, 92/49/EEC, 98/78/EC, 2001/17/EC, 2002/83/EC and 2005/68/EC, as amended by the acts listed in Part A of Annex VI) will continue to apply during the course of 2013.</u>		
Rec. 30e (new)		<u>(30e) In accordance with point 34 of the Interinstitutional Agreement on better law-making , Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the</u>		



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		<u>transposition measures, and to make them public.</u>		
Rec. 31	(31) Since the objectives of this Directive, namely improving the functioning of the internal market by means of ensuring a high, effective and consistent level of prudential regulation and supervision, protecting policy holders and beneficiaries and thereby businesses and consumers, protecting the integrity, efficiency and orderly functioning of financial markets, maintaining the stability of the financial system, and strengthening international supervisory coordination, cannot be sufficiently achieved by the Member States and can, therefore, by reason of scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive should not go beyond what is necessary in order to achieve those objectives.	(31) Since the objectives of this Directive, namely improving the functioning of the internal market by means of ensuring a high, effective and consistent level of prudential regulation and supervision, protecting policy holders and beneficiaries and thereby businesses and consumers, protecting the integrity, efficiency and orderly functioning of financial markets, maintaining the stability of the financial system, and strengthening international supervisory coordination, cannot be sufficiently achieved by the Member States and can, therefore, by reason of scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive should not go beyond what is necessary in order to achieve those objectives.	(31) Since the objectives of this Directive, namely improving the functioning of the internal market by means of ensuring a high, effective and consistent level of prudential regulation and supervision, protecting policy holders and beneficiaries and thereby businesses and consumers, protecting the integrity, efficiency and orderly functioning of financial markets, maintaining the stability of the financial system, and strengthening international supervisory coordination, cannot be sufficiently achieved by the Member States and can, therefore, by reason of scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive should not go beyond what is necessary in order to achieve those objectives <i>and should not, in particular, lay down any solvency requirements for occupational pension bodies.</i>	
Rec. 32	(32) The Commission should, by 1 January 2014, report to the European Parliament and to the Council on the submission by the ESA of the draft technical standards provided for in this Directive and present any appropriate proposals.	(32) The Commission should, by 1 January 2014, <u>and every three years thereafter</u> , report to the European Parliament and to the Council on the submission by the ESA of the draft technical standards provided for in this Directive and present any appropriate proposals.	(32) The Commission should, by 1 January 2014, report to the European Parliament and to the Council on the submission by the <i>ESAs</i> of the draft technical standards provided for in this Directive and present any appropriate proposals.	
Rec. 33	(33) Directives 2003/71/EC and	(33) Directives 2003/71/EC and	(33) Directives <i>2002/92/EC, 2003/41/EC,</i>	



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	2009/138/EC should therefore be amended accordingly,	2009/138/EC should therefore be amended accordingly,	2003/71/EC and 2009/138/EC and Regulation (EC) No 1060/2009 should therefore be amended accordingly,	
	HAVE ADOPTED THIS DIRECTIVE	HAVE ADOPTED THIS DIRECTIVE	HAVE ADOPTED THIS DIRECTIVE	HAVE ADOPTED THIS DIRECTIVE

ARTICLE -1 Amendments to Directive 2002/92/EC (Insurance Intermediaries)				
Art. -1 (new)			<i>Article -1 Amendments to Directive 2002/92/EC</i>	<u>Comments:</u> Political issue. Inclusion dependant on Commission proposal expected in May.
Art. -1 introduc tory part (new)			<i>Directive 2002/92/EC is amended as follows:</i>	
Art. -1 point 1 (new) Art. 3 para 2			<i>(1) In Article 3(2), the following subparagraph is added:</i> <i>"Member States shall communicate the information gathered by their single information point on a regular basis and at least quarterly to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council¹, which shall publish it on its website.</i>	
Art. -1 point 2 (new) Art. 6 para 2			<i>(2) In Article 6, paragraph 2 is replaced by the following:</i> <i>"2. Member States shall notify the Commission of their wish to be informed in accordance with paragraph 1. The Commission shall in</i>	

¹ *OJ L L 331, 15.12.2010, p. 48."*



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			turn notify all the Member States and <i>EIOPA</i> of this.";	
Art. -1 point 3 (new) Art. 7 para 1			(3) <i>In Article 7, paragraph 1 is replaced by the following:</i> "1. Member States shall designate the competent authorities empowered to ensure implementation of this Directive. They shall inform the Commission and <i>EIOPA</i> thereof, indicating any division of those duties.";	
Art. -1 point 4 (new) Art. 9 title			(4) <i>In Article 9, the title is replaced by the following:</i> "Exchange of information between Member States and <i>EIOPA</i> ";	
Art. -1 point 5 (new) Art. 9 para 1a			(5) <i>In Article 9, the following paragraph is inserted:</i> "1a. The competent authorities shall cooperate with <i>EIOPA</i> for the purposes of this Directive, in accordance with Regulation (EU) No 1094/2010. The competent authorities shall, without delay, provide <i>EIOPA</i> with all information necessary to carry out its duties under this Directive and under Regulation (EU) No 1094/2010, in accordance with Article 35 of that Regulation.";	
			(6) <i>In Article 12, paragraph 5 is replaced by the following:</i> "5. Member States may maintain or adopt stricter provisions regarding the information requirements referred to	



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			<p>in paragraph 1, provided that such provisions comply with Union law.</p> <p>Member States shall communicate to the Commission and EIOPA the national provisions set out in the first subparagraph.</p> <p><i>Member States shall update that information on a regular basis and at least every two years and EIOPA shall make that information available on its website.</i></p> <p>In order to establish a high level of transparency by all appropriate means, the Commission shall ensure that the information it receives relating to national provisions is also communicated to consumers and insurance intermediaries.</p> <p><i>6. In order to ensure uniform conditions of application of paragraph 5, EIOPA shall develop draft implementing technical standards on the procedures to be followed and formats and templates to be used by the competent authorities when transmitting and updating the relevant information to EIOPA.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</i></p>	
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			<i>subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i>	
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ARTICLE 1 Amendments to Directive 2003/71/EC (Prospectus)				
Art. 1 title (new)			Article 1 <i>Amendments to Directive 2003/71/EC</i>	Article 1 <i>Amendments to Directive 2003/71/EC</i>
Art. 1 introductory part	Directive 2003/71/EC is amended as follows:	Directive 2003/71/EC is amended as follows:	Directive 2003/71/EC is amended as follows:	
Art. 1 point 1	(1) In Article 5(4), the third subparagraph is replaced by the following:	(1) In Article 5(4), the third subparagraph is replaced by the following:	(1) In Article 5(4), the third subparagraph is replaced by the following:	
Art. 5 para 4	"Where the final terms of the offer are neither included in the base prospectus, nor in a supplement, the final terms shall be made available to investors and filed with the competent authority of the home Member State, as well as communicated, by the issuer, offeror or person asking for the admission to trading on a regulated market, to the competent authority of the host Member State(s) and to the European Securities and Markets Authority (ESMA) when each public offer is made as soon as practicable and, where possible, in advance of the beginning of the public offer or admission to trading. The final terms shall only contain information that relates to the securities note and shall not be used to supplement the base prospectus. Article 8(1)(a) shall apply in such cases."	"Where the final terms of the offer are neither included in the base prospectus, nor in a supplement, the final terms shall be made available to investors and filed with the competent authority of the home Member State, as well as communicated, by the issuer, offeror or person asking for the admission to trading on a regulated market, to the competent authority of the host Member State(s) and to the European Securities and Markets Authority (ESMA) when each public offer is made as soon as practicable and, where possible, in advance of the beginning of the public offer or admission to trading. The final terms shall only contain information that relates to the securities note and shall not be used to supplement the base prospectus. Article 8(1)(a) shall apply in such cases."	"Where the final terms of the offer are neither included in the base prospectus, nor in a supplement, the final terms shall be made available to investors and filed with the competent authority of the home Member State, as well as communicated, by that competent authority to the competent authority of the host Member State(s) and to ESMA when each public offer is made as soon as practicable and, where possible, in advance of the beginning of the public offer or admission to trading. The final terms shall contain only information that relates to the securities note and shall not be used to supplement the base prospectus. Article 8(1)(a) shall apply in such cases.";	
Art. 1 point 2	(2) Article 11(3) is replaced by the following:	(2) Article 11(3) is replaced by the following:	(2) Article 11(3) is replaced by the following:	<u>(2) Article 11(3) is replaced by the following:</u>



Art. 11 para 3	<p>"3. Powers are delegated to the Commission to adopt regulatory technical standards to specify the information to be incorporated by reference.</p> <p>The regulatory technical standards referred to in the first subparagraph shall be adopted in accordance with Articles 10 to 14 of Regulation .../... [ESMA].</p> <p>ESMA shall develop draft regulatory technical standards for submission to the Commission by 1 January 2014 at the latest."</p>	<p>"3. <u>In order to ensure consistent harmonisation of this Directive, ESMA shall develop draft</u> regulatory technical standards to specify the information to be incorporated by reference.</p> <p>ESMA shall <u>submit those</u> draft regulatory technical standards to the Commission by 1 January <u>2014</u>.</p> <p>Power is delegated to the Commission to <u>adopt</u> the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."</p>	<p>"3. <i>In order to ensure consistent harmonisation in relation to this Article, ESMA shall develop draft</i> regulatory technical standards to specify the information to be incorporated by reference.</p> <p><i>ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</i></p> <p><i>Power is delegated to the Commission to adopt regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."</i></p>	<p><u>"3. In order to ensure consistent harmonisation in relation to this Article, ESMA shall develop draft regulatory technical standards to specify the information to be incorporated by reference. ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</u></p> <p><u>Power is delegated to the Commission to adopt regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."</u></p>
Art. 1 point 3 Art. 13 para 7	<p>(3) Article 13(7) is replaced by the following:</p> <p>"7. Powers are delegated to the Commission to adopt regulatory technical standards to specify the procedures for the approval of the prospectus and the conditions in accordance with which time limits may be adjusted.</p> <p>The regulatory technical standards referred to in the first subparagraph shall be adopted in accordance with Article 10 to 14 of Regulation .../... [ESMA].</p> <p>ESMA shall develop draft regulatory technical standards for submission to the Commission by 1 January 2014 at the</p>	<p>(3) Article 13(7) is replaced by the following:</p> <p>"7. <u>In order to ensure consistent harmonisation of this Directive, ESMA shall develop draft</u> regulatory technical standards to specify the procedures for <u>the scrutiny of the information in</u> the prospectus <u>for its</u> approval [...] and the conditions in accordance with which time limits may be adjusted.</p> <p>ESMA shall <u>submit those</u> draft regulatory technical standards to the Commission by 1 January <u>2014</u>.</p> <p>Power is delegated to the Commission to <u>adopt</u> the regulatory technical standards referred to in the first subparagraph in</p>	<p>(3) Article 13(7) is replaced by the following:</p> <p>"7. <i>In order to ensure consistent harmonisation in relation to the approval of prospectuses, ESMA shall develop draft regulatory technical standards to</i> specify the procedures for the approval of the prospectus and the conditions in accordance with which time limits may be adjusted.</p> <p><i>ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in</i></p>	



	latest."	accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."	<i>accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.";</i>	
Art. 1 point 4 Art. 14 para 8	<p>(4) Article 14(8) is replaced by the following:</p> <p>"8. Powers are delegated to the Commission to adopt regulatory technical standards specify the provisions relating to the publication of the prospectus in paragraphs 1 to 4.</p> <p>The regulatory technical standards referred to in the first subparagraph shall be adopted in accordance with Articles 10 to 14 of Regulation [ESMA].</p> <p>ESMA shall develop draft regulatory technical standards for submission to the Commission by 1 January 2014 at the latest."</p>	<p>(4) Article 14(8) is replaced by the following:</p> <p>"8. <u>In order to ensure consistent harmonisation of this Directive, ESMA shall develop draft</u> regulatory technical standards to specify the provisions relating to the publication of the prospectus in paragraphs 1 to 4.</p> <p>ESMA shall <u>submit</u> those draft regulatory technical standards to the Commission by 1 January <u>2014</u>.</p> <p><u>Power is delegated to the Commission to adopt</u> the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."</p>	<p><i>(4) Article 14(8) is replaced by the following:</i></p> <p><i>"8. In order to ensure consistent harmonisation in relation to this Article, ESMA shall develop draft regulatory technical standards to specify the provisions relating to the publication of the prospectus in paragraphs 1 to 4.</i></p> <p><i>ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.";</i></p>	<p><i>(4) Article 14(8) is replaced by the following:</i></p> <p><i>"8. In order to ensure consistent harmonisation in relation to this Article, ESMA shall develop draft regulatory technical standards to specify the provisions relating to the publication of the prospectus in paragraphs 1 to 4.</i></p> <p><i>ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.";</i></p>
Art. 1 point 5 Art. 15 para 7	<p>(5) Article 15(7) is replaced by the following:</p> <p>"7. Powers are delegated to the Commission to specify the provisions concerning the dissemination of advertisements announcing the intention to offer securities to the public or the admission to trading on a regulated market, in particular before the prospectus has been made available to the public or before the opening of the subscription, and specify the provisions laid down in paragraph 4.</p>	<p>(5) Article 15(7) is replaced by the following:</p> <p>"7. <u>In order to ensure consistent harmonisation of this Directive, ESMA shall develop draft regulatory technical standards</u> to specify the provisions concerning the dissemination of advertisements announcing the intention to offer securities to the public or the admission to trading on a regulated market, in particular before the prospectus has been made available to the public or before the opening of the subscription, and specify the provisions</p>	<p>(5) Article 15(7) is replaced by the following:</p> <p><i>"7. In order to ensure consistent harmonisation in relation to this Article, ESMA shall develop draft regulatory technical standards</i> to specify the provisions concerning the dissemination of advertisements announcing the intention to offer securities to the public or the admission to trading on a regulated market, in particular before the prospectus has been made available to the public or before the opening of the subscription, and specify the provisions</p>	



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	<p>The regulatory technical standards referred to in the first subparagraph shall be adopted in accordance with Articles 10 to 14 of Regulation .../... [ESMA].</p> <p>ESMA shall develop draft regulatory technical standards for submission to the Commission by 1 January 2014 at the latest."</p>	<p>laid down in paragraph 4.</p> <p>ESMA shall <u>submit those</u> draft regulatory technical standards to the Commission by 1 January <u>2014</u>.</p> <p><u>Power is delegated to the Commission to adopt</u> the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation <u>(EU) No 1095/2010</u>."</p>	<p>laid down in paragraph 4.</p> <p><i>ESMA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010</i>.";</p>	
<p>Art. 1 point 5a (new)</p> <p>Art. 31a (new)</p>			<p>(5a) the following Article is inserted:</p> <p><i>"Article 31a</i> <i>Staff and resources of ESMA</i></p> <p><i>ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Directive and submit a report to the European Parliament, the Council and the Commission."</i></p>	

ARTICLE 2 Amendments to Directive 2009/138/EC (Solvency II)				
Art. 2 title (new)			Article 2 <i>Amendments to Directive 2009/138/EC</i>	Article 2 <i>Amendments to Directive 2009/138/EC</i>
Art. 2 introductory part	Directive 2009/138/EC is amended as follows:	Directive 2009/138/EC is amended as follows:	Directive 2009/138/EC is amended as follows:	Directive 2009/138/EC is amended as follows:
Art. 2 point 0 (new)		<p><u>(0) The following Article 3a is added:</u></p> <p><u>"Article 3a</u></p>		



Art. 3a (new)	<p><u>Insurance and reinsurance undertakings closing their activity</u></p> <p><u>"(1) Without prejudice to Article 12, insurance or reinsurance undertakings which by 1 January 2014 cease to conduct new insurance or reinsurance contracts and exclusively administer their existing portfolio in order to terminate their activity shall not be subject to Titles I, II and III of this Directive until the dates set out in paragraph 2 where either:</u></p> <p><u>(a) the undertaking has satisfied the supervisory authority that it will terminate its activity before 1 January 2017¹; or</u></p> <p><u>(b) the undertaking is subject to reorganisation measures set out in Chapter II of Title IV and an administrator has been appointed.</u></p> <p><u>(2) Insurance or reinsurance undertakings falling under:</u></p> <p><u>(a) point a) of paragraph 1 shall be subject to Titles I, II and III of this Directive as from 1 January 2017² or as from an earlier date when the supervisory authority is not satisfied with the progress that has been made towards terminating the undertaking's activity;</u></p> <p><u>(b) point b) of paragraph 1 shall be</u></p>
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¹ 3 years after 1 January 2014

² 3 years after 1 January 2014



		<p><u>subject to Titles I, II and III of this Directive as from 1 January 2019¹ or as from an earlier date when the supervisory authority is not satisfied with the progress that has been made towards terminating the undertaking's activity.</u></p> <p><u>(3) Insurance and reinsurance undertakings shall only be subject to the transitional measures in paragraphs 1 and 2 if the following conditions are met:</u></p> <p><u>(a) the undertaking is not part of a group, or if it is, all undertakings that are part of the group cease to conduct new insurance or reinsurance contracts;</u></p> <p><u>(b) the undertaking shall provide its supervisory authority with an annual report setting out what progress has been made in terminating its activity;</u></p> <p><u>(c) the undertaking has notified its supervisory authority that it applies the transitional measures.</u></p> <p><u>(4) Member States shall draw up a list of the insurance and reinsurance undertakings concerned and communicate that list to all the other Member States."</u></p> <p><u>(5) Paragraphs 1 and 2 shall not prevent any undertaking from operating in accordance with Titles I, II and III of this Directive.</u></p>		
Art. 2			<i>(-1) in Article 13, the following point is</i>	

¹ 5 years after 1 January 2014



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point -1 (new) Art. 13 point 32a (new)			<i>inserted:</i> "(32a) 'authorised central counterparty' means a central counterparty within the meaning of Article 2(1)(1) of Regulation (EU) No .../2012 of the European Parliament and of the Council of ... [EMIR] which is authorised under Article 10 of that Directive;"	
Art. 2 point 1 Art. 17 para 3	(1) Article 17(3) is replaced by the following: "3. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, relating to the extension of the list of forms set out in Annex III."	(1) Article 17(3) is replaced by the following: "3. The Commission may adopt delegated acts, in accordance with Article 301a [...], relating to the extension of the list of forms set out in Annex III."	(1) Article 17(3) is replaced by the following: "3. The Commission may adopt delegated acts, in accordance with Article 301a ■ relating to the ■ list of forms set out in points 1 to 27 of Part A, of Part B and of Part C of Annex III.";	(1) Article 17(3) is replaced by the following: "3. The Commission may adopt delegated acts, in accordance with Article 301a ■ relating to the ■ list of forms set out in <u>points 1 to 27 of Part A, of Part B and of Part C of Annex III, excluding points 28 and 29 of Parts A, B and C.</u> ;"
Art. 2 point 1a (new) Art. 25a (new)			(1a) the following Article is inserted: "Article 25a Notification and publication of authorisations, withdrawals of authorisation and refusals of authorisation Every authorisation, withdrawal of authorisation and refusal of authorisation shall be notified to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council ¹ . The name of each	(1a) the following Article is inserted: "Article 25a Notification and publication of authorisations or withdrawals of authorisation Every authorisation or withdrawal of authorisation shall be notified to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council ² . The name of each insurance undertaking or reinsurance undertaking to which authorisation has been granted shall be

¹ * OJ L L 331, 15.12.2010, p. 48.";

² * OJ L L 331, 15.12.2010, p. 48.";

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			<i>insurance undertaking or reinsurance undertaking to which authorisation has been granted shall be entered in a list. EIOPA shall publish and keep up to date that list on its website.</i>	<u><i>entered in a list. EIOPA shall publish and keep up to date that list on its website.</i></u>
Art. 2 point 1b (new) Art. 29 para 4			<p><i>(1b) in Article 29, paragraph 4 is replaced by the following:</i></p> <p><i>"4.The Commission shall ensure that delegated acts, regulatory and implementing technical standards take into account the principle of proportionality, thus ensuring the proportionate application of this Directive, in particular to small insurance undertakings.</i></p> <p><i>EIOPA shall ensure that draft regulatory technical standards, submitted in accordance with Article 10 to 14 of Regulation (EU) No 1094/2010, draft implementing technical standards submitted in accordance with Article 15 thereof and guidelines and recommendations adopted in accordance with Article 16 thereof, take into account the principle of proportionality, thus ensuring the proportionate application of this Directive, in particular to small insurance undertakings."</i></p>	<p><u><i>(1b) in Article 29, paragraph 4 is replaced by the following:</i></u></p> <p><u><i>"4.The Commission shall ensure that delegated acts, regulatory and implementing technical standards take into account the principle of proportionality, thus ensuring the proportionate application of this Directive, in particular to small insurance undertakings.</i></u></p> <p><u><i>EIOPA shall ensure that draft regulatory technical standards, submitted in accordance with Article 10 to 14 of Regulation (EU) No 1094/2010, draft implementing technical standards submitted in accordance with Article 15 thereof and guidelines and recommendations adopted in accordance with Article 16 thereof, take into account the principle of proportionality, thus ensuring the proportionate application of this Directive, in particular to small insurance undertakings."</i></u></p>
Art. 2 point 2 introduc tory part	(2) Article 31 is amended as follows:	(2) Article 31 is amended as follows:	(2) Article 31 is amended as follows:	
Art. 2 point 2 point a	(a) Paragraph 4 is replaced by the following:	(a) Paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	<p><u><i>(a) paragraph 4 is replaced by the following:</i></u></p> <p><u><i>"4. Without prejudice to Article 35, Article</i></u></p>



Art. 31 para 4	"4. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, relating to paragraph 2 specifying the key aspects on which aggregate statistical data are to be disclosed, and the format , structure, contents list and publication date of the disclosures."	"4. The Commission shall adopt delegated acts, in accordance with Article 301a [...], relating to paragraph 2 specifying the key aspects on which aggregate statistical data are to be disclosed, and the format , structure, contents list and publication date of the disclosures."	<p>"4. <i>In order to ensure uniform conditions of application of paragraph 2 of this Article, and without prejudice to Article 35, Article 51, Article 254(2) and Article 256, EIOPA shall develop draft implementing technical standards to specify</i> the key aspects on which aggregate statistical data are to be disclosed, and <i>to determine</i> the format, structure, contents list and publication date of the disclosures <i>provided for in this Article.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i></p>	<p><i>51, Article 254(2) and Article 256, the Commission shall adopt delegated acts, in accordance with Article 301a, relating to paragraph 2, specifying the key aspects on which aggregate statistical data are to be disclosed, contents list and publication date of the disclosures.</i></p>
Art. 2 point 2 point b Art. 31 para 5	<p>(b) The following paragraph 5 is added:</p> <p>"5. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of paragraph 2 as supplemented by the delegated acts referred to in paragraph 4 concerning the matters covered by those delegated acts, specifically with regard to the templates and structure of the disclosures.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p>	<p>(b) The following paragraph 5 is added:</p> <p>"5. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft</u> implementing technical standards [...] specifically with regard to the templates and structure of the disclosures <u>referred to in paragraph 2.</u></p> <p>The European Insurance and Occupational Pensions Authority (EIOPA) shall <u>submit those</u> draft implementing technical standards to the</p>	<p><i>"5. In order to ensure uniform conditions of application of paragraph 2 of this Article, and without prejudice to Article 35, Article 51, Article 254(2) and Article 256, EIOPA shall develop draft implementing technical standards to determine the template and structure of the disclosures provided for in this Article.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</i></p>	



	The European Insurance and Occupational Pensions Authority (EIOPA) shall develop draft implementing technical standards for submission to the Commission by 31 December 2011 at the latest."	Commission by 31 December 2016. <u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010. "</u>		<u>subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</u> Comments: Analyse the format to template change - COM says format could be done at level of delegated act but not only as an ITS.
Art. 2 point 3 Art. 33 para 2 a (new)	(3) In Article 33, the following third paragraph is added: "Where a request for cooperation in relation to an on-site verification in accordance with this Article has been rejected or has not been acted upon within a reasonable period of time, the supervisory authorities may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred on it by that Article."	(3) In Article 33, the following third paragraph is added: "Where a <u>supervisory authority has informed the supervisory authorities of the host Member State of its intention to carry out</u> an on-site verification in accordance with this Article <u>and does not receive the necessary cooperation, or where it does not allow for participation of the supervisory authorities of the host Member State in the verification</u> , the supervisory authorities may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by [...] Article 19 [...] of that Regulation."	(3) In Article 33, the following <u>paragraphs</u> are added: "Where a <u>supervisory authority has informed the supervisory authorities of a host Member state that it intends to carry out</u> on-site <u>verifications</u> in accordance with <u>paragraph 1 and where that supervisory authority is practically prohibited to exercise its right to carry out those on-site verifications or where those supervisory authorities are practically prohibited to exercise their right to participate in accordance with paragraph 2</u> , the supervisory authorities may refer the matter to EIOPA and request its assistance in accordance with Article 19, <u>paragraphs 1 to 3 and 6</u> , of Regulation (EU) No 1094/2010 EIOPA. In that case, EIOPA may act in accordance with the powers conferred on it by that Article. <u>In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA may participate in on-site verifications where they are carried out jointly by two or more supervisory authorities."</u>	<u>(3) In Article 33, the following paragraphs are added:</u> <u>"Where a supervisory authority has informed the supervisory authorities of a host Member state that it intends to carry out on-site verifications in accordance with paragraph 1 and where that supervisory authority is practically prohibited to exercise its right to carry out those on-site verifications or where the supervisory authorities of the host Member State are practically prohibited to exercise their right to participate in accordance with paragraph 2</u> , the supervisory authorities may refer the matter to EIOPA and request its assistance in accordance with Article 19, <u>paragraphs 1 to 3 and 6</u> , of Regulation (EU) No 1094/2010 EIOPA. In that case, EIOPA may act in accordance with the powers conferred on it by that Article. <u>In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA may participate in on-site examinations where they are carried out jointly by two or more supervisory authorities."</u>
Art. 2 point 4	(4) Article 35 is amended as follows:	(4) Article 35 is amended as follows:	(4) Article 35 is amended as follows:	(4) Article 35 is amended as follows: Comments: Political



Art. 35				
Art. 2 point 4 point -a (new) Art. 35 para 2 point a subpoint (i)			<p><i>(-a) in paragraph 2, point (a)(i) is replaced by the following:</i></p> <p><i>"(i) at predefined periods; whereby, supervisory authorities concerned may limit regular supervisory reporting to information that changes significantly in the course of the year provided that:</i></p> <p><i>– derogations from regular supervisory reporting may only be granted to insurance and reinsurance undertakings whose combined contribution to the total market share does not exceed 20 % of a Member State's life or non-life insurance market respectively; and</i></p> <p><i>– a full reporting is done at least annually.";</i></p>	
Art. 2 point 4 point -aa (new) Art. 35 para 2 subpara 1a and subpara 1b			<p><i>(-aa) in paragraph 2, the following subparagraphs are added:</i></p> <p><i>"Member States shall require insurance and reinsurance undertakings to submit to the supervisory authorities concerned, as part of their regular reporting or on an ad hoc basis, a full list of assets on an item-by-item basis, only when such information is necessary for the supervisory authorities concerned to undertake their supervisory role effectively, in particular with respect to financial stability.</i></p> <p><i>The supervisory authorities concerned may exempt from reporting obligations on an item-by-item basis insurance and reinsurance undertakings whose</i></p>	



			<p><i>combined contribution to the total market share does not exceed 20 % of a Member State's life or non-life insurance market respectively."</i>;</p>	
<p>Art. point 4 point a</p> <p>Art. 35 para 6 and para 6a (new)</p>	<p>(a) Paragraph 6 is replaced by the following:</p> <p>"6. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the information referred to in paragraphs 1 to 4, with a view to ensuring to the appropriate extent convergence of supervisory reporting."</p>	<p>(a) Paragraph 6 is replaced by the following:</p> <p>"6. The Commission shall adopt delegated acts, in accordance with Article 301a [...], specifying the information referred to in paragraphs 1 to 4 <u>and the deadlines for the submission of that information</u>, with a view to ensuring to the appropriate extent convergence of supervisory reporting."</p>	<p>(a) paragraph 6 is replaced by the following:</p> <p><i>"6. In order to ensure consistent harmonisation in relation to this Article, EIOPA shall develop draft regulatory technical standards to specify the information and points in time referred to in paragraphs 1 to 4.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>6a. In order to enhance a coherent and consistent application of paragraph 2, EIOPA shall elaborate guidelines in accordance with Article 16 of Regulation (EU) No 1094/2010 to determine criteria for the calculation of market shares, taking into account the principle of proportionality as well as financial stability aspects.</i></p> <p><i>Those guidelines shall also be used for the purposes of the derogations from regular supervisory reporting at group</i></p>	



			<p><i>level, where such derogations are applied mutatis mutandis in accordance with the first paragraph of Article 254(2).</i></p> <p><i>Those criteria shall be reviewed at least every five years.</i></p>	
<p>Art. 2 point 4</p> <p>Art. 35 para 7</p>	<p>(b) The following paragraph 7 is added:</p> <p>"7. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of paragraphs 1 and 4 as supplemented by the delegated acts adopted under paragraph 6, specifically with regard to the templates and procedures for the submission of information to the supervisory authorities. The procedures may include, where appropriate, requirements for approval.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011 at the latest."</p>	<p>(b) The following paragraph 7 is added:</p> <p>"7. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft</u> implementing technical standards [...] specifically with regard to the templates [...] for the submission of information to the supervisory authorities referred to in paragraphs 1 and 2.</p> <p>EIOPA shall <u>submit those draft</u> implementing technical standards to the Commission by <u>30 September 2012</u>.</p> <p>Power is conferred on the Commission to <u>adopt the</u> implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</p>	<p>7. In order to ensure uniform conditions of application of <i>this Article, EIOPA may develop draft implementing technical standards to establish standard forms,</i> templates and procedures for the submission of information to the supervisory authorities. The procedures may include, where appropriate, requirements for approval <i>by the administrative, management or supervisory body of the insurance or reinsurance undertakings of the information submitted.</i></p> <p><i>Power is conferred on the Commission to adopt the</i> implementing technical standards <i>referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i></p>	
<p>Art. 2 point 5 introductory part</p> <p>Art. 37</p>	<p>(5) Article 37 is amended as follows:</p>	<p>(5) Article 37 is amended as follows:</p>	<p>(5) Article 37 is amended as follows:</p>	<p>(5) Article 37 is amended as follows:</p> <p>Comments: Political</p>



Art. 2 point 5 point a Art. 37 para 6, para 6a (new), para 6b (new)	(a) paragraph 6 is replaced with the following: "6. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down further specifications for the circumstances under which a capital add-on may be imposed and the methodologies for the calculation thereof and the process of decisions to set, calculate and remove capital add-ons."	(a) paragraph 6 is replaced with the following: "6. The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down further specifications for the circumstances under which a capital add-on may be imposed and the methodologies for the calculation thereof and the process of [...]setting, calculating and removing capital add-ons."	(a) paragraph 6 is replaced with the following: "6. The Commission shall adopt delegated acts, in accordance with Article 301a, laying down further specifications for the circumstances under which a capital add-on may be imposed. <i>6a. In order to ensure consistent harmonisation in relation to capital add-ons, EIOPA shall develop draft regulatory technical standards to specify the methodologies for the calculation of capital add-ons. EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i> <i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i>
Art. 2 point 5 point b Art. 37 para 7	(b) The following paragraph 7 is added: "7. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of this Article as supplemented by the delegated acts referred to in paragraph 6 concerning the matters covered by those delegated acts, specifically with regard to the process of	(b) The following paragraph 7 is added: "7. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft</u> implementing technical standards concerning the matters covered by those delegated acts, specifically with regard to the process of [...]setting, calculating and removing capital add-ons referred to in the delegated acts adopted	I <i>6b. In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures to be followed for decisions to set, calculate and remove capital add-ons.</i>



	<p>decisions to set, calculate and remove capital add-ons referred to in the delegated acts adopted under paragraph 6.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p>under paragraph 6.</p> <p>EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by 31 December 2016.</p> <p>Power is conferred on the Commission to <u>adopt the</u> implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010. "</p>	<p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.;"</i></p>	
<p>Art. 2 point 6</p> <p>Art. 38 para 2</p>	<p>(6) In Article 38(2), the following subparagraph is added:</p> <p>"Where a request for cooperation in relation to an on-site inspection in accordance with this paragraph has been rejected or has not been acted upon within a reasonable period of time, the supervisory authorities may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred on it by that Article."</p>	<p>(6) In Article 38(2), the following subparagraph is added:</p> <p>"<u>If a supervisory authority has not informed the appropriate authority of the Member State of the service provider of its intention to carry out an on-site inspection in accordance with this paragraph , or where it carries out an on-site inspection in accordance with this paragraph and does not receive the necessary cooperation</u> , the supervisory authorities may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by [...] Article 19 [...] of that Regulation."</p>	<p>(6) In Article 38(2), the following subparagraphs are added:</p> <p>"Where a <i>supervisory authority has informed the supervisory authorities of a host Member state that it intends to carry out</i> an on-site inspection in accordance with <i>the first subparagraph and where that supervisory authority is practically prohibited to exercise its right to carry out that on-site inspection</i>, the supervisory authority may refer the matter to EIOPA and request its assistance in accordance with Article 19, <i>paragraphs 1 to 3 and 6</i>, of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.</p> <p><i>In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA shall be entitled to participate in on-site inspections where they are carried out</i></p>	<p><u>(6) In Article 38(2), the following subparagraphs are added:</u></p> <p><u>"Where a supervisory authority has informed the appropriate authority of the Member State of the service provider that it intends to carry out an on-site inspection in accordance with this paragraph , or where it carries out an on-site inspection in accordance with the first subparagraph where that supervisory authority is practically prohibited to exercise its right to carry out that on-site inspection, the supervisory authority may refer the matter to EIOPA and request its assistance in accordance with Article 19, paragraphs 1 to 3 and 6, of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.</u></p> <p><u>In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA</u></p>



			<i>jointly by two or more supervisory authorities.";</i>	<i>shall be entitled to participate in on-site examination where they are carried out jointly by two or more supervisory authorities.";</i>
Art. 2 point 7 Art. 50	(7) Article 50 is replaced by the following: <i>"Article 50 Delegated acts</i> 1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, to further specify the following: (a). the elements of the systems referred to in Articles 41, 44, 46 and 47, and in particular the areas to be covered by the asset–liability management and investment policy, as referred to in Article 44(2), of insurance and reinsurance undertakings; (b). the functions referred to in Articles 44, 46, 47 and 48; (c) the requirements set out in Article 42 and the functions subject thereto; (d) the conditions under which outsourcing, in particular to service providers located in third countries, may be performed.	(7) Article 50 is replaced by the following: <i>"Article 50 Delegated acts</i> 1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], to further specify the following: (a) the elements of the systems referred to in Articles 41, 44, 46 and 47, and in particular the areas to be covered by the asset–liability management and investment policy, as referred to in Article 44(2), of insurance and reinsurance undertakings; (b). the functions referred to in Articles 44, 46, 47 and 48; (c) the requirements set out in Article 42 and the functions subject thereto; (d) the conditions under which outsourcing, in particular to service providers located in third countries, may be performed.	(7) Article 50 is replaced by the following: <i>"Article 50 Regulatory technical standards</i> <i>1. In order to ensure consistent harmonisation in relation to this Section, EIOPA shall develop draft regulatory technical standards to further specify the following:</i> (a) the elements of the systems referred to in Articles 41, 44, 46 and 47, and in particular the areas to be covered by the asset–liability management and investment policy, as referred to in Article 44(2), of insurance and reinsurance undertakings; (b) the functions referred to in Articles 44, 46, 47 and 48; (c) the requirements set out in Article 42 and the functions subject thereto; (d) the conditions under which outsourcing, in particular to service providers located in third countries, may be performed. <i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i>	<i>still outstanding</i> Comments: still outstanding



	2. Where necessary to ensure appropriate convergence of the assessment referred to in point (a) of Article 45(1), the Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, to further specify the elements of that assessment."	2. Where necessary to ensure appropriate convergence of the assessment referred to in point (a) of Article 45(1), the Commission may adopt delegated acts, in accordance with Article 301a[...], to further specify the elements of that assessment."	<p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p>2. In order to ensure consistent harmonisation in relation to the assessment referred to in point (a) of Article 45(1), EIOPA shall develop draft regulatory technical standards to further specify the elements of that assessment.</p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.";</i></p>	
Art. 2 point 8 Art. 51 para 2	(8) In the third subparagraph of Article 51(2) the date "31 October 2017" is replaced by the date "31 December 2017".	(8) In the third subparagraph of Article 51(2) the date "31 October 2017" is replaced by the date "31 December 2018".	<p>(8) In Article 51(2), the third subparagraph is replaced by the following:</p> <p>"However, and without prejudice to any disclosure that is mandatory under any other legal or regulatory requirements, Member States may provide that, although the total Solvency Capital Requirement referred to in point (e)(ii) of paragraph 1 is disclosed, the capital add-on or the impact of the specific parameters the insurance or reinsurance undertaking is required to use in accordance with</p>	<p>(8) In Article 51(2), the third subparagraph is replaced by the following:</p> <p>"However, and without prejudice to any disclosure that is mandatory under any other legal or regulatory requirements, Member States may provide that, although the total Solvency Capital Requirement referred to in point (e)(ii) of paragraph 1 is disclosed, the capital add-on or the impact of the specific parameters the insurance or reinsurance undertaking is required to use in accordance with Article 110 need not be separately disclosed during a transitional</p>



			Article 110 need not be separately disclosed during a transitional period ending no later than 31 December 2017.";	period ending no later than 31 December 2018.";
Art. 2 point 9 Art. 52	(9) Article 52 is replaced by the following: "Article 52 <i>Information for and reports by the European Insurance and Occupational Pensions Authority</i> 1. Member States shall require the supervisory authorities to provide the following information to EIOPA on an annual basis: (a) the average capital add-on per undertaking and the distribution of capital add-ons imposed by the supervisory authority during the previous year, measured as a percentage of the Solvency Capital Requirement, shown separately as follows: (i) for all insurance and reinsurance undertakings; (ii) for life insurance undertakings; (iii) for non-life insurance undertakings; (iv) for insurance undertakings pursuing both life and non-life activities; (v) for reinsurance undertakings;	(9) Article 52 is replaced by the following: "Article 52 <i>Information for and reports by the European Insurance and Occupational Pensions Authority</i> 1. Without prejudice to Article 35 of Regulation (EU) No 1094/2010 Member States shall require the supervisory authorities to provide the following information to EIOPA on an annual basis: (a) the average capital add-on per undertaking and the distribution of capital add-ons imposed by the supervisory authority during the previous year, measured as a percentage of the Solvency Capital Requirement, shown separately as follows: (i) for all insurance and reinsurance undertakings; (ii) for life insurance undertakings; (iii) for non-life insurance undertakings; (iv) for insurance undertakings pursuing both life and non-life activities; (v) for reinsurance undertakings;	(9) Article 52 is replaced by the following: "Article 52 Information for and reports by the European Insurance and Occupational Pensions Authority 1. Member States shall require the supervisory authorities to provide the following information to EIOPA on an annual basis: (a) the average capital add-on per undertaking and the distribution of capital add-ons imposed by the supervisory authority during the previous year, measured as a percentage of the Solvency Capital Requirement, shown separately as follows: (i) for all insurance and reinsurance undertakings; (ii) for life insurance undertakings; (iii) for non-life insurance undertakings; (iv) for insurance undertakings pursuing both life and non-life activities; (v) for reinsurance undertakings;	(9) Article 52 is replaced by the following: "Article 52 <u>Information for and reports by the European Insurance and Occupational Pensions Authority</u> <u>1. Without prejudice to Article 35 of Regulation (EU) No 1094/2010 Member States shall require the supervisory authorities to provide the following information to EIOPA on an annual basis:</u> <u>(a) the average capital add-on per undertaking and the distribution of capital add-ons imposed by the supervisory authority during the previous year, measured as a percentage of the Solvency Capital Requirement, shown separately as follows:</u> <u>(i) for all insurance and reinsurance undertakings;</u> <u>(ii) for life insurance undertakings;</u> <u>(iii) for non-life insurance undertakings;</u> <u>(iv) for insurance undertakings pursuing both life and non-life activities;</u> <u>(v) for reinsurance undertakings;</u> <u>(b) for each of the disclosures set out in</u>



<p>(b) for each of the disclosures set out in point (a) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article 37(1) respectively.</p> <p>2. EIOPA shall publicly disclose, on an annual basis, the following information:</p> <p>(a) for all Member States together, the total distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, for each of the following:</p> <p>(i) all insurance and reinsurance undertakings;</p> <p>(ii) life insurance undertakings;</p> <p>(iii) non-life insurance undertakings;</p> <p>(iv) insurance undertakings pursuing both life and non-life activities;</p> <p>(v) reinsurance undertakings;</p> <p>(b) for each Member State separately, the distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, covering all insurance and reinsurance undertakings in that Member State;</p> <p>(c) for each of the disclosures referred to in points (a) and (b) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article</p>	<p>(b) for each of the disclosures set out in point (a) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article 37(1) respectively.</p> <p>2. EIOPA shall publicly disclose, on an annual basis, the following information:</p> <p>(a) for all Member States together, the total distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, for each of the following:</p> <p>(i) all insurance and reinsurance undertakings;</p> <p>(ii) life insurance undertakings;</p> <p>(iii) non-life insurance undertakings;</p> <p>(iv) insurance undertakings pursuing both life and non-life activities;</p> <p>(v) reinsurance undertakings;</p> <p>(b) for each Member State separately, the distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, covering all insurance and reinsurance undertakings in that Member State;</p> <p>(c) for each of the disclosures referred to in points (a) and (b) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article</p>	<p>(b) for each of the disclosures set out in point (a) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article 37(1) respectively.</p> <p>2. EIOPA shall publicly disclose, on an annual basis, the following information:</p> <p>(a) for all Member States together, the total distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, for each of the following:</p> <p>(i) all insurance and reinsurance undertakings;</p> <p>(ii) life insurance undertakings;</p> <p>(iii) non-life insurance undertakings;</p> <p>(iv) insurance undertakings pursuing both life and non-life activities;</p> <p>(v) reinsurance undertakings;</p> <p>(b) for each Member State separately, the distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, covering all insurance and reinsurance undertakings in that Member State;</p> <p>(c) for each of the disclosures referred to in points (a) and (b) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article</p>	<p><u>point (a) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article 37(1) respectively.</u></p> <p><u>2. EIOPA shall publicly disclose, on an annual basis, the following information:</u></p> <p><u>(a) for all Member States together, the total distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, for each of the following:</u></p> <p><u>(i) all insurance and reinsurance undertakings;</u></p> <p><u>(ii) life insurance undertakings;</u></p> <p><u>(iii) non-life insurance undertakings;</u></p> <p><u>(iv) insurance undertakings pursuing both life and non-life activities;</u></p> <p><u>(v) reinsurance undertakings;</u></p> <p><u>(b) for each Member State separately, the distribution of capital add-ons, measured as a percentage of the Solvency Capital Requirement, covering all insurance and reinsurance undertakings in that Member State;</u></p> <p><u>(c) for each of the disclosures referred to in points (a) and (b) of this paragraph, the proportion of capital add-ons imposed under points (a), (b) and (c) of Article 37(1) respectively.</u></p> <p><u>3. EIOPA shall provide the information</u></p>
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	37(1) respectively. 3. EIOPA shall provide the information referred to in paragraph 2 to the European Parliament, the Council and the Commission, together with a report outlining the degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States."	37(1) respectively. 3. EIOPA shall provide the information referred to in paragraph 2 to the European Parliament, the Council and the Commission, together with a report outlining the degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States."	37(1) respectively. 3. EIOPA shall provide the information referred to in paragraph 2 to the European Parliament, the Council and the Commission, together with a report outlining the degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States.";	referred to in paragraph 2 to the European Parliament, the Council and the Commission, together with a report outlining the degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States." ;
Art. 2 point 10 Art. 56	(10) Article 56 is replaced by the following: <i>"Article 56 Solvency and financial condition report: delegated acts and implementing acts</i> The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, further specifying the information which must be disclosed and the means by which this is to be achieved. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of Articles 53, 54 and 55 as supplemented by the delegated acts referred to in this Article concerning the matters covered by those delegated acts, specifically with regard to the templates for the public disclosure. The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15	(10) Article 56 is replaced by the following: <i>"Article 56 Solvency and financial condition report: delegated acts and implementing technical standards</i> The Commission shall adopt delegated acts, in accordance with Article 301a[...], further specifying the information which must be disclosed, the deadlines for the disclosure of the information and the means by which this is to be achieved. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards [...]</u> specifically with regard to the templates for the public disclosure referred to in Articles 51. EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by <u>30 September 2012</u> .	(10) Article 56 is replaced by the following: <i>"Article 56 Solvency and financial condition report: delegated acts and implementing acts</i> The Commission shall adopt delegated acts, in accordance with Article 301a ■ , further specifying the information which must be disclosed in accordance with section 3 . <i>In order to ensure uniform conditions of application of this section, EIOPA shall develop draft implementing technical standards on the procedures to be followed and formats and templates to be used.</i> <i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i>	Comments: ensure consistency with Art. 35 (and 31) timing and frequency (CRD dates, deadlines and delays) COM: concerning templates - can be done in ITS but not format = DA or RTS (10) Article 56 is replaced by the following: "Article 56 Solvency and financial condition report: delegated acts and implementing technical standards Para 1: ... Para 2:...



	of Regulation .../... [EIOPA].			
	EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011 at the latest. "	<u>Power is conferred on the Commission to adopt</u> the implementing technical standards referred to in the <u>second</u> subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."	<i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.";</i>	<i>EIOPA shall submit those draft implementing technical standards to the Commission by 30 June 2013.</i> <i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.";</i> <u>(deadline for ITS should be same as in Art. 35)</u>
Art. 2 point 11 Art. 58 para 8, para 8a (new)	(11) Article 58(8) is replaced by the following: "8. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, further specifying the adjustments of the criteria set out in Article 59(1), in order to take account of future developments and to ensure the uniform application of Articles 57 to 63."	(11) Article 58(8) is replaced by the following: "8. The Commission shall adopt delegated acts, in accordance with Article 301a[...], further specifying the adjustments of the criteria set out in Article 59(1), in order to take account of future developments and to <u>specify the requirements laid down in</u> Articles 57 to 63."	(11) Article 58(8) is replaced by the following: "8. <i>In order to ensure consistent harmonisation in relation to this section, EIOPA may develop draft regulatory technical standards to establish an exhaustive list of information, referred to in Article 59(4), to be included by proposed acquirers in their notification, without prejudice to Article 58(2).</i> <i>In order to ensure consistent harmonisation in relation to this section and to take account of future developments, EIOPA shall develop draft regulatory technical standards to specify the adjustments of the criteria set out in Article 59(1).</i> <i>EIOPA shall submit the draft regulatory</i>	<u>(11) Article 58(8) is replaced by the following:</u> <u>"8. In order to ensure consistent harmonisation in relation to this section, EIOPA may develop draft regulatory technical standards to establish an exhaustive list of information, referred to in Article 59(4), to be included by proposed acquirers in their notification, without prejudice to Article 58(2).</u> <u>In order to ensure consistent harmonisation in relation to this section and to take account of future developments, EIOPA shall develop draft regulatory technical standards to specify the adjustments of the criteria set out in Article 59(1).</u> <u>EIOPA shall submit the draft regulatory</u>



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
 EUROPAISCHES PARLAMENT EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
 PARLEMENT EUROPÉEN PARLAIMINT NA HEORPA PARLAMENTO EUROPEO EIROPAS PARLAMENTS
 EUROPOS PARLAMENTAS EUROPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
 PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU PARLAMENTUL EUROPEAN
 EVROPSKÝ PARLAMENT EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPA-PARLAMENTET

			<p><i>technical standards referred to in the second subparagraph to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>8a. In order to ensure uniform conditions of application of this Directive, EIOPA may develop draft implementing technical standards to establish common procedures, forms and templates for the consultation process between the relevant supervisory authorities as referred to in Article 60.</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.";</i></p>	<p><u><i>technical standards referred to in the second subparagraph to the Commission by [...].</i></u></p> <p><u><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></u></p> <p><u><i>8a. In order to ensure uniform conditions of application of this Directive, EIOPA may develop draft implementing technical standards to establish common procedures, forms and templates for the consultation process between the relevant supervisory authorities as referred to in Article 60.</i></u></p> <p><u><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.";</i></u></p>
			<p><i>(11a) The following article is inserted:</i></p> <p><i>"Article 65a Cooperation with EIOPA</i></p> <p><i>Member States shall ensure that the supervisory authorities cooperate with EIOPA for the purposes of this Directive in accordance with Regulation (EU) No 1094/2010.</i></p> <p><i>Member States shall ensure that the supervisory authorities provide EIOPA,</i></p>	<p><u><i>(11a) The following article is inserted:</i></u></p> <p><u><i>"Article 65a Cooperation with EIOPA</i></u></p> <p><u><i>Member States shall ensure that the supervisory authorities cooperate with EIOPA for the purposes of this Directive in accordance with Regulation (EU) No 1094/2010.</i></u></p> <p><u><i>Member States shall ensure that the supervisory authorities provide EIOPA,</i></u></p>



			<i>without delay, with all the information necessary to carry out its duties in accordance with Regulation (EU) No 1094/2010.";</i>	<u><i>without delay, with all the information necessary to carry out its duties in accordance with Regulation (EU) No 1094/2010.";</i></u>
Art. 2 point 12	(12) In Article 69, the second paragraph is replaced by the following:	(12) In Article 69, the second paragraph is replaced by the following:	(12) In Article 69, the second paragraph is replaced by the following:	(12) In Article 69, the second paragraph is replaced by the following:
Art. 69 para 2	"Such disclosure shall be made only where necessary for reasons of prudential control. Member States shall, however, provide that information received under Articles 65 and Article 68(1), and information obtained by means of on-site verification referred to in Article 33, may only be disclosed with the express consent of the supervisory authority from which the information originated or the supervisory authority of the Member State in which the on-site verification was carried out."	"Such disclosure shall be made only where necessary for reasons of prudential control. Member States shall, however, provide that information received under Articles 65 and Article 68(1), and information obtained by means of on-site verification referred to in Article 33, may only be disclosed with the express consent of the supervisory authority from which the information originated or the supervisory authority of the Member State in which the on-site verification was carried out."	"Such disclosure shall be made only where necessary for reasons of prudential control. Member States shall, however, provide that information received under Articles 65 and Article 68(1), and information obtained by means of on-site verification referred to in Article 33, may only be disclosed with the express consent of the supervisory authority from which the information originated or the supervisory authority of the Member State in which the on-site verification was carried out."	"Such disclosure shall be made only where necessary for reasons of prudential control. Member States shall, however, provide that information received under Articles 65 and Article 68(1), and information obtained by means of on-site verification referred to in Article 33, may only be disclosed with the express consent of the supervisory authority from which the information originated or the supervisory authority of the Member State in which the on-site verification was carried out."
			<i>(12a) Article 70 is replaced by the following:</i> "Article 70 Transmission of information to central banks, and monetary authorities, payment systems overseers and the European Systemic Risk Board 1. Without prejudice to this Section, a supervisory authority may transmit information intended for the performance of their tasks to the following: (a) central banks of the European System of Central Banks (including the ECB) and other bodies with a similar	<u><i>(12a) Article 70 is replaced by the following:</i></u> <u><i>"Article 70 Transmission of information to central banks, and monetary authorities, payment systems overseers and the European Systemic Risk Board 1. Without prejudice to this Section, a supervisory authority may transmit information intended for the performance of their tasks to the following: (a) central banks of the European System of Central Banks (including the ECB) and other bodies with a similar function in</i></u>



			<p>function in their capacity as monetary authorities where this information is relevant to their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system;</p> <p>(b) where appropriate, other national public authorities responsible for overseeing payment systems; and</p> <p>(c) the European Systemic Risk Board (ESRB), where that information is relevant to carrying out its tasks.</p> <p>2. Such authorities or bodies may also communicate to the supervisory authorities such information as they may need for the purposes of Article 67. Information received in this context shall be subject to the provisions on professional secrecy laid down in this Section.</p> <p>3. In an emergency situation, including a situation as defined in Article 18 of Regulation (EU) No 1094/2010, Member States shall allow the competent authorities to communicate, without delay, information to the central banks of the European System of Central Banks (including the ECB) where that information is relevant to their statutory tasks including the conduct of monetary policy and related liquidity provision,</p>	<p><u>their capacity as monetary authorities where this information is relevant to their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system;</u></p> <p><u>(b) where appropriate, other national public authorities responsible for overseeing payment systems; and</u></p> <p><u>(c) the European Systemic Risk Board (ESRB), where that information is relevant to carrying out its tasks.</u></p> <p><u>2. In an emergency situation, including a situation as defined in Article 18 of Regulation (EU) No 1094/2010, Member States shall allow the supervisory authorities to communicate, without delay, information to the central banks of the European System of Central Banks (including the ECB) where that information is relevant to their statutory tasks including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system, and to the ESRB, where such information is relevant to its tasks.</u></p> <p><u>3. Such authorities or bodies may also communicate to the supervisory authorities such information as they may</u></p>
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			<i>oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system, and to the ESRB, where such information is relevant to its tasks."</i>	<u>need for the purposes of Article 67. Information received in this context shall be subject to the provisions on professional secrecy laid down in this Section.</u> "; <u>Comments:</u> yellow part tbc by Council
Art. 2 point 13 introductory part Art. 71	(13) Article 71 is amended as follows:	(13) Article 71 is amended as follows:	(13) Article 71 is amended as follows:	(13) Article 71 is amended as follows:
Art. 2 point 13 point a Art. 71 para 2	(a) Paragraph 2 is replaced by the following: "2. Member States shall ensure that in the exercise of their duties supervisory authorities have regard to the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that: (a) the supervisory authorities participate in the activities of the EIOPA; (b) the supervisory authorities follow the guidelines and recommendations of the EIOPA and provide reasons where they fail to do so; (c) national mandates conferred on the	(a) Paragraph 2 is replaced by the following: "2. Member States shall ensure that in the exercise of their duties supervisory authorities have regard to the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that: (a) the supervisory authorities participate in the activities of the EIOPA; (b) the supervisory authorities <u>shall make every effort to comply with</u> the guidelines and recommendations issued by EIOPA <u>in accordance with Article 16 of Regulation (EU) No 1094/2010</u> ; (c) <u>national mandates</u> conferred on the	(a) Paragraph 2 is replaced by the following: "2. Member States shall ensure that in the exercise of their duties supervisory authorities have regard to the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that: (a) the supervisory authorities participate in the activities of the EIOPA; (b) the supervisory authorities follow the guidelines and recommendations of EIOPA and <i>state the</i> reasons <i>if they do not</i> do so; (c) national mandates conferred on the	<u>(a) Paragraph 2 is replaced by the following:</u> <u>"2. Member States shall ensure that in the exercise of their duties supervisory authorities have regard to the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive. For that purpose, Member States shall ensure that:</u> <u>(a) the supervisory authorities participate in the activities of the EIOPA;</u> <u>(b) the supervisory authorities shall make every effort to comply with the guidelines and recommendations issued by EIOPA in accordance with Article 16 of Regulation (EU) No 1094/2010 and state the reasons if they do not do so;</u>



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	supervisory authorities do not inhibit the performance of their duties as members of the EIOPA under this Directive."	supervisory authorities do not inhibit the performance of their duties as members of EIOPA <u>or</u> under this Directive."	supervisory authorities do not inhibit the performance of their duties as members of EIOPA or under this Directive.";	<u>(c) national mandates conferred on the supervisory authorities do not inhibit the performance of their duties as members of EIOPA or under this Directive."</u> ;
Art. 2 point 13 point b Art. 71 para 3	(b) Paragraph 3 is deleted.	(b) Paragraph 3 is deleted.	(b) Paragraph 3 is deleted.	(b) Paragraph 3 is deleted.
Art. 2 point 14 Art. 75	(14) Article 75 is amended as follows:	(14) Article 75 is amended as follows:	(14) Article 75 is amended as follows:	(14) Article 75 is amended as follows:
Art. 2 point 14 point -a (new) Art. 75 para 1 subpara 1 point b			<i>(-a) in paragraph 1, point b of the first subparagraph is replaced by the following:</i> "(b) liabilities shall be valued at the amount for which they could be transferred, or settled, between knowledgeable willing parties in an arm's length transaction. The discounting of liabilities shall not take into account information concerning assets held by insurance or reinsurance undertakings.";	
Art. 2 point 14 point a Art. 75 para 2	(a) Paragraph 2 is replaced by the following: "2. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, to set out the methods and assumptions to be used in the valuation of assets and liabilities as laid down in paragraph 1."	(a) Paragraph 2 is replaced by the following: "2. The Commission shall adopt delegated acts, in accordance with Article 301a [...], to set out the methods and assumptions to be used in the valuation of assets and liabilities as laid down in paragraph 1."	(a) paragraph 2 is replaced by the following: "2. In order to ensure consistent harmonisation in relation to valuation of assets and liabilities, EIOPA shall develop draft regulatory technical standards to specify: (a) methods and assumptions to be used	<u>(a) paragraph 2 is replaced by the following:</u> Comments: COM = point a to be DA, the rest of the Council's ITS could be RTS. COM on point b= IAS not endorsed but adopted Council = point b = SMEs may wish to use local GAAP.



			in the valuation of assets and liabilities as laid down in paragraph 1;	
Art. 2 point 13 point b Art. 75 para 2 a (new)	(b) The following paragraph 3 is added: "3. Powers are conferred on the Commission to adopt implementing technical standards to: (a) determine the conditions of application of paragraph 1 as supplemented by the delegated acts referred to in paragraph 2 in relation to the matters covered by those delegated acts, as regards: (i) valuation approaches where quoted market prices are either not available or not consistent with paragraphs 1 and 2; (ii) the consistency of international accounting standards as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 with the valuation approach set out in this Article;	(b) The following paragraph 3 is added: "3. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards in relation to:</u> (a) [...] the matters covered by those delegated acts, as regards: (i) [...] <u>to the extent that the delegated acts require the use of international accounting standards as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 or other [...] valuation methods, the consistency of these accounting standards or other valuation methods with the valuation approach set out in paragraphs 1 and 2;</u> (ii) [...] <u>the methods and assumptions to be used where quoted market prices are either not available or where international accounting standards as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 [...] are either temporarily or permanently not consistent with the valuation approach set out in paragraphs 1 and 2;</u>	 (b) <i>international accounting standards as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 that are consistent with the valuation approach of assets and liabilities as laid down in paragraph 1;</i> (c) <i>valuation approaches where quoted market prices are either not available or not consistent with the valuation approach of assets and liabilities as laid down in paragraph 1;</i> (d) <i>alternative valuation methods to be used where international accounting standards, as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council¹, are either temporarily or permanently not consistent with the valuation approach of assets and liabilities as laid down in paragraph 1.</i>	(e) the methods and assumptions to be used where quoted market prices are not available, or where international accounting standards, as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council², are either temporarily or permanently not consistent with the valuation approach of assets and liabilities as laid down in paragraph 1.
	(b) determine the conditions of	(b) [...] the [...] methods and		

¹ OJ L 243, 11.9.2002, p. 1.

² ~~OJ L 243, 11.9.2002, p. 1.~~



	<p>application of paragraph 1 as supplemented by the delegated acts referred to in paragraph 2, in relation to the matters covered by those delegated acts, specifically with regard to the methods and assumptions to be used in the valuation of assets and liabilities as laid down in paragraph 1 including alternative valuation methods to be used where international accounting standards, as endorsed by the Commission in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council¹, are either temporarily or permanently not consistent with the valuation approach set out in this Article.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p><u>assumptions to be used in the valuation of assets and liabilities as laid down in paragraph 1 where the delegated acts allow for the use of alternative valuation methods.</u></p> <p>EIOPA shall <u>submit [...]</u> to the Commission <u>the draft implementing technical standards concerning the matters covered in:</u></p> <p><u>(a) point (a) of the third paragraph of this Article by 30 September 2012.</u></p> <p><u>(b) point (b) of the third paragraph of this Article to the Commission by 31 December 2014.</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</u></p>	<p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of</i></p>	
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¹ OJ L 243, 11.9.2002, p. 1.



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			Regulation (EU) No 1094/2010."; (14a) Article 76(2) is replaced by the following: "2. The value of technical provisions shall correspond to the current amount insurance and reinsurance undertakings would have to pay if they were to transfer their insurance and reinsurance obligations immediately to another insurance or reinsurance undertaking. The discounting of technical provisions shall not be affected by assets held by insurance or reinsurance undertakings.";	
			(14b) In Article 77(2) the first subparagraph is replaced by the following: "2. The best estimate shall correspond to the probability-weighted average of future cash-flows, taking account of the time value of money (expected present value of future cash-flows), using the relevant risk-free interest rate term structure. The relevant risk-free interest rate term structure used to discount the insurance liabilities shall not take into account information concerning assets held by insurance or reinsurance undertakings.";	
Art. 2 point 15 Art. 77 a (new)	(15) The following Article 77a is inserted: Article 77a "Technical information produced by the European Insurance and Occupational Pensions Authority	(15) The following Article 77a is inserted: "Article 77a "Technical information produced by [...] EIOPA	(15) the following articles are inserted: "Article 77a "Technical information produced by the European Insurance and Occupational Pensions Authority	(15) the following articles are inserted: "Article 77a "Technical information produced by EIOPA Comments:

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	<p>EIOPA shall publish technical information including the relevant risk-free interest rate term structure. Where EIOPA observes an illiquidity premium in the financial markets in periods of stressed liquidity, information relating to the illiquidity premium, including its size shall also be published. EIOPA shall carry out the observation of the illiquidity premium and the derivation of the information on a transparent, objective and reliable basis. Information for all these purposes shall be derived according to methods and assumptions which may include formulae, or determinations made by EIOPA.</p> <p>The information referred to in the first paragraph shall be published for each relevant currency on at least a quarterly basis in a manner which is consistent with the methodologies referred to in Article 86."</p>	<p>EIOPA shall publish technical information including <u>information concerning</u> the relevant risk-free interest rate term structure, <u>including a counter-cyclical premium in periods of stressed financial markets</u>. Where the relevant risk-free interest rate term structure provides for [...] a counter-cyclical premium [...] in periods of stressed [...] financial markets observed by EIOPA, the published relevant risk-free interest rate term structure [...] shall include information, <u>including its size</u>, relating to [...] that premium. In that case EIOPA shall also carry out the observation of the [...] counter-cyclical premium and the derivation of the information in a transparent, objective and reliable [...] manner. Information for all these purposes shall be derived in a manner which is consistent with the methodologies, principles and techniques referred to in Article 86(b) and according to the detailed criteria, the calculation methods and assumptions specified in the delegated act referred to in Article 86(i) [...].</p> <p>The[...] information referred to in the first paragraph shall be published for each relevant currency on at least a quarterly basis [...].</p> <p><u>Insurance and reinsurance undertakings shall use information concerning the relevant risk-free interest rate term structure published by EIOPA in</u></p>	<p><i>1. The relevant risk-free interest rate term structure to be used to calculate the best estimate referred to in Article 77(2) shall be laid down and published by EIOPA for each relevant currency on at least a monthly basis. Chapter VII of this Title shall apply based on this best estimate.</i></p> <p>2. Where EIOPA, <u>in close co-operation with ESRB</u>, observes a stressed situation of financial markets for a given currency and where EIOPA demonstrates that this temporary and exceptional situation is more likely than not to result in undertakings selling a large and substantial part of their <u>fixed income securities portfolio</u>, an adapted relevant risk-free interest rate term structure shall be published for each relevant currency in the same frequency as the relevant risk-free interest rate term structure referred to in paragraph 1.</p> <p><i>The adaptation shall be calculated with reference to a portion of the spread between the interest rate that could be earned from assets included in a representative portfolio of assets that insurance and reinsurance undertakings are invested in and the rates of the basic risk-free interest rate term structure. The portion shall not be attributable to a realistic assessment of expected losses or unexpected credit risk on the assets or any other risk.</i></p>	<p>1. tbc</p> <p>Council on para 2 = concerns about the role of ESRB: it may prolong the time to take a decision. Possible drafting: <u>2. Where EIOPA, after consultation with ESRB, observes a stressed situation of financial markets ...</u></p> <p>COM = "fixed income securities portfolio" is different from draft IM 41 paragraph 4 points e and d, but not clear that EP text is a limitation.</p> <p>Council = "stressed market situation for a currency": it may be a stressed situation for a market within a given currency</p> <p>EP LS = nature of binding act of general scope. Need to find a consistent approach as with Art. 109a. Council agrees that this also applies to their text.</p> <p>Possible way forward: principles/criteria in Directive, calculation methodology in DA/RTS, publication = service to undertakings</p>
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		<p>accordance with this Article when calculating technical provisions in accordance with this directive."</p>	<p><i>Insurance and reinsurance undertakings may use that adapted relevant risk-free interest rate term structure in calculating the best estimate only for certain substantially illiquid liabilities, identified in accordance with Article 86.</i></p> <p><i>In that event, insurance and reinsurance undertakings shall publicly disclose the use of this adapted relevant risk-free interest rate term structure and the monetary effect on their financial position.</i></p> <p>3. EIOPA shall carry out the tasks referred to in paragraphs 1 and 2 in a transparent, objective and reliable manner.</p>	<p>Council = difficult to define "illiquid liabilities"</p> <p>EP = has been done in QIS 5</p> <p>Some MS = concerns about decrease of harmonisation when "may use" option.</p> <p>EP = Option allows for application of a system closer to basic Solvency II principles.</p> <p>Some MS = concerned about publication of monetary effect in stressed market conditions.</p> <p>EP = Disclosure linked to undertaking option.</p>
<p>Art 2 point 15a</p> <p>Art 77b</p>			<p>Article 77b Extrapolation</p> <p><i>EIOPA's determination of the rates of the risk-free interest rate term structure shall make use of and be consistent with information derived from relevant financial instruments. This shall take into account relevant financial instruments of those maturities where the markets for those financial instruments as well as for bonds can be considered as deep, liquid and transparent. For maturities where the markets for the relevant financial instruments as well as for bonds cannot</i></p>	<p>Comments:</p> <p>COM = Question transmitted to EIOPA.</p>

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			<p><i>be considered as deep, liquid and transparent anymore, the risk-free interest rate term structure shall be extrapolated.</i></p> <p><i>For each currency, the extrapolated part of the basic risk-free interest rate term structure shall be based on forward rates converging smoothly from one or a set of interest rates in relation to the longest maturities for which the relevant financial instruments and the bonds in that currency can be observed in a deep and liquid market to an ultimate forward rate.</i></p> <p><i>The extrapolated part of the basic risk-free interest rate term structure shall converge in such a way to the ultimate forward rate that for maturities 10 years past the longest maturities referred to in the second paragraph the extrapolated forward rates do not differ more than three basis points from the ultimate forward rate."</i></p>	
Art. 2 point 16	(16) Article 86 is replaced by the following:	(16) Article 86 is replaced by the following:	(16) Article 86 is replaced by the following:	Comments: Similar issues as Art 50 analysis to be made. COM = some parts can be RTS, others must remain DA EP on point (da): " <i>illiquidity premium</i> " to be replaced by " <i>adapted relevant risk-free interest rate term structure</i> "
Art. 86	<p><i>"Article 86</i> <i>Delegated acts and implementing acts</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down the following:</p>	<p><i>"Article 86</i> <i>Delegated acts and implementing [...]</i> <i>technical standards</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down the following:</p>	<p><i>"Article 86</i> <i>Regulatory technical standards</i></p> <p><i>In order to ensure consistent harmonisation in relation to the methods and calculations for technical provisions, EIOPA shall develop draft regulatory technical standards to specify:</i></p>	



<p>(a) actuarial and statistical methodologies to calculate the best estimate referred to in Article 77(2);</p> <p>(b) the methodologies, principles and techniques for the determination of the relevant risk-free interest rate structure to be used to calculate the best estimate referred to in Article 77(2);</p> <p>(c) the circumstances in which technical provisions shall be calculated as a whole, or as a sum of a best estimate and a risk margin, and the methods to be used in the case where technical provisions are calculated as a whole;</p> <p>(d) the methods and assumptions to be used in the calculation of the risk margin including the determination of the amount of eligible own funds necessary to support the insurance and reinsurance obligations and the calibration of the Cost-of-Capital rate;</p> <p>(e) the lines of business on the basis of which insurance and reinsurance obligations are to be segmented in order to calculate technical provisions;</p>	<p>(a) actuarial and statistical methodologies to calculate the best estimate referred to in Article 77(2);</p> <p>(b) the methodologies, principles and techniques for the determination of the relevant risk-free interest rate structure to be used to calculate the best estimate referred to in Article 77(2);</p> <p>(c) the circumstances in which technical provisions shall be calculated as a whole, or as a sum of a best estimate and a risk margin, and the methods to be used in the case where technical provisions are calculated as a whole;</p> <p>(d) the methods and assumptions to be used in the calculation of the risk margin including the determination of the amount of eligible own funds necessary to support the insurance and reinsurance obligations and the calibration of the Cost-of-Capital rate;</p> <p>(e) the lines of business on the basis of which insurance and reinsurance obligations are to be segmented in order to calculate technical provisions;</p>	<p>(a) actuarial and statistical methodologies to calculate the best estimate referred to in Article 77(2);</p> <p>(b) the methodologies, principles and techniques for the determination of the relevant risk-free interest rate term structure to be used to calculate the best estimate referred to in Article 77(2);</p> <p>(c) the circumstances in which technical provisions shall be calculated as a whole, or as a sum of a best estimate and a risk margin, and the methods to be used in the case where technical provisions are calculated as a whole, as referred to in Article 77(4);</p> <p>(d) the methods and assumptions to be used in the calculation of the risk margin including the determination of the amount of eligible own funds necessary to support the insurance and reinsurance obligations and the calibration of the cost-of-capital rate, as referred to in Article 77(5);</p> <p><i>(da) the detailed criteria for the methodology to calculate the illiquidity premium and the methodology to identify substantial illiquid liabilities, as referred to in Article 77a;</i></p> <p>(e) the lines of business on the basis of which insurance and reinsurance obligations are to be segmented in order to calculate technical provisions referred to in Article 80;</p>
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<p>(f) the standards to be met with respect to ensuring the appropriateness, completeness and accuracy of the data used in the calculation of technical provisions, and the specific circumstances in which it would be appropriate to use approximations, including case-by-case approaches, to calculate the best estimate;</p> <p>(g) the methodologies to be used when calculating the counterparty default adjustment referred to in Article 81 designed to capture expected losses due to default of the counterparty;</p> <p>(h) where necessary, simplified methods and techniques to calculate technical provisions, in order to ensure the actuarial and statistical methods referred to in points (a) and (d) are proportionate to the nature, scale and complexity of the risks supported by insurance and reinsurance undertakings including captive insurance and reinsurance undertakings;</p> <p>(i) the detailed criteria for the elements of technical information, the calculation methods and assumptions, and where appropriate the formulae and determinations, according to which the information is to be derived by EIOPA as referred to in Article 77a.</p> <p>Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of Article 77(2) as</p>	<p>(f) the standards to be met with respect to ensuring the appropriateness, completeness and accuracy of the data used in the calculation of technical provisions, and the specific circumstances in which it would be appropriate to use approximations, including case-by-case approaches, to calculate the best estimate;</p> <p>(g) the methodologies to be used when calculating the counterparty default adjustment referred to in Article 81 designed to capture expected losses due to default of the counterparty;</p> <p>(h) where necessary, simplified methods and techniques to calculate technical provisions, in order to ensure the actuarial and statistical methods referred to in points (a) and (d) are proportionate to the nature, scale and complexity of the risks supported by insurance and reinsurance undertakings including captive insurance and reinsurance undertakings;</p> <p>(i) the detailed criteria for the elements of technical information, the calculation methods and assumptions [...] according to which the information is to be derived by EIOPA as referred to in Article 77a.</p> <p><u>In order to ensure uniform conditions of application of the provisions referred to in points (a) to (i) of the first subparagraph, EIOPA shall develop draft implementing</u></p>	<p>(f) the standards to be met with respect to ensuring the appropriateness, completeness and accuracy of the data used in the calculation of technical provisions, and the specific circumstances in which it would be appropriate to use approximations, including case-by-case approaches, to calculate the best estimate, as referred to in Article 82;</p> <p>(g) the methodologies to be used when calculating the counterparty default adjustment referred to in Article 81 designed to capture expected losses due to default of the counterparty;</p> <p>(h) where necessary, simplified methods and techniques to calculate technical provisions, in order to ensure the actuarial and statistical methods referred to in points (a) and (d) are proportionate to the nature, scale and complexity of the risks supported by insurance and reinsurance undertakings including captive insurance and reinsurance undertakings;</p> <p>I</p> <p>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</p>	
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	<p>supplemented by the delegated acts referred to in points (a) to (h) of the first paragraph of this Article, concerning the matters covered by those delegated acts. The implementing technical standards referred to in the first paragraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p>technical standards [...]concerning the matters covered by those delegated acts, <u>to specify in particular, in the case of point (i), the formulas for the calculation of the counter-cyclical premium.</u></p> <p>EIOPA shall <u>submit [...] to the Commission the draft implementing technical standards concerning the matters covered in:</u></p> <p>(a) <u>points (a), (b), (h) and (i) of the first paragraph of this Article by 30 September 2012;</u></p> <p>(b) <u>points (c) to (g) of the first paragraph of this Article by 31 December 2014.</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first paragraph in accordance with Article 15 of Regulation (EU) No 1094/2010. "</u></p>	<p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p>";</p>	
Art. 2 point 17	(17) Article 92 is amended as follows:	(17) Article 92 is amended as follows:	(17) Article 92 is amended as follows:	<u>17) Article 92 is amended as follows:</u>
Art. 92				
Art. 2 point 17 point a	(a) The title is replaced by the following:	(a) The title is replaced by the following:	(a) the title is replaced by the following:	
Article 92 Title	<p>"Article 92</p> <p><i>Delegated acts and implementing acts"</i></p>	<p>"Article 92</p> <p><i>Delegated acts and implementing [...] technical standards "</i></p>	<p>"Article 92</p> <p>Regulatory and implementing technical standards";</p>	
Art. 2 point 17 point b	(b) Paragraph 1 is replaced by the following:	(b) Paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:	
	"1. The Commission shall adopt	"1. The Commission shall adopt	"1. In order to ensure consistent	



<p>Article 92 para 1</p>	<p>delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the following:</p> <p>(a) the criteria and procedure for granting supervisory approval of ancillary own funds in accordance with Article 90;</p> <p>(b) the treatment of participations, within the meaning of the third subparagraph of Article 212(2), in financial and credit institutions with respect to the determination of own funds."</p>	<p>delegated acts, in accordance with Article 301a[...], specifying the following:</p> <p>(a) the criteria [...] for granting supervisory approval of ancillary own funds in accordance with Article 90</p> <p>(b) the treatment of participations, within the meaning of the third subparagraph of Article 212(2), in financial and credit institutions with respect to the determination of own funds."</p>	<p><i>harmonisation in relation to determination of own funds, EIOPA shall develop draft regulatory technical standards to specify:</i></p> <p>(a) the criteria ■ for granting supervisory approval of ancillary own funds in accordance with Article 90;</p> <p>(b) the treatment of participations, within the meaning of the third subparagraph of Article 212(2), in financial and credit institutions with respect to the determination of own funds.</p> <p>■ <i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i></p> <p>(ba) the following paragraph is added:</p> <p>"2a. In order to ensure uniform conditions of application of Article 90, EIOPA shall develop draft implementing technical standards concerning the procedures to be followed and the formats and templates to be used for granting supervisory approval for the use of ancillary own funds.</p> <p>EIOPA shall submit those draft</p>	<p><u>Comments:</u> COM = part (a) could be an RTS, but (b) "participations" must be DA</p>
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			<p>implementing technical standards to the Commission by [...].</p> <p>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</p>	
<p>Art. 2 point 17 point c</p> <p>Article 92 para 3</p>	<p>(c) Paragraph 3 is replaced by the following:</p> <p>"3. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of Article 90 as supplemented by the delegated acts referred to in paragraph 1(a) of this Article concerning the matters covered by those delegated acts, specifically with regard to the procedure to be followed for granting supervisory approval of ancillary own funds.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p>(c) <u>The following paragraph 3 is added:</u></p> <p>"3. <u>In order to ensure uniform conditions of application of the provisions referred to in paragraph 1, EIOPA [...] may develop draft implementing technical standards concerning the matters covered by those delegated acts specifically with regard to the application of the criteria [...] to be followed for granting supervisory approval of ancillary own funds.</u></p> <p><u>[...]</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation (EU) No 1094/2010. "</u></p>	<p>(ba) the following paragraph is added:</p> <p><u>"2a. In order to ensure uniform conditions of application of Article 90, EIOPA shall develop draft implementing technical standards concerning the procedures to be followed and the formats and templates to be used for granting supervisory approval for the use of ancillary own funds.</u></p> <p><u>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</u></p>	<p>Comments:</p> <p>COM = formats and templates not necessary here, rather confusing</p> <p>Council = same</p>
<p>Art. 2 point 18</p> <p>Article 97</p>	<p>(18) Article 97 is replaced by the following:</p> <p><i>"Article 97</i> <i>Delegated acts and implementing acts</i></p> <p>1. The Commission shall adopt delegated</p>	<p>(18) Article 97 is replaced by the following:</p> <p><i>"Article 97</i> <i>Delegated acts and implementing [...]</i> <i>technical standards</i></p> <p>1. The Commission shall adopt delegated</p>	<p>(18) Article 97 is replaced by the following:</p> <p><i>"Article 97</i> <i>Regulatory technical standards</i></p> <p>1. <i>In order to ensure consistent</i></p>	<p>Comments:</p> <p>Council = not consistent with the CRD IV</p> <p>COM = point a it is Level 1 text in the CRD IV, b) more flexible as to it being RTS</p> <p>COM = on para 2 (which is linked to point b) ITS are still necessary = to adapt to</p>



<p>acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down the following:</p> <p>(a) a list of own-fund items, including those referred to in Article 96, deemed to fulfil the criteria, set out in Article 94, which contains for each own-fund item a precise description of the features which determined its classification;</p> <p>(b) the methods to be used by supervisory authorities, when approving the assessment and classification of own-fund items which are not covered by the list referred to in point (a);</p> <p>The Commission shall regularly review and, where appropriate update, the list referred to in point (a) of paragraph 1 in light of market developments.</p> <p>2. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of Articles 93 to 96 as supplemented by the delegated acts referred to in paragraph 1 of this Article, concerning the matters covered by those delegated acts, specifically with regard to the classification methods.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p>	<p>acts, in accordance with Article 301a[...], laying down the following:</p> <p>(a) a list of own-fund items, including those referred to in Article 96, deemed to fulfil the criteria, set out in Article 94, which contains for each own-fund item a precise description of the features which determined its classification;</p> <p>(b) the methods to be used by supervisory authorities, when approving the assessment and classification of own-fund items which are not covered by the list referred to in point (a);</p> <p>The Commission shall regularly review and, where appropriate update, the list referred to in point (a) of paragraph 1 in light of market developments.</p> <p>2. <u>In order to ensure uniform conditions of application of the provisions referred to in paragraph 1, EIOPA shall develop draft</u> implementing technical standards [...] concerning the matters covered by those delegated acts, specifically with regard to the classification methods.</p> <p>EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by <u>30 September 2012</u>.</p> <p>Power is conferred on the Commission to</p>	<p><i>harmonisation in relation to classification of own funds, EIOPA shall develop draft regulatory technical standards to specify:</i></p> <p>(a) a list of own-fund items, including those referred to in Article 96, deemed to fulfil the criteria, set out in Article 94, which contains for each own-fund item a precise description of the features which determined its classification;</p> <p>(b) the methods to be used by supervisory authorities, when approving the assessment and classification of own-fund items which are not covered by the list referred to in point (a);</p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>The Commission shall regularly review and, where appropriate update, the list referred to in point (a) of paragraph 1 in light of market developments.</i></p>	<p>market innovation could be done via RTS.</p>
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	EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."	<u>adopt</u> the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."		
Art. 2 point 19 Article 99	<p>(19) Article 99 is replaced by the following:</p> <p style="text-align: center;"><i>"Article 99 Delegated acts and implementing acts</i></p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down:</p> <p>(a) the quantitative limits referred to in Article 98(1) and (2);</p> <p>(b) the adjustments that should be made to reflect the lack of transferability of those own-fund items that can only be used to cover losses arising from a particular segment of liabilities or from particular risks (ring-fenced funds).</p> <p>2. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of Article 98 as supplemented by the delegated acts referred to in paragraph 1 of this Article concerning the matters covered by those delegated acts, specifically with regard to adjustments in relation to ring-fenced funds.</p>	<p>(19) Article 99 is replaced by the following:</p> <p style="text-align: center;"><i>"Article 99 Delegated acts and implementing [...] technical standards</i></p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down:</p> <p>(a) the quantitative limits referred to in Article 98(1) and (2);</p> <p>(b) the adjustments that should be made to reflect the lack of transferability of those own-fund items that can only be used to cover losses arising from a particular segment of liabilities or from particular risks (ring fenced funds).</p> <p>2. <u>In order to ensure uniform conditions of application of the provisions referred to in paragraph 1(a), EIOPA shall develop draft implementing technical standards [...] concerning the matters covered by those delegated acts [...].</u> EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by <u>31 December 2016</u>.</p> <p><u>Power is conferred on the Commission to</u></p>	<p>(19) Article 99 is replaced by the following:</p> <p style="text-align: center;"><i>"Article 99 Regulatory technical standards on the eligibility of own funds</i></p> <p>1. <i>In order to ensure consistent harmonisation in relation to eligibility of own funds, EIOPA shall develop draft regulatory technical standards to specify:</i></p> <p>(a) the quantitative limits referred to in Article 98(1) and (2);</p> <p>(b) the adjustments that should be made to reflect the lack of transferability of those own-fund items that can only be used to cover losses arising from a particular segment of liabilities or from particular risks (ring-fenced funds).</p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to</i></p>	<p><u>Comments:</u> still outstanding</p>



	The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."	<u>adopt</u> the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010. "	<i>adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i> I ;	
Art. 2 point 19 ^{ab} (new) Article 105 para 6			(19b) In Article 105(6), the following subparagraph is inserted after the second subparagraph: "Where a derivative contract is cleared through an authorised central counterparty, the corresponding counterparty default risk capital requirement shall be lower than if the contract were not cleared in this manner.";	Comments: Council = practical problems in execution, e.g. no historical data available for calculating risk charge. COM = not really necessary, cross-sectoral consistency (e.g. EMIR) does not require differentiation
Art. 2 point 19 ^{ba} (new) Article 106a (new)			(19a) The following article is inserted: "Article 106a Calculation of the spread risk sub-module: symmetric adjustment mechanism 1. The spread risk sub-module calculated in accordance with the standard formula shall include a symmetric adjustment to the spread capital requirement applied to cover the risk arising from changes in the level of bond prices and prices of other fixed income securities with similar cash-flow characteristics. 2. The symmetric adjustment made to the standard spread capital requirement calibrated in accordance with Article	Comments: EP = text based on existing text in Solvency II in Article 106 and important part of the long term guarantee issues; tries to alleviate the difficulties. It mitigates the effects of volatility in SCR. Council = how is it going to work in stressed market situation - capital charge may be too low. (EP = this also applies to Art 106, but the idea is that undertakings can "use" buffers) awaiting EIOPA input. COM = "level of bond prices is confusing"; add reference to the definition of spread risk as follows: <i>(19a) The following article is inserted:</i>



			<p><i>104(4), covering the risk arising from changes in the level of bond prices and prices of other fixed income securities with similar cash-flow characteristic, shall be based on a function of the current level of an appropriate fixed income securities index and a weighted average level of that index. The weighted average shall be calculated over an appropriate period of time which shall be the same for all insurance and reinsurance undertakings.</i></p> <p><i>3. The symmetric adjustment made to the standard spread capital requirement covering the risk arising from changes in the level of bond prices and prices of other fixed income securities with similar cash-flow characteristics shall not result in a spread capital requirement being applied that is more than 25 % lower or higher than the standard spread capital requirement.</i></p> <p><i>4. Insurance and reinsurance undertakings applying the adapted relevant risk-free interest rate term structure referred to in Article 77a(2) shall not apply the symmetric adjustment made to the standard spread capital requirement in the event the result of the adjustment in accordance with Article 106a is a spread capital requirement lower than the standard spread capital requirement."</i></p>	<p>"Article 106a <u>Calculation of the spread risk sub-module: symmetric adjustment mechanism</u></p> <p><u>1. The spread risk sub-module calculated in accordance with the standard formula shall include a symmetric adjustment to the spread capital requirement applied to cover the risk arising from spread risk referred to in Article 105(5)(d) in relation to bonds and other fixed income securities with similar cash-flow characteristics.</u></p> <p><u>2. The symmetric adjustment made to the standard spread capital requirement calibrated in accordance with Article 104(4), covering the risk arising from spread risk referred to in Article 105(5)(d) in relation to bonds and other fixed income securities with similar cash-flow characteristic, shall be based on a function of the current level of an appropriate fixed income securities index and a weighted average level of that index. The weighted average shall be calculated over an appropriate period of time which shall be the same for all insurance and reinsurance undertakings.</u></p> <p><u>3. The symmetric adjustment made to the standard spread capital requirement covering the risk arising from spread risk referred to in Article 105(5)(d) in relation to bonds and other fixed income securities with similar cash-flow characteristics shall not result in a spread capital requirement being applied that is more than 25 % lower or higher than the standard spread capital</u></p>
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				<u>requirement.</u>
Art. 2 point 20 Article 109 a	(20) The following Article 109a is inserted: "Article 109a Harmonised technical inputs to standard formula: role of European Insurance and Occupational Pensions Authority	(20) The following Article 109a is inserted: "Article 109a Harmonised technical inputs to standard formula: role of EIOPA	(20) The following article is inserted: "Article 109a Harmonised technical inputs to standard formula <i>1. For the purposes of calculating the market risk module and counterparty default risk module referred to in Article 105(5) and (6), an external credit assessment may be used to determine the probability of default provided that the following conditions are met:</i> <i>(a) the external credit assessment is issued by an external credit assessment institution (ECAI);</i> <i>(b) the ECAI is a credit rating agency that has been registered or certified in accordance with Regulation (EC) No 1060/2009 or, where an ECAI is not registered in accordance with Regulation (EC) No 1060/2009, its eligibility has been assessed by the ESAs, through the Joint Committee as established under Article 54 of Regulation (EU) No1093/2010, of Regulation (EU) No1094/2010 and of Regulation (EU) No1095/2010 (the Joint Committee) and subject to the methodological requirements laid down in Articles 6 to 13 of Regulation (EC) No 1060/2009;</i>	Comments: Council = concerns mainly on overreliance (considered burdensome) and involvement of the Joint Committee (may be an issue) COM = see Commission non-paper - Art 109a(2)(2) moved to Art. 44(4a) - role of EIOPA would be allocating the ratings to credit qualities as in the CRD = but mapping result is different (6 steps in CRD, 7 steps in SII). - add new definition of ECAI in Art. 13 - new element to 308 MA - No role for JC foreseen



			<p><i>(c) the external credit assessments are allocated to an objective scale of credit quality steps by the Joint Committee in accordance with paragraph 2;</i></p> <p><i>2. For the purposes of the first subparagraph the Joint Committee shall:</i></p> <p><i>(a) make publicly available a list of eligible ECAs;</i></p> <p><i>(b) verify that individual credit assessments are accessible at equivalent terms at least to all institutions having a legitimate interest in those individual credit assessments;</i></p> <p><i>(c) without prejudice to Article 56 of Regulation (EU) No1093/2010, of Regulation (EU) No1094/2010 and of Regulation (EU) No1095/2010, allocate external credit assessments to an objective scale of credit quality steps applying the steps specified in accordance with Article 111(1)(n).</i></p> <p><i>In order to avoid overreliance on ECAs, insurance and reinsurance undertakings shall verify the appropriateness of external credit assessments as part of their risk management by using additional assessments wherever possible in order to avoid any automatic dependence on external assessments.</i></p> <p><i>EIOFA shall develop draft implementing technical standards on the procedures to be followed to verify external credit</i></p>	
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			<p>assessments.</p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p>	
	<p>1. For the purposes of evaluating risk mitigation techniques as referred to in Article 101(5) facilitating the calculation of the market risk module referred to in Article 105(5) and, where appropriate, facilitating the counterparty default risk module referred to in Article 105(6), EIOPA shall:</p> <p>(a) assess the eligibility of external credit assessment institutions and allocate their credit assessments to an objective scale of credit quality steps;</p> <p>(b) publish lists of regional governments and local authorities, exposures to whom are to be treated as exposures to central government;</p> <p>(c) specify the equity index referred to in</p>	<p>1. In order to ensure uniform conditions of application of this Article and for the purposes of facilitating the calculation of the market risk module referred to in Article 105(5), facilitating the calculation of the counterparty default risk module referred to in Article 105(6), evaluating risk mitigation techniques referred to in Article 101(5), and calculating technical provisions, EIOPA shall develop draft implementing technical standards concerning:</p> <p>(a) [...] lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in whose jurisdiction they are established to the extent there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and the existence of specific institutional arrangements the effect of which is to reduce the risk of default;</p>	<p><i>Ia. For the purposes of facilitating the calculation of the market risk module referred to in Article 105(5), EIOPA shall:</i></p> <p><i>(a) publish lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government of the jurisdiction in which they are established, provided there is no difference in risk between such exposures because of specific revenue-raising powers of the former, and specific institutional arrangements exist, the effect of which is to reduce the risk of default;</i></p> <p><i>(b) specify the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to Article 105(5)(e) applying the criteria specified in Article 111(1)(p); and</i></p> <p><i>(c) specify the appropriate equity index</i></p>	<p>Comments: Council = EIOPA does ITS while EP gives more substantial powers EIOPA (Meroni) COM agrees with Council on the need for technical standard</p> <p>On point a: Council= practical concerns = not clear what must be included in this list. COM = ensure consistency with CRD = only under certain conditions (yellow text), it is important to clarify the objective = EIOPA is concerned about the level of granularity required for the purposes of this list. COM: treatment of EFSF/ESM unclear. Council to come up with a clarifying recital, COM to check CRD consistency.</p> <p><i>(b) specify the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to Article 105(5)(e) applying the criteria specified in Article 111(1)(p); and</i></p>

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	<p>Article 106(2), calculate the symmetric adjustment referred to in Article 106 and publish both sets of information on a regular basis;</p> <p>▲ (d) specify the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to in Article 105(5).</p>	<p><u>[...] (b) a list of the [...] external credit assessment institutions and an allocation of their credit assessments to an objective scale of credit quality steps, in accordance with the detailed criteria for the recognition of external credit assessment institutions and for the association of credit assessments to a scale of credit quality as established by the delegated act referred to in Article 111(1)(n).</u></p> <p>▲ (c) [...] the equity index referred to in Article 106(2)[...], in accordance with the detailed criteria established by the delegated act referred to in points (c) and (o) of Article 111(1)(o);</p> <p>(d) [...] the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to in Article 105(5), in accordance with the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module, as established by the delegated act referred to in Article 111(1)(p). <u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the second paragraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</u></p>	<p><i>referred to in Article 106(2), calculate the symmetric adjustment referred to in Article 106 applying the methods, assumptions and standard parameters specified in accordance with Article 111(1)(c) and the detailed criteria specified in Article 111—(1)(o), and publish both sets of information on a monthly basis; and</i></p> <p><i>(d) specify the appropriate fixed income securities index referred to in Article 106a(2), calculate the symmetric adjustment referred to in Article 106a applying the methods, assumptions and standard parameters specified in accordance with Article 111(1)(c) and the detailed criteria specified in Article 111 (1)(o), and publish both sets of information on a monthly basis.</i></p> <p>▲ <i>1b. In order to avoid overreliance on ECAs, insurance and reinsurance undertakings shall verify the appropriateness of external credit assessments as part of their risk management by using additional assessments wherever possible in order to avoid any automatic dependence of risk management on external assessments.</i></p>	<p>▲ On point c) COM = nature of the publication an issue. DA could specify the formula and the publication happens on that basis= than it is an executive decision and is legally sound.</p> <p>EP = clarify that the monthly publication refers to the outcome of the calculation on the basis of the RTS = setting the formula for calculation.</p> <p>point d) of EP text linked to Article 106a</p> <p>EP para 1b = identical text already in para 1(3)</p>
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	<p>2. For the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 105(4), EIOPA shall calculate and publish standard deviations in relation to specific national legislative measures of Member States which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet specified criteria."</p>	<p>2. In order to ensure uniform conditions of application of this Article and for the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 105(4), EIOPA shall develop draft implementing technical standards establishing [...] standard deviations in relation to specific national legislative measures of Member States which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet detailed criteria established by the delegated act referred to in Article 111(1)(q).</p> <p><u>EIOPA shall submit those draft implementing technical standards to the Commission by 30 September 2012.</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the second paragraph in accordance with Article 15 of Regulation (EU) No 1094/2010. [...]</u></p> <p>3. EIOPA shall publish technical information including information concerning the symmetric adjustment referred to in Article 106.</p> <p><u>Insurance and reinsurance undertakings shall use information concerning the symmetric adjustment published by EIOPA when calculating the solvency capital requirement in accordance with</u></p>	<p>2. For the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 105(4), EIOPA shall publish, <i>in accordance with the calculations provided by the supervisory authorities of the Member States concerned</i>, standard deviations in relation to specific national legislative measures of Member States which permit the sharing of claims in respect of health risk amongst insurance and reinsurance undertakings and which meet <i>the following</i> criteria:</p> <p><i>(a) the mechanism for the sharing of claims is transparent and fully specified in advance of the annual period to which it applies;</i></p> <p><i>(b) the mechanism for the sharing of claims, the number of insurance undertakings that participate in the health risk equalisation system (HRES) and the risk characteristics of the business subject to the HRES ensure that for each undertaking participating in the HRES the volatility of annual losses of the business subject to the HRES is significantly reduced by means of the HRES, both in relation to premium and to reserve risk;</i></p> <p><i>(c) health insurance subject to the HRES is compulsory and serves as a partial or complete alternative to health</i></p>	<p>Comments: Council=don't have an issue with principle, will come with alternative wording which will deal with the Meroni concerns</p>

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		<u>this directive."</u>	<p><i>cover provided by the statutory social security system;</i></p> <p><i>(d) in the event of default of insurance undertakings participating in the HRES, one or more Member States' governments guarantee to meet the policyholder claims of the insurance business that is subject to the HRES in full.</i></p> <p><i>The Commission may adopt delegated acts, in accordance with Article 301a, laying down additional criteria.";</i></p>	
Art. 2 point 21	(21) Article 111 is replaced by the following:	(21) Article 111 is replaced by the following:	(21) Article 111 is replaced by the following:	<u>(21) Article 111 is replaced by the following:</u>
Article 111	<p><i>"Article 111</i> <i>Delegated acts and implementing acts"</i></p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, providing for the following:</p> <p>(a) a standard formula in accordance with the provisions of Articles 101 and 103 to 109;</p> <p>(b) any sub-modules necessary or covering more precisely the risks which fall under the respective risk modules referred to in Article 104 as well as any subsequent updates;</p> <p>(c) the methods, assumptions and</p>	<p><i>"Article 111</i> <i>Delegated acts and implementing [...]</i> <i>technical standards "</i></p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], providing for the following:</p> <p>(a) a standard formula in accordance with the provisions of Articles 101 and 103 to 109;</p> <p>(b) any sub-modules necessary or covering more precisely the risks which fall under the respective risk modules referred to in Article 104 as well as any subsequent updates;</p> <p>(c) the methods, assumptions and</p>	<p><i>"Article 111</i> <i>Regulatory technical standards concerning Articles 103 to 109</i></p> <p>1. <i>In order to ensure consistent harmonisation in relation to Article 101 and Articles 103 to 109, EIOPA shall develop draft regulatory technical standards to specify:</i></p> <p>(a) a standard formula in accordance with the provisions of Articles 101 and 103 to 109;</p> <p>(b) any sub-modules necessary or covering more precisely the risks which fall under the respective risk modules referred to in Article 104 as well as any subsequent updates;</p> <p>(c) the methods, assumptions and</p>	<p><u>Comments:</u></p> <p>Council = Point (a)-(r), except for political point elements in (fa) and (o)are OK, so changes in (c), (n), (o)</p> <p>Point (c) COM= refers to confidence level of the SCR, not confidence</p> <p>COM= general point = RTS could be (f), part of (k) regarding procedures (see para 3 point (b)), (l), and (n).</p> <p>point (q) Consistency of wording with Art 109a(1a)</p>



<p>standard parameters to be used when calculating each of the risk modules or sub-modules of the Basic Solvency Capital Requirement laid down in Articles 104, 105 and 304, the symmetric adjustment mechanism and the appropriate period of time, expressed in the number of months, as referred to in Article 106, and the appropriate approach for integrating the method referred to in Article 304 in the Solvency Capital Requirement as calculated in accordance with the standard formula;</p> <p>(d) the correlation parameters, including, where necessary, those set out in Annex IV, and the procedures for updating those parameters;</p> <p>(e) where insurance and reinsurance undertakings use risk-mitigation techniques, the methods and assumptions to be used to assess the changes in the risk profile of the undertaking concerned and to adjust the calculation of the Solvency Capital Requirement;</p> <p>(f) the qualitative criteria that the risk-mitigation techniques referred to in point (e) must fulfil in order to ensure that the risk has been effectively transferred to a third party;</p>	<p>standard parameters to be used when calculating each of the risk modules or sub-modules of the Basic Solvency Capital Requirement laid down in Articles 104, 105 and 304, the symmetric adjustment mechanism and the appropriate period of time, expressed in the number of months, as referred to in Article 106, and the appropriate approach for integrating the method referred to in Article 304 in the Solvency Capital Requirement as calculated in accordance with the standard formula;</p> <p>(d) the correlation parameters, including, where necessary, those set out in Annex IV, and the procedures for updating those parameters;</p> <p>(e) where insurance and reinsurance undertakings use risk-mitigation techniques, the methods and assumptions to be used to assess the changes in the risk profile of the undertaking concerned and to adjust the calculation of the Solvency Capital Requirement;</p> <p>(f) the qualitative criteria that the risk-mitigation techniques referred to in point (e) must fulfil in order to ensure that the risk has been effectively transferred to a third party;</p>	<p>standard parameters <i>to be calibrated to the confidence interval referred to in Article 101(3) and</i> to be used when calculating each of the risk modules or sub-modules of the basic Solvency Capital Requirement laid down in Articles 104, 105 and 304, the symmetric adjustment mechanism and the appropriate period of time, expressed in the number of months, as referred to in Article 106 <i>and Article 106a</i>, and the appropriate approach for integrating the method referred to in Article 304 in the Solvency Capital Requirement as calculated in accordance with the standard formula;</p> <p>(d) the correlation parameters, including, where necessary, those set out in Annex IV, and the procedures for updating those parameters;</p> <p>(e) where insurance and reinsurance undertakings use risk-mitigation techniques, the methods and assumptions to be used to assess the changes in the risk profile of the undertaking concerned and to adjust the calculation of the Solvency Capital Requirement;</p> <p>(f) the qualitative criteria that the risk-mitigation techniques referred to in point (e) must fulfil in order to ensure that the risk has been effectively transferred to a third party;</p> <p><i>(fa) the method to be used when assessing the capital requirement for</i></p>
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			<p><i>counterparty default risk in the case of exposures to authorised central counterparties as referred to in Article 105. These parameters shall be set to ensure consistency with the treatment of such exposures in the case of credit institutions and investment firms as required under Directive 2012/xx/EU (CRD IV);</i></p>	
	<p>(g) the methods and parameters to be used when assessing the capital requirement for operational risk set out in Article 107, including the percentage referred to in Article 107(3);</p> <p>(h) the methods and adjustments to be used to reflect the reduced scope for risk diversification of insurance and reinsurance undertakings related to ring-fenced funds;</p> <p>(i) the method to be used when calculating the adjustment for the loss-absorbing capacity of technical provisions or deferred taxes, as laid down in Article 108;</p> <p>(j) the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by undertaking-specific parameters as set out in Article 104(7);</p> <p>(k) criteria in relation to the standardised methods to be used by the insurance or reinsurance undertaking to calculate the undertaking-specific parameters referred</p>	<p>(g) the methods and parameters to be used when assessing the capital requirement for operational risk set out in Article 107, including the percentage referred to in Article 107(3);</p> <p>(h) the methods and adjustments to be used to reflect the reduced scope for risk diversification of insurance and reinsurance undertakings related to ring-fenced funds;</p> <p>(i) the method to be used when calculating the adjustment for the loss-absorbing capacity of technical provisions or deferred taxes, as laid down in Article 108;</p> <p>(j) the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by undertaking-specific parameters as set out in Article 104(7);</p> <p>(k) criteria in relation to the standardised methods to be used by the insurance or reinsurance undertaking to calculate the undertaking-specific parameters referred</p>	<p>(g) the methods and parameters to be used when assessing the capital requirement for operational risk set out in Article 107, including the percentage referred to in Article 107(3);</p> <p>(h) the methods and adjustments to be used to reflect the reduced scope for risk diversification of insurance and reinsurance undertakings relating to ring-fenced funds;</p> <p>(i) the method to be used when calculating the adjustment for the loss absorbing capacity of technical provisions or deferred taxes, as laid down in Article 108;</p> <p>(j) the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by undertaking-specific parameters as set out in Article 104(7);</p> <p>(k) criteria in relation to the standardised methods to be used by the insurance or reinsurance undertaking to calculate the undertaking-specific parameters referred</p>	



<p>to in point (j), and any criteria with respect to the completeness, accuracy, and appropriateness of the data used that must be met before supervisory approval is given together with the procedure to be followed for such approval;</p> <p>(l) the simplified calculations provided for specific sub-modules and risk modules, as well as the criteria that insurance and reinsurance undertakings, including captive insurance and reinsurance undertakings, shall be required to fulfil in order to be entitled to use each of those simplifications, as set out in Article 109;</p> <p>(m) the approach to be used with respect to related undertakings within the meaning of Article 212 in the calculation of the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5), taking into account the likely reduction in the volatility of the value of those related undertakings arising from the strategic nature of those investments and the influence exercised by the participating undertaking on those related undertakings;</p> <p>(n) the detailed criteria for the eligibility of external credit assessment institutions and for the association of credit assessments to a scale of credit quality referred to in Article 109a(1)(a);</p> <p>(o) the detailed criteria for the equity</p>	<p>to in point (j), and any criteria with respect to the completeness, accuracy, and appropriateness of the data used that must be met before supervisory approval is given together with the procedure to be followed for such approval;</p> <p>(l) the simplified calculations provided for specific sub-modules and risk modules, as well as the criteria that insurance and reinsurance undertakings, including captive insurance and reinsurance undertakings, shall be required to fulfil in order to be entitled to use each of those simplifications, as set out in Article 109;</p> <p>(m) the approach to be used with respect to related undertakings within the meaning of Article 212 in the calculation of the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5), taking into account the likely reduction in the volatility of the value of those related undertakings arising from the strategic nature of those investments and the influence exercised by the participating undertaking on those related undertakings;</p> <p>(n) the detailed criteria for the <u>recognition</u> of external credit assessment institutions and for the association of credit assessments to a scale of credit quality referred to in Article 109a(1)(a);</p> <p>(o) the detailed criteria for the equity</p>	<p>to in point (j), and any criteria with respect to the completeness, accuracy, and appropriateness of the data used that must be met before supervisory approval is given together with the procedure to be followed for such approval;</p> <p>(l) the simplified calculations provided for specific sub-modules and risk modules, as well as the criteria that insurance and reinsurance undertakings, including captive insurance and reinsurance undertakings, shall be required to fulfil in order to be entitled to use each of those simplifications, as set out in Article 109;</p> <p>(m) the approach to be used with respect to related undertakings within the meaning of Article 212 in the calculation of the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5), taking into account the likely reduction in the volatility of the value of those related undertakings arising from the strategic nature of those investments and the influence exercised by the participating undertaking on those related undertakings;</p> <p>(n) the <i>allocation of</i> credit assessment institutions and for the association of credit assessments to a scale of credit quality <i>steps</i> referred to in <i>Article 109a(1)(c)</i>;</p> <p>(o) the detailed criteria for the equity</p>	<p>Comments: Council=change in point n is ok</p> <p>Council = points o, p and q related to 109a</p>
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	<p>index referred to in Article 109a(1)(c) ;</p> <p>(p) the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module referred to in Article 109a(1)(d);</p> <p>(q) the detailed criteria that the national legislative measures arrangements shall meet, and the requirements for the calculation of the standard deviation for the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 109a(2)</p>	<p>index referred to in Article 109a(1)(c);</p> <p>(p) the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module referred to in Article 109a(1)(d);</p> <p>(q) the detailed criteria that the national legislative measures arrangements shall meet, and the requirements for the calculation of the standard deviation for the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 109a(2).</p>	<p>index referred to in Article 109a(1a)(c) and fixed income securities index referred to in Article 109a(1a)(d);</p> <p>(p) the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module referred to in Article 109a(1a)(b);</p> <p>(q) the conditions for a categorisation of regional governments and local authorities referred to in Article 109a(1a)(a);</p> <p>(r) the detailed criteria that the national legislative measures arrangements shall meet, and the methodology and the requirements for the calculation of the standard deviation for the purpose of facilitating the calculation of the health underwriting risk module referred to in Article 109a(2).</p> <p>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</p> <p>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</p> <p>In order to ensure uniform conditions of</p>	<p>COM = on point q align it to paragraph 1(a) = the issue of the nature and granularity of the list</p> <p>Council=point r is ok</p> <p>ITS to be discussed later</p>
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			<p><i>application of this Article, EIOPA shall develop draft implementing technical standards on the procedures to be followed and formats and templates to be used concerning:</i></p> <p><i>(a) the updating of the correlation parameters referred to in point (d);</i></p> <p><i>(b) the supervisory approval to use undertaking-specific parameters referred to in point (k).</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p>	
2. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down quantitative limits and asset eligibility criteria. Those delegated acts shall apply to assets covering technical provisions, excluding assets held in respect of life insurance contracts where the investment risk is borne by the policy holders. Those measures shall be reviewed by the Commission in the light of developments in the standard formula and financial markets.	2. The Commission may adopt delegated acts, in accordance with Article 301a[...], laying down quantitative limits and asset eligibility criteria <u>to address risks which are not adequately covered by a sub-module</u> . Those delegated acts shall apply to assets covering technical provisions, excluding assets held in respect of life insurance contracts where the investment risk is borne by the policy holders. Those measures shall be reviewed by the Commission in the light of developments in the standard formula and financial markets.	2. <i>In order to ensure consistent harmonisation of in relation to the Solvency Capital Requirement, EIOPA shall develop draft regulatory technical standards, laying down quantitative limits and asset eligibility criteria in order to address risks which are not adequately covered by a sub-module.</i>	<p>Council = intention was to have a may provision because it should be risk based. It is supposed to be used if the principle of prudent person doesn't work in the system.</p> <p>EP=idea is to further specify the prudent person principle. COM = reword as follows; <u>2. In order to ensure consistent harmonisation of in relation to the Solvency Capital Requirement, EIOPA shall develop draft regulatory technical standards, laying down quantitative limits and asset eligibility criteria where that risks are not adequately covered by a sub-</u></p>	

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	<p>3. Powers are conferred on the Commission to adopt implementing technical standards to determine:</p> <p>(a) the conditions of application of Articles 101 to 110 as supplemented by the delegated acts referred to in paragraph 1(a) to (m), concerning the matters covered by those delegated acts; and</p> <p>(b) the standardised methods to be used to calculate the undertaking specific parameters as referred to in paragraph 1(j).</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p> <p>EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p><u>3. In order to ensure uniform conditions of application of the provisions referred to in paragraph 1, EIOPA shall develop draft implementing technical standards concerning [...]:</u></p> <p>(a) <u>the matters covered by the delegated acts as regards points 1(a) to (m), with the exception of points (h) and (j); and</u></p> <p>(b) the standardised methods to be used to calculate the undertaking specific parameters as referred to in paragraph 1(j).</p> <p>EIOPA shall <u>submit [...]</u> to the Commission <u>the draft implementing technical standards in relation to paragraph 3[...] of this Article covering:</u></p> <p>(a) <u>the methods, assumptions and standard parameters to be used when calculating the non-life catastrophe risk sub-module referred to in Article 105(2)(b) and the standardised methods in relation to point (b) of the first subparagraph[...] of this Article by 30 September 2012;</u></p> <p>(b) <u>matters other than those referred to in point (a) of this subparagraph by 31 December 2014.</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</u></p>	<p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p>Such <i>regulatory technical standards</i> shall apply to assets covering technical provisions, excluding assets held in respect of life insurance contracts where the investment risk is borne by the policy holders. Those <i>regulatory technical standards</i> shall be reviewed by the Commission in the light of developments</p>	<p><u>module.</u></p> <p>EP to check</p>
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		subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."	in the standard formula and financial markets.";	
Art. 2 point 22	(22) Article 114 is replaced by the following:	(22) Article 114 is replaced by the following:	(22) Article 114 is replaced by the following:	(22) Article 114 is replaced by the following:
Art. 114	<p>"Article 114 Delegated acts and implementing acts</p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, setting out the following:</p> <p>(a) the procedure to be followed for the approval of an internal model;</p> <p>(b) the adaptations to be made to the standards set out in Articles 120 to 125 in light of the limited scope of the application of the partial internal model;</p> <p>(c) the procedures to approve major changes to an internal model and changes to the policy for changing an internal model referred to in Article 115;</p> <p>(d) approaches, including, where appropriate, default techniques which allow a partial internal model to be fully integrated into the Solvency Capital Requirement standard formula and requirements for the use of alternative techniques.</p> <p>powers are conferred on the Commission to adopt implementing technical</p>	<p>"Article 114 Delegated acts and implementing <u>technical standards</u></p> <p>1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], setting out the following:</p> <p>(a) the procedure to be followed for the approval of an internal model;</p> <p>(b) the adaptations to be made to the standards set out in Articles 120 to 125 in light of the limited scope of the application of the partial internal model;</p> <p>(c) the procedures to approve major changes to an internal model and changes to the policy for changing an internal model referred to in Article 115;</p> <p>(d) approaches, including, where appropriate, default techniques which allow a partial internal model to be fully integrated into the Solvency Capital Requirement standard formula and requirements for the use of alternative techniques.</p> <p><u>In order to ensure uniform conditions of application of the provisions referred to in</u></p>	<p>"Article 114 Regulatory and implementing technical standards concerning the Solvency Capital Requirement internal models</p> <p><i>1. In order to ensure consistent harmonisation in relation to the Solvency Capital Requirement full and partial internal model, EIOPA shall develop draft regulatory technical standards to specify:</i></p> <p>(c) the policy for changing an internal model referred to in Article 115;</p> <p>(d) the way in which a partial internal model shall be fully integrated into the Solvency Capital Requirement standard formula referred to in Article 113(1)(c) and requirements for the use of alternative integration techniques.</p>	<p>Comments: EP=LL suggest add to titles the topic of the implementing measures</p> <p>On point d) COM=revision of point d) = RTS on techniques; procedures would need DA. EP= problem with "allow". will come back to this issue Suggested rewording: <u>approaches through which a partial internal model shall be fully integrated into the Solvency Capital Requirement standard formula referred to in Article 113(1)(c) and requirements for the use of alternative integration techniques.</u></p>



ΕΒΡΟΠΕΪΚΣΙ ΠΑΡΛΑΜΕΝΤ ΠΑΡΛΑΜΕΝΤΟ ΕΥΡΟΠΕΟ ΕΥΡΩΠΣΚΪ ΠΑΡΛΑΜΕΝΤ ΕΥΡΟΠΑ-ΠΑΡΛΑΜΕΝΤΕΤ
 ΕΥΡΩΠΑΪΣΧΕΣ ΠΑΡΛΑΜΕΝΤ ΕΥΡΟΟΡΑ ΠΑΡΛΑΜΕΝΤ ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
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	<p>standards to determine the conditions of application of Articles 112 to 126 as supplemented by the delegated acts referred to in paragraph 1 of this Article, concerning the matters covered by those delegated acts, specifically with regard to the procedures, adaptations and alternative techniques referred to in that paragraph . The implementing technical standards referred to in the second subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p><u>the first subparagraph, EIOPA shall develop draft implementing technical standards [...] concerning the matters covered by those delegated acts, specifically with regard to the procedures, adaptations and alternative techniques referred to in that paragraph .</u></p> <p>EIOPA shall <u>submit [...] to the Commission the draft implementing technical standards covering the matters referred to in:</u></p> <p><u>(a) paragraph 1(d) of this Article by 30 September 2012;</u></p> <p><u>(b) paragraph 1(b) of this Article by 31 December 2014;</u></p> <p><u>(c) paragraph 1(a) and (c) of this Article by 31 December 2016.</u></p> <p><u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</u></p>	<p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>In order to ensure uniform conditions of application of this Article, EIOPA shall</i></p>	<p>EP=scope of ITS is not defined sufficiently precisely. COM= it refers to "specifically" = which according to COM means "only"</p> <p>COM = approaches = involves policy choices = delegated acts.</p>
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			<p><i>develop draft implementing technical standards on the procedures to be followed and formats and templates to be used concerning:</i></p> <p><i>(a) the approval of an internal model in accordance with Article 112; and</i></p> <p><i>(b) the approval of major changes to an internal model and changes to the policy for changing an internal model referred to in Article 115.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i></p>	
<p>Art. 2 point 23</p> <p>Art. 127</p>	<p>(23) Article 127 is replaced by following:</p> <p><i>"Article 127</i> <i>Delegated acts and implementing acts</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, with respect to Articles 120 to 126, regarding the use of internal models throughout the Union.</p>	<p>(23) Article 127 is replaced by following:</p> <p><i>"Article 127</i> <i>Delegated acts and implementing [...]</i> <i>technical standards</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a [...], with respect to Articles 120 to 126, regarding the use of internal models throughout the Union.</p>	<p>(23) Article 127 is replaced by following:</p> <p><i>"Article 127</i> <i>Regulatory technical standards concerning Articles 120 to 126</i></p> <p><i>In order to ensure consistent harmonisation in relation to Articles 120 to 126 and to enhance the better assessment of the risk profile and management of the business of insurance and reinsurance undertakings, EIOPA shall develop draft regulatory technical standards to specify the use of internal models throughout the Union.</i></p>	<p><i>(23) Article 127 is replaced by following:</i></p>

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	<p>Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of Articles 120 to 126, as supplemented by the delegated acts referred to in the first paragraph, concerning the matters covered by those delegated acts.</p> <p>The implementing technical standards referred to in the second paragraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."</p>	<p><u>In order to ensure uniform conditions of application of the provisions referred to in the first subparagraph, EIOPA shall develop draft</u> implementing technical standards [...] concerning the matters covered by those delegated acts.</p> <p>EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by 31 December 2016.</p> <p><u>Power is conferred on the Commission to adopt</u> the implementing technical standards referred to in the second paragraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</p>	<p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i></p>	
<p>Art. 2 point 24</p> <p>Art. 129 para 1 point d subpoint (iii)</p>	<p>(24) Article 129(1)(d)(iii) is replaced by the following:</p>	<p>(24) Article 129(1)(d)(iii) is replaced by the following:</p>	<p>(24) Article 129 <i>is amended as follows:</i></p> <p><i>(a) in paragraph 1, points (i), (ii) and (iii) is replaced by the following:</i></p> <p><i>"(i) EUR 2 300 000 for non-life insurance undertakings, including captive insurance undertakings, save in the case where all or some of the risks included in one of the classes 10 to 15 listed in Part A of Annex 1 are covered, in which case it shall be no less than EUR 3 500 000;</i></p> <p><i>(ii) EUR 3 500 000 for life insurance undertakings, including captive insurance undertakings;</i></p>	



	"(iii) EUR 3 200 000 for reinsurance undertakings, except in the case of captive reinsurance undertakings, in which case the Minimum Capital Requirement shall be not less than EUR 1 100 000,"	"(iii) EUR 3 200 000 for reinsurance undertakings, except in the case of captive reinsurance undertakings, in which case the Minimum Capital Requirement shall be not less than EUR 1 100 000,"	(iii) EUR 3 500 000 for reinsurance undertakings, except in the case of captive reinsurance undertakings, in which case the Minimum Capital Requirement shall be not less than EUR 1 100 000;" █	
Art. 2 point 25 Art. 129 para 3 subpara 2	(25) In the second subparagraph of Article 129(3) the date "31 October 2014" is replaced by the date "31 December 2014".	(25) In the second subparagraph of Article 129(3) the date "31 October 2014" is replaced by the date "31 December 2015".	<i>(b) in paragraph 3, the second subparagraph is replaced by the following:</i> "Member States shall allow their supervisory authorities, for a period ending no later than 31 December 2014, to require an insurance or reinsurance undertaking to apply the percentages referred to in the first subparagraph exclusively to the undertaking's Solvency Capital Requirement calculated in accordance with Chapter VI, Section 4, Subsection 2.";	
			<i>(c) in paragraph 4, the following subparagraph is inserted after the first subparagraph:</i> "For the purposes of calculating the limits referred to in paragraph 3, undertakings shall not be required to calculate the Solvency Capital Requirement on a quarterly basis."; █	
Art. 2	(26) In Article 129(5), the date "31	(26) In Article 129(5), the date "31	<i>(d) In paragraph 5, the first</i>	



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point 26 Art. 129 para 5	October 2017" is replaced by the date "31 December 2017",	October 2017" is replaced by the date "31 December 2018",	<i>subparagraph is replaced by the following:</i> "5. The Commission shall submit to the European Parliament and the European Insurance and Occupational Pensions Committee established by Commission Decision 2004/9/EC¹*, by 31 December 2017, a report on Member States' rules and supervisory authorities' practices adopted pursuant to paragraphs 1 to 4.	
Art. 2 point 27 Art. 130	(27) Article 130 is replaced by the following: <i>"Article 130 Delegated acts</i> The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the calculation of the Minimum Capital Requirement, referred to in Articles 128 and 129."	(27) Article 130 is replaced by the following: <i>"Article 130 Delegated acts</i> The Commission shall adopt delegated acts, in accordance with Article 301a[...], specifying the calculation of the Minimum Capital Requirement, referred to in Articles 128 and 129."	(27) Article 130 is replaced by the following: <i>"Article 130 Regulatory technical standards</i> <i>In order to ensure consistent harmonisation in relation to minimum capital requirements, EIOPA shall develop draft regulatory technical standards to specify the calculation of the Minimum Capital Requirement, referred to Articles 128 and 129.</i> <i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i> <i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i>	
Art. 2	(28) In the first paragraph of Article 131,	(28) In the first paragraph of Article 131,	(28) In the first paragraph of Article 131,	

¹ OJ L 3, 7.1.2004, p. 34."



point 28 Art. 131 para 1	the dates "31 October 2012" and "31 October 2013" are replaced by the dates "31 December 2012" and "31 December 2013 respectively".	the dates "31 October 2012" and "31 October 2013" are replaced by the dates "31 December 2013" and "31 December 2014 respectively".	the dates "31 October 2012" and "31 October 2013" are replaced by the dates "31 December 2012" and "31 December 2013 respectively".	
Art. 2 point 29 Art. 135	<p>(29) Article 135 is replaced by the following:</p> <p><i>"Article 135 Delegated acts</i></p> <p>1. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying qualitative requirements in the following areas:</p> <p>(a) the identification, measurement, monitoring, managing and reporting of risks arising from investments in relation to the first subparagraph of Article 132(2);</p> <p>(b) the identification, measurement monitoring, managing and reporting of specific risks arising from investment in derivative instruments and assets referred to in the second subparagraph of Article 132(4).</p>	<p>(29) Article 135 is replaced by the following:</p> <p><i>"Article 135 Delegated acts</i></p> <p>1. The Commission may adopt delegated acts, in accordance with Article 301a[...], specifying qualitative requirements in the following areas:</p> <p>(a) the identification, measurement, monitoring, managing and reporting of risks arising from investments in relation to the first subparagraph of Article 132(2);</p> <p>(b) the identification, measurement monitoring, managing and reporting of specific risks arising from investment in derivative instruments and assets referred to in the second subparagraph of Article 132(4).</p>	<p>(29) Article 135 is replaced by the following:</p> <p><i>"Article 135 Regulatory and implementing technical standards concerning qualitative requirements</i></p> <p>1. <i>In order to ensure consistent harmonisation in relation to Articles 132(2) and 132(4), EIOPA shall develop draft regulatory technical standards to specify qualitative requirements in the following areas:</i></p> <p>(a) the identification, measurement, monitoring and managing I of risks arising from investments in relation to the first subparagraph of Article 132(2);</p> <p>(b) the identification, measurement monitoring and managing I of specific risks arising from investment in derivative instruments and assets referred to in the second subparagraph of Article 132(4) and the determination of to what extent the use of such assets qualifies as risk reduction or efficient portfolio management as referred to in the third subparagraph of Article 132(4).</p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p>	



			<p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>1a. In order to ensure uniform conditions of application of points (a) and (b) of the first subparagraph of paragraph 1, EIOPA shall develop draft implementing technical standards on the reporting procedures to be followed and formats and templates to be used.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p>
<p>2. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down:</p> <p>(a) the requirements that need to be met by undertakings that repackage loans into tradable securities and other financial instruments (originators) in order for an insurance or reinsurance undertaking to be allowed to invest in such securities or instruments issued after 1 January 2011, including requirements that ensure that</p>	<p>2. The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down:</p> <p>(a) the requirements that need to be met by undertakings that repackage loans into tradable securities and other financial instruments (originators) in order for an insurance or reinsurance undertaking to be allowed to invest in such securities or instruments issued after 1 January 2011, including requirements that ensure that</p>	<p>2. The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down:</p> <p>(a) the requirements that need to be met by undertakings that repackage loans into tradable securities and other financial instruments (originators) in order for an insurance or reinsurance undertaking to be allowed to invest in such securities or instruments issued after 1 January 2011, including requirements that ensure that</p>	<p>2. The Commission shall adopt delegated acts, in accordance with Article 301a [] , laying down:</p> <p>(a) the requirements that need to be met by undertakings that repackage loans into tradable securities and other financial instruments (originators) in order for an insurance or reinsurance undertaking to be allowed to invest in such securities or instruments issued after 1 January 2011, including requirements that ensure that</p>



	<p>the originator retains a net economic interest of no less than 5 %;</p> <p>(b) qualitative requirements that must be met by insurance or reinsurance undertakings that invest in such securities or instruments;</p> <p>(c) the consequences of breaching the requirements laid down under points (a) and (b) of this paragraph, including, where appropriate, and notwithstanding Article 101(3), measures which impose a proportionate additional capital charge."</p>	<p>the originator retains a net economic interest of no less than 5 %. <u>With respect to insurance and reinsurance undertakings investing in tradable securities or other financial instruments based on repackaged loans that were issued before 1 January 2011, these requirements shall apply from 31 December 2014, but only in circumstances where new underlying exposures are added or substituted after 31 December 2014;</u></p> <p>(b) qualitative requirements that must be met by insurance or reinsurance undertakings that invest in such securities or instruments;</p> <p>(c) the consequences of breaching the requirements laid down under points (a) and (b) of this paragraph, including, where appropriate, and notwithstanding Article 101(3), measures which impose a proportionate additional capital charge."</p>	<p>the originator retains a net economic interest of no less than 5 %;</p> <p>(b) qualitative requirements that must be met by insurance or reinsurance undertakings that invest in such securities or instruments;</p> <p>(c) the <i>specifications for the circumstances under which a capital add-on may be imposed when</i> the requirements laid down under points (a) and (b) of this paragraph <i>have been breached, without prejudice to</i> Article 101(3) 1 .</p> <p><i>2a. In order to ensure consistent harmonisation in relation to paragraph 2(c), EIOPA shall develop draft regulatory technical standards to specify the methodologies for the calculation of capital add-ons referred to therein.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards</i></p>	
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			<i>referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i>	
Art. 2 point 29 a (new)		<u>(29a) The following paragraph 3a is added to Article 138:</u>		
Art. 138 para 3a (new)		<u>"(3a) By way of derogation from paragraph 3, where insurance and reinsurance undertakings comply with the Required Solvency Margin referred to in Article 28 of Directive 2002/83/EC, Article 16a of Directive 73/239/EEC or Article 37, 38 or 39 of Directive 2005/68/EC respectively as implemented in the law of the Member State on the day before 1 January 2014 but do not comply with the Solvency Capital Requirement during the first year of application of this Directive, the supervisory authority shall require the insurance or reinsurance undertaking concerned to take the necessary measures to achieve, within 12 months from the observation of non-compliance with the Solvency Capital Requirement, the establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of its risk profile to ensure compliance with the Solvency Capital Requirement.</u>		
		<u>The insurance or reinsurance undertaking concerned shall, every three months, submit a progress report to its supervisory authority setting out the measures taken and the progress made to establish the level of eligible own funds covering the Solvency Capital Requirement or to</u>		



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		<u>reduce the risk profile to ensure compliance with the Solvency Capital Requirement."</u>		
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<p>Art. 2 point 30</p> <p>Art. 138 para 4</p>	<p>(30) Article 138 (4) is amended as follows:</p> <p>(a) The first subparagraph shall be replaced by the following: "In the event of an exceptional fall in financial markets, as determined by EIOPA in accordance with this paragraph, the supervisory authority may extend the period set out in the second sub-paragraph of paragraph 3 by an appropriate period of time taking into account all relevant factors."</p> <p>(b) The following fourth and fifth subparagraphs are added: "Without prejudice to the powers of the EIOPA under Article 18 of Regulation .../..., for the purposes of this paragraph, EIOPA shall, following a request by the supervisory authority concerned, address an individual decision to the requesting supervisory authority declaring the existence of an exceptional fall in financial markets. An exceptional fall in</p>	<p>(30) Article 138(4) is amended as follows:</p> <p>(a) The first subparagraph shall be replaced by the following: "In the event of an exceptional fall in financial markets, as declared by EIOPA in accordance with this paragraph, the supervisory authority may extend the period set out in the second sub-paragraph of paragraph 3 by an appropriate period of time taking into account all relevant factors."</p> <p>(b) The following fourth and fifth subparagraphs are added: "Without prejudice to the powers of the EIOPA under Article 18 of Regulation (EU) No 1094/2010 [...], for the purposes of this paragraph, EIOPA shall, following a request by the supervisory authority concerned, [...] declare the existence of an exceptional fall in financial markets. An exceptional fall in financial markets exists, [...] where the supervisory</p>	<p>(30) Article 138(4) is replaced by the following:</p> <p>¶ "4. In the event of an exceptional fall in financial markets, as declared by EIOPA, in accordance with this paragraph, and in consultation with the European Systemic Risk Board established under Regulation (EU) No 1092/2010, the supervisory authority may extend the period set out in the second subparagraph of paragraph 3 by an appropriate period of time taking into account all relevant factors including the average duration of the technical provisions.</p> <p>Where the average duration of the technical provisions exceeds 12 years, one-third of the duration shall be deemed appropriate for the determination of the period in the first subparagraph with a maximum of seven years.</p> <p>¶ Without prejudice to Article 18 of Regulation (EU) No 1094/2010, for the purposes of this paragraph, EIOPA may, following a request by the supervisory authority concerned or on its own initiative, adopt a decision determining the existence of an exceptional fall in financial markets. An exceptional fall in financial markets exists, where there is a</p>
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	<p>financial markets exists, where one or more insurance or reinsurance undertakings are unable to meet one of the requirements set out in paragraph 3 of this Article within the time period defined therein as a consequence of a fall in financial markets which is unforeseen, sharp and steep, which is different from the downturns that occur as part of the economic cycle and which has already affected seriously and adversely the financial situation of one or more insurance and reinsurance undertakings collectively representing a substantial part of the insurance or reinsurance market in one or more Member States.</p> <p>EIOPA shall at least once a month review whether the conditions referred to in the fourth subparagraph still apply as of the date of the review and repeal that decision where one or more of the conditions referred to in the fourth subparagraph on which the decision was based is no longer fulfilled. To this end EIOPA shall address an individual decision to the supervisory authority concerned declaring that an exceptional fall in financial markets has ceased to exist.."</p>	<p><u>authority concerned has informed EIOPA that one or more insurance or reinsurance undertakings are unlikely to meet one of the requirements set out in paragraph 3 [...] as a consequence of a fall in financial markets which is unforeseen, sharp and steep, which is different from the downturns that occur as part of the economic cycle [...] and which has already affected seriously and adversely the financial situation of one or more insurance and reinsurance undertakings in one or more Member States.</u></p> <p>EIOPA shall at least once a month review whether the conditions referred to in the fourth subparagraph still apply as of the date of the review [...]. To this end EIOPA shall [...] declare, <u>either following the request by the supervisory authority concerned or on its own initiative, [...] when</u> an exceptional fall in financial markets has ceased to exist."</p>	<p>fall in financial markets <i>across the Union</i> which is unforeseen, sharp and steep, <i>and</i> which is different from the downturns that occur as part of the economic cycle .</p> <p>EIOPA shall at least once a month review whether the conditions referred to in the <i>previous</i> subparagraph still apply as of the date of the review . To this end EIOPA <i>may, upon a request by the</i> supervisory authority concerned <i>or on its own initiative, adopt a decision determining</i> that <i>the</i> exceptional fall in financial markets has ceased to exist.</p> <p><i>Without prejudice to their competences, the supervisory authorities concerned shall inform in the framework of the colleges of supervisors its decision to refuse the extension of the period referred to in subparagraph 5.</i></p> <p><i>Where there are diverging views in the college of supervisors concerning the refusal by the supervisory authority</i></p>	<p>Comments:</p> <p>Council = EIOPA mediation procedure interferes with national supervisory competences. COM = Consultation between supervisory authorities might be guaranteed by Article 250, which refers to exceptional measures.</p> <p>Paragraph references to be checked</p>
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			<p><i>concerned to extend the period referred to in subparagraph 5, the group supervisor or any of the other supervisory authorities may consult EIOPA. EIOPA shall be consulted during one month and all supervisory authorities concerned shall be informed. Where EIOPA has been consulted, the supervisory authority concerned shall duly consider such advice before taking its decision. In accordance with Article 19(2) of Regulation (EU) No 1094/2010, EIOPA shall act as a mediator at that stage.</i></p> <p><i>Where, at the end of the period referred to in subparagraph 7 of this Article, if no agreement has been reached within the college, the group supervisor or any of the supervisory authorities concerned has referred the refusal of the supervisory authority concerned to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the supervisory authority concerned shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</i></p> <p><i>The period referred to in subparagraphs 6 and 7, shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation. EIOPA shall take its decision within two months. The matter shall not be referred to EIOPA after the end of the period referred to in</i></p>	
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			<p><i>paragraph or after an agreement among supervisory authorities concerned has been reached.</i></p> <p>The insurance or reinsurance undertaking concerned shall, every three months, submit a progress report to its supervisory authority setting out the measures taken and the progress made to re-establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce the risk profile to ensure compliance with the Solvency Capital Requirement.</p> <p>The extension referred to in the first subparagraph shall be withdrawn where that progress report shows that there was no significant progress in achieving the re-establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of the risk profile to ensure compliance with the Solvency Capital Requirement between the date of the observation of non-compliance of the Solvency Capital Requirement and the date of the submission of the progress report.";</p> <p>■</p>	
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Art. 2 point 31	(31) Article 143 is replaced by the following:	(31) Article 143 is replaced by the following:	(31) Article 143 is replaced by the following:	
Art. 143	<p style="text-align: center;"><i>"Article 143 Delegated acts</i></p>	<p style="text-align: center;"><i>"Article 143 Delegated acts</i></p>	<p style="text-align: center;"><i>"Article 143 Regulatory technical standards concerning Article 138(4)</i></p>	
	<p>1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the procedures to be followed by EIOPA when determining the existence of an exceptional fall in the financial markets, and the factors to be taken into account for the purpose of the application of Article 138(4) including the maximum appropriate period of time, expressed in total number of months, which shall be the same for all insurance and reinsurance undertakings as referred to in the first subparagraph of Article 138(4).</p>	<p>1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], specifying the procedures [...] and the factors to be taken into account for the purpose of the application of Article 138(4) including the maximum appropriate period of time, expressed in total number of months, which shall be the same for all insurance and reinsurance undertakings as referred to in the first subparagraph of Article 138(4).</p>	<p>1. <i>In order to ensure consistent harmonisation in relation to Article 138(4), EIOPA shall develop draft regulatory technical standards to specify the factors and criteria to be taken into account for the purpose of the application of Article 138(4) including the maximum period of time, expressed in total number of months, which shall be the same for all insurance and reinsurance undertakings as referred to in the first subparagraph of Article 138(4).</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>1a. In order to ensure uniform conditions of application of Article 138(4), EIOPA shall develop draft implementing technical standards to specify the procedures to be followed by</i></p>	



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	<p>2. Where it is necessary to enhance convergence, the Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down further specifications with respect to the recovery plan referred to in Article 138(2), the finance scheme referred to in Article 139(2) and with respect to Article 141, taking due care to avoid pro-cyclical effects."</p>	<p>2. Where it is necessary to enhance convergence, the Commission may adopt delegated acts, in accordance with Article 301a[...], laying down further specifications with respect to the recovery plan referred to in Article 138(2), the finance scheme referred to in Article 139(2) and with respect to Article 141, taking due care to avoid pro-cyclical effects."</p>	<p><i>EIOPA when determining the existence of an exceptional fall in the financial markets in accordance with Article 138(4).</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p>	
<p>Art. 2 point 31 a (new)</p> <p>Art. 149</p>		<p><u>(31a) Article 149 is replaced by the following:</u></p> <p><u>"Article 149</u> <u>Changes in the nature of the risks or</u></p>	<p><i>2. In order to ensure consistent harmonisation in relation to Article 138(2), Article 139(2) and Article 141, EIOPA shall develop draft regulatory technical standards to specify the recovery plan referred to in Article 138(2), and the finance scheme referred to in Article 139(2) and with respect to Article 141, taking due care to avoid pro cyclical effects."</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i></p>	



		<u>commitments</u>		
		<u>Any change which an insurance undertaking intends to make to the information referred to in Article 147 shall be subject to the procedure provided for in that Article and Article 148."</u>	"Any change which an insurance undertaking intends to make to the information referred to in Article 147 shall be subject to the procedure provided for in Articles 147 and 148.";	
Art. 2 point 32 Art. 155 para 3 subpara 1a (new)	(32) The following subparagraph is inserted after the first subparagraph of Article 155(3): "In addition, the supervisory authority of the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred on it by that Article."	(32) The following subparagraph is inserted after the first subparagraph of Article 155(3): "In addition, the supervisory authority of the host Member State may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by [...] Article 19 of that Regulation."	(32) the following subparagraph is inserted after the first subparagraph of Article 155(3): "In addition, the supervisory authority of the home or the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19, paragraphs 1 to 4 and 6 of Regulation (EU) No 1094/2010 . In that case, EIOPA may act in accordance with the powers conferred on it by that Article.";	
Art. 2 point 32a (new) Art. 155 para 9			(32a) in Article 155, paragraph 9 is replaced by the following: "9. Member States shall inform the Commission and EIOPA of the number and types of cases which led to refusals under Articles 146 and 148 or in which measures have been taken under paragraphs 3 and 4 of this Article.";	
Art. 2 point 33 Art. 158 para 2 supara 1a (new)	(33) The following subparagraph is inserted after the first subparagraph of Article 158(2): In addition, the supervisory authority of the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with	(33) The following subparagraph is inserted after the first subparagraph of Article 158(2): "In addition, the supervisory authority of the host Member State may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by [...]"	(33) in Article 158(2) , the following subparagraph is inserted after the first subparagraph: "In addition, the supervisory authority of the home or the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19(1) to (4) and (6) of Regulation (EU) No 1094/2010 . In that case, EIOPA may	



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	the powers conferred on it by that article."	<u>Article 19 of that Regulation.</u> "	act in accordance with the powers conferred on it by that article.";	
Art. 2 point 33a (new) Art. 159			<p><i>(33a) Article 159 is replaced by the following:</i></p> <p>"Article 159 Statistical information on cross-border activities</p> <p>Every insurance undertaking shall inform the competent supervisory authority of its home Member State, separately in respect of transactions carried out under the right of establishment and those carried out under the freedom to provide services, of the amount of the premiums, claims and commissions, without deduction of reinsurance, by Member State and as follows:</p> <p>(a) for non-life insurance, by <i>lines of business</i> as set out in the corresponding delegated act;</p> <p>(b) for life insurance, by each <i>line of business</i> I to IX, as set out in the corresponding delegated act.</p> <p>As regards class 10 in Part A of Annex I, not including carrier's liability, the undertaking concerned shall also inform that supervisory authority of the frequency and average cost of claims.</p> <p>The supervisory authority of the home Member State shall forward the</p>	



			information referred to in the first and second subparagraphs within a reasonable time and in aggregate form to the supervisory authorities of each of the Member States concerned upon their request.";	
Art. 2 point 34 Art. 172	(34) Article 172 is amended as follows:	(34) Article 172 is amended as follows:	(34) Article 172 is <i>replaced by the following:</i>	
Art. 2 point 35 point a Art. 172 para 1, para 2, para 3	(35) (a) paragraph 1 is replaced by the following: "1. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the criteria to assess whether the solvency regime of a third country applied to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in Title I...."	(35) (a) paragraph 1 is replaced by the following: "1. The Commission shall adopt delegated acts, in accordance with Article 301a[...], specifying the criteria to assess whether the solvency regime of a third country applied to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in Title I."	"Article 172 <i>Equivalence in relation to reinsurance undertakings</i> 1. The Commission shall adopt delegated acts, in accordance with Article 301a, specifying the criteria to assess whether the <i>supervisory</i> regime of a third country applied to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in Title I 1.	
Art. 2 point 35 point a Art. 172 para 1, point a1		(a1) paragraph 2 is replaced by the following: "2. The Commission may, in accordance with the examination procedure referred to in Article 301(2) and taking into account the criteria adopted in accordance with paragraph 1, decide whether the solvency regime of a third country applied to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in Title I.	2. <i>If the criteria adopted in accordance with paragraph 1 have been fulfilled by a third country, the Commission may, in accordance with Article 301a, and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of that third country applied to reinsurance activities of undertakings with the head office in that third country is equivalent to that laid down in Title I</i>	



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		<p><u>Those decisions shall be regularly reviewed."</u></p>	<p><i>of this Directive.</i></p> <p><i>Those decisions shall be regularly reviewed, to take into account any significant changes to the supervisory regime laid down in Title I, and to the supervisory regime in the third country.</i></p> <p><i>EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.</i></p> <p><i>3. Where in accordance with paragraph 2, the supervisory regime of a third country has been deemed to be equivalent to that laid down in this Directive, reinsurance contracts concluded with undertakings having</i></p>	
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<p>Art. 2 point 35 point b</p>	<p>(b) the following new paragraphs 4, 5 and 6 are added:</p>	<p>(b) the following new paragraphs 4, 5 and 6 are added:</p>	<p><i>their head office in that third country shall be treated in the same manner as reinsurance contracts concluded with undertakings authorised in accordance with this Directive.</i></p>	
<p>Art. 172 para 3a (new)</p>	<p>"4. By way of derogation from paragraph 3 and the second subparagraph of Article 134(1), the same treatment as in Article 172(3) and the second subparagraph of Article 134(1) shall be accorded, for a transitional period, to reinsurance contracts concluded with undertakings having their head office in a third country the solvency regimes of which are unlikely, by 31 December 2012, to fully meet the criteria for assessing equivalence, referred to in paragraph 1. The transitional period shall last for a maximum of 5 years from the date referred to in the first sub-paragraph of Article 309(1). This derogation shall only apply where the Commission has made a decision in accordance with paragraph 6 that specified conditions have been met by the third country.</p>	<p>"4. By way of derogation from paragraph [...] 2 [...], the same treatment as in [...] paragraph 3 and the second subparagraph of Article 134(1) shall be accorded, for a transitional period, to reinsurance contracts concluded with undertakings having their head office in a third country the solvency regimes of which are unlikely, by 31 December 2013, to fully meet the criteria for assessing equivalence, referred to in paragraph 1. The transitional period shall last [...] from 1 January 2014 until 31 December 2018 or until the date on which, in accordance with paragraph 2 of this Article, the solvency regime of that third country has been deemed to be equivalent to that laid down in Title I, whichever is the earliest. This derogation shall only apply where the Commission has made a decision in accordance with paragraph 6 that specified conditions have been met by the third country.</p>	<p>4. By way of derogation from paragraph 2, and even if the criteria specified in accordance with paragraph 1 have not been fulfilled, the Commission may, for a limited period and in accordance with Article 301a, and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of a third country applied to reinsurance activities of undertakings with the head office in that third country is temporarily equivalent to that laid down in Title I, if that third country has complied with at least the following criteria:</p>	<p>(a) it has given written commitments to the Union to adopt and apply a supervisory regime that is capable of being assessed equivalent in accordance with paragraph 2, before the end of that limited period;</p> <p>(b) it has established a convergence programme to fulfil the commitment under point (a);</p> <p>(c) it has allocated sufficient resources to fulfil the commitment under point (a);</p> <p>(d) it has a solvency regime that is risk based and based on economic valuation</p>



			<p><i>of assets and liabilities;</i></p> <p><i>(e) it has concluded agreements to exchange confidential supervisory information, in accordance with Article 264;</i></p> <p><i>(f) it has an independent system of supervision based on core principles, principles and standards adopted by the IAIS;</i></p> <p><i>(g) it has established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with EIOPA and supervisory authorities as defined in Article 13(10).</i></p> <p><i>Any decisions on temporary equivalence shall take into account the reports by the Commission in accordance with Article 177(2). Those decisions shall be regularly reviewed, on the basis of progress reports by the relevant third country, which are presented to and assessed by the Commission and EIOPA every six months.</i></p> <p><i>EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.</i></p> <p><i>The Commission may adopt delegated acts, in accordance with Article 301a, further specifying the conditions laid down in the first subparagraph.</i></p>	
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	<p>5. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying in relation to paragraph 4 the length of the transitional period which may be shorter than the maximum of 5 years and the conditions which are to be met by the third country. Those conditions shall cover commitments given by the supervisory authorities, their convergence to an equivalent regime over a set period of time, the existing or intended content of the regime, and matters of cooperation, exchange of information and professional secrecy obligations.</p> <p>6. The Commission may, in accordance with the regulatory procedure referred to in Article 301(2), decide in respect of solvency regimes referred to in paragraph 4 that the conditions set out in Article 174(4) and the delegated act have been met by the third country. Those decisions shall be regularly reviewed."</p>	<p>5. The Commission may adopt delegated acts, in accordance with Article 301a[...], specifying in relation to paragraph 4 [...] the conditions which are to be met by the third country. Those conditions shall cover commitments given by the <u>third countries</u>, their convergence to an equivalent regime over a set period of time, the existing or intended content of the regime, and matters of cooperation, exchange of information and professional secrecy obligations.</p> <p>6. The Commission may, in accordance with the [...] <u>examination</u> procedure referred to in Article 301(2), decide in respect of solvency regimes referred to in paragraph 4 that the conditions set out in <u>paragraph 5</u> and the delegated act have been met by the third country. Those decisions shall be regularly reviewed."</p>	<p><i>5. The period referred to in paragraph 4 shall be five years from 1 January 2014 or until the date on which, in accordance with paragraph 2, the supervisory regime of that third country has been deemed to be equivalent to that laid down in Title I, whichever is the earliest.</i></p> <p><i>That period may be extended with a maximum of one more year, where such time is necessary for EIOPA and the Commission to carry out the assessment of equivalence for the purposes of paragraph 2.</i></p> <p><i>6. Reinsurance contracts concluded with undertakings having their head office in a third country, the supervisory regime of which has been deemed temporarily equivalent in accordance with paragraph 4, shall be accorded the same treatment as the one set out in paragraph 3. Article 173 shall also apply to reinsurance undertakings having their head office in a third country, the supervisory regime of which has been deemed temporarily equivalent in accordance with paragraph 4.</i></p>	
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<p>Art. 2 point 35a (new)</p> <p>Art. 176</p>			<p><i>(35a) Article 176 is replaced by the following:</i></p> <p style="text-align: center;">"Article 176 Information from Member States to the Commission and EIOPA</p> <p>The supervisory authorities of the Member States shall inform the Commission, <i>EIOPA</i> and the supervisory authorities of the other Member States of any authorisation of a direct or indirect subsidiary, one or more of whose parent undertakings are governed by the laws of a third country.</p> <p>That information shall also contain an indication of the structure of the group concerned.</p> <p>Where an undertaking governed by the law of a third country acquires a holding in an insurance or reinsurance undertaking authorised in the <i>Union</i> which would turn that insurance or reinsurance undertaking into a subsidiary of that third country undertaking, the supervisory authorities of the home Member State shall inform the Commission, <i>EIOPA</i> and the supervisory authorities of the other Member States.";</p>	
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Art. 2 point 35b (new) Art. 177, para 1			<p><i>Article 177(1) is replaced by the following:</i></p> <p>"1. Member States shall inform the Commission and EIOPA of any general difficulties encountered by their insurance or reinsurance undertakings in establishing themselves and operating in a third country or pursuing activities in a third country."</p>	
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Art. 2 point 36	(36) Article 210 (2) is replaced by the following:	(36) Article 210 (2) is replaced by the following:	(36) Article 210(2) is replaced by the following:	
Art. 210 para 2	"2. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the provisions of paragraph 1 with respect to the monitoring, management and control of risks arising from finite reinsurance activities."	"2. The Commission may adopt delegated acts, in accordance with Article 301a[...], specifying the provisions of paragraph 1 with respect to the monitoring, management and control of risks arising from finite reinsurance activities."	<p>"2. <i>In order to ensure consistent harmonisation in relation to finite reinsurance, EIOPA shall develop draft regulatory technical standards to specify the monitoring, management and control of risks arising from finite reinsurance activities.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>2a. In order to ensure uniform conditions of application of paragraph 1, EIOPA shall develop draft implementing technical standards on the reporting procedures to be followed and formats and templates to be used.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i></p>	
Art. 2	(37) Article 211 is amended as follows	(37) Article 211 is amended as follows	(37) <i>In Article 211, paragraphs 2 and 3</i>	



point 37			are replaced by the following:	
Art. 211				
Art. 2 point 37 point a	(a) Paragraphs 2 and 3 are replaced by the following: "2. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, laying down the following: (a) the scope of authorisation; (b) mandatory conditions to be included in all contracts issued; (c) fit and proper requirements as referred to in Article 42 of the persons running the special purpose vehicle; (d) fit and proper requirements for shareholders or members having a qualifying holding in the special purpose vehicle; (e) sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements; (f) accounting, prudential and statistical information requirements; (g) solvency requirements. The Commission may adopt delegated acts, in accordance with Article 301a and	(a) Paragraphs 2 and 3 are replaced by the following: "2. The Commission shall adopt delegated acts, in accordance with Article 301a[...], laying down the following: (a) the scope of authorisation; (b) mandatory conditions to be included in all contracts issued; (c) fit and proper requirements as referred to in Article 42 of the persons running the special purpose vehicle; (d) fit and proper requirements for shareholders or members having a qualifying holding in the special purpose vehicle; (e) sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements; (f) accounting, prudential and statistical information requirements; (g) solvency requirements. The Commission may adopt delegated acts, in accordance with Article 301a	"2. <i>In order to ensure consistent harmonisation in relation to Article 211(1), EIOPA shall develop draft regulatory technical standards to specify the following criteria for supervisory approval:</i> (a) the scope of authorisation; (b) mandatory conditions to be included in all contracts issued; (c) fit and proper requirements as referred to in Article 42 of the persons running the special purpose vehicle; (d) fit and proper requirements for shareholders or members having a qualifying holding in the special purpose vehicle; (e) sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements; (f) accounting, prudential and statistical information requirements; (g) solvency requirements. <i>EIOPA shall submit those draft regulatory technical standards to the</i>	



	<p>subject to the conditions of Articles 301b and 301c, laying down the procedures for supervisory approval of special purpose vehicles and, where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the insurance or reinsurance undertaking is authorised, the procedures for cooperation and exchange of information between supervisory authorities.</p>	<p>[...], laying down the procedures for supervisory approval of special purpose vehicles and, where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the insurance or reinsurance undertaking is authorised, the procedures for cooperation and exchange of information between supervisory authorities.</p>	<p>Commission by [...].</p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p>2a. In order to ensure uniform conditions of application of Article 211(1) and (2), EIOPA shall develop draft implementing technical standards on the procedures to be followed and formats and templates to be used for granting supervisory approval to establish special purpose vehicles. EIOPA shall submit those draft implementing technical standards to the Commission by [...].</p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p> <p>2b. In order to ensure uniform conditions of application of Article 211(1) and (2), EIOPA may develop draft implementing technical standards on the procedures to be followed and formats and templates to be used for the cooperation and exchange of information between supervisory authorities, where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the</p>
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	3. Special purpose vehicles authorised prior to 31 December 2012 shall be subject to the law of the Member State that authorised the special purpose vehicle. However, any new activity commenced by such a special purpose vehicle after that date shall be subject to paragraphs 1 and 2."	3. Special purpose vehicles authorised prior to 31 December 2013 shall be subject to the law of the Member State that authorised the special purpose vehicle. However, any new activity commenced by such a special purpose vehicle after that date shall be subject to paragraphs 1 and 2."	<p>insurance or reinsurance undertaking is authorised.</p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p> <p>3. Special purpose vehicles authorised prior to 31 December 2012 shall be subject to the law of the Member State that authorised the special purpose vehicle. However, any new activity commenced by such a special purpose vehicle after that date shall be subject to paragraphs 1, 2 and 2a.";</p>	
Art. 2 point 37 point a Art. 211 para 3a (new)	<p>(b) The following paragraph 4 is added:</p> <p>"4. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of this Article as supplemented by the delegated acts referred to in paragraph 2 concerning the matters covered by those delegated acts, specifically with regard to the procedure to be followed for granting supervisory approval of special purpose vehicles and the procedures for cooperation and exchange of information between supervisory authorities.</p> <p>The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA].</p>	<p>(b) The following paragraph 4 is added:</p> <p>"4. <u>In order to ensure uniform conditions of application of the provisions referred to in paragraph 2, EIOPA [...] may develop draft</u> implementing technical standards [...] concerning the matters covered by those delegated acts, specifically with regard to the procedure to be followed for granting supervisory approval of special purpose vehicles and the procedures for cooperation and exchange of information between supervisory authorities. [...]</p> <p><u>Power is conferred on the Commission to adopt</u> the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</p>		



	EIOPA shall develop draft implementing technical standards for submission to the Commission by 31 December 2011."			
Art. 2 point 37a (new) Art. 212 para 1 point e			<p><i>(37a) In Article 212(1), point (e) is replaced by following:</i></p> <p>"(e) 'college of supervisors' means a permanent but flexible structure for the cooperation, coordination and facilitation of decision making concerning the supervision of a group, the members of which are:</p> <ul style="list-style-type: none"> – the group supervisor, – supervisory authorities supervising undertakings of the group, not being the group supervisor, and – EIOPA, which for the purpose of this definition shall be considered a supervisory authority." 	
Art. 2 point 38 Art. 216 para 7	(38) Article 216(7) is replaced by the following:	(38) Article 216(7) is replaced by the following:	<p><i>(38) Article 216 is amended as follows:</i></p> <p><i>(a) in paragraph 1, the second subparagraph is replaced by the following:</i></p> <p>"In such a case, the supervisory authority shall explain its decision to both the group supervisor and the ultimate parent undertaking at Union level. The group supervisor shall notify the college of supervisors in accordance with Article 248(1)(a)."</p> <p><i>(b) in paragraph 4, the third subparagraph is replaced by the following:</i></p>	



	<p>"7. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the circumstances under which the decision referred to in paragraph 1 can be made."</p>	<p>"7. The Commission may adopt delegated acts, in accordance with Article 301a [...], specifying the circumstances under which the decision referred to in paragraph 1 can be made."</p>	<p>"The supervisory authority shall explain such decisions to both the undertaking and the group supervisor. The group supervisor shall notify the college of supervisors in accordance with Article 248(1)(a).";</p> <p>(c) <i>paragraph 7</i> is replaced by the following:</p> <p>"7. EIOPA shall develop draft regulatory technical standards, specifying the circumstances under which the decision referred to in paragraph 1 can be made. EIOPA shall submit those draft regulatory technical standards to the Commission by [...]."</p> <p>Power is delegated to the Commission to adopt those regulatory technical standards in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010."</p>	
<p>Art. 2 point 39</p> <p>Art. 217 para 3</p>	<p>(39) Article 217(3) is replaced by the following:</p>	<p>(39) Article 217(3) is replaced by the following:</p>	<p>(39) Article 217 is amended as follows:</p> <p>(a) <i>in paragraph 1, the following subparagraph is added:</i></p> <p>"In such a case, the supervisory authorities shall explain their agreement to both the group supervisor and the ultimate parent undertaking at Union level. The group supervisor shall notify the college of supervisors in accordance with Article 248(1)(a).";</p> <p>(b) <i>paragraph 3</i> is replaced by the following:</p>	



	<p>"3. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the circumstances under which the decision referred to in paragraph 1 can be made."</p>	<p>"3. The Commission may adopt delegated acts, in accordance with Article 301a [...], specifying the circumstances under which the decision referred to in paragraph 1 can be made."</p>	<p>"3. The Commission <i>shall</i> adopt delegated acts, in accordance with Article 301a , specifying the circumstances under which the decision referred to in paragraph 1 can be made.";</p>	
<p>Art. 2 point 40</p> <p>Art. 227 para 2</p>	<p>(40) In Article 227(2), the second subparagraph is replaced by the following:</p> <p>"In so doing, the group supervisor shall consult the other supervisory authorities concerned and EIOPA before taking a decision on equivalence."</p>	<p>(40) Article 227 <u>is amended as follows</u></p> <p>(a) In Paragraph 2, the second subparagraph is replaced by the following:</p> <p>"In so doing, the group supervisor shall consult the other supervisory authorities concerned and EIOPA before taking a decision on equivalence."</p>	<p>(40) Article 227 is replaced by the following:</p> <p>"Article 227 <i>Equivalence relating to third-country insurance and re-insurance undertakings</i></p> <p>1. When calculating the group solvency of an insurance or reinsurance undertaking which is a participating undertaking in a third-country insurance or reinsurance undertaking, in accordance with Article 233, the third-country insurance or reinsurance undertaking shall, solely for the purposes of that calculation, be treated as a related insurance or reinsurance undertaking.</p> <p>However, where the third country in which that undertaking has its head office makes it subject to authorisation and imposes on it a solvency regime at least equivalent to that laid down in Title I, Chapter VI, Member States may provide that the calculation take into account, as regards that undertaking, the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as</p>	



			<p>laid down by the third country concerned.</p> <p><i>2. Where no decision has been taken in accordance with paragraph 4 or paragraph 6 the verification of whether the third-country regime is at least equivalent shall be carried out by the group supervisor at the request of the participating undertaking or on its own initiative. EIOPA shall assist the group supervisor in accordance with Article 33(2) of Regulation (EU) No 1094/2010. In so doing, the group supervisor, assisted by EIOPA, shall consult the other supervisory authorities concerned and EIOPA before taking a decision on equivalence. That decision shall be taken in accordance with the criteria adopted in accordance with paragraph 3. The group supervisor shall not take any decision in relation to a third-country that is contradicting any decision taken vis-à-vis that third-country previously save where it is necessary to take into account of significant changes to the supervisory regime laid down in Title I, Chapter VI and to the supervisory regime in the third country.</i></p> <p><i>Where supervisory authorities disagree with the decision taken in accordance with subparagraph 2, they may refer the matter to EIOPA and request its assistance in accordance with Article 19(1), (2), (3) and (6), of Regulation (EU) No 1094/2010 within three months after notification of the decision by the</i></p>	
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			group supervisor. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.	
Art. 2 point 41	(41) Article 227(3) is replaced by the following:	(b) Paragraph 3 is replaced by the following:		
Art. 227 para 3	"3. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the criteria to assess whether the solvency regime in a third country is equivalent to that laid down in Title I, Chapter VI."	"3. The Commission may adopt delegated acts, in accordance with Article 301a [...], specifying the criteria to assess whether the solvency regime in a third country is equivalent to that laid down in Title I, Chapter VI."	<p>3. The Commission may adopt delegated acts, in accordance with Article 301a specifying the criteria to assess whether the supervisory regime of a third country is equivalent to that laid down in Title I, Chapter VI.</p> <p>4. If the criteria adopted in accordance with paragraph 3 have been fulfilled by a third country, the Commission may, in accordance with Article 301a, and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of that third country is equivalent to that laid down in Title I, Chapter VI. Those decisions shall be regularly reviewed, to take into account any significant changes to the supervisory regime laid down in Title I, Chapter VI, and to the supervisory regime in the third country. EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.</p> <p>5. By way of derogation from paragraph 4, and even if the criteria specified in accordance with paragraph 3 have not been fulfilled, the Commission may, for a limited period and in accordance with Article 301a, and assisted by EIOPA in</p>	



			<p><i>accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of a third country applied to undertakings with the head office in that third country is temporarily equivalent to that laid down in Title I, Chapter IV, if that third country has at least complied with the following criteria:</i></p> <p><i>(a) it has given written commitments to the Union to adopt and apply a supervisory regime that is capable of being assessed equivalent in accordance with paragraph 2, before the end of that limited period;</i></p> <p><i>(b) it has established a convergence programme to fulfil the commitment under point (a);</i></p> <p><i>(c) it has allocated sufficient resources to fulfil the commitment under point (a);</i></p> <p><i>(d) it has a supervisory regime that is risk-based and based on economic valuation of assets and liabilities;</i></p> <p><i>(e) it has concluded agreements to exchange confidential supervisory information in accordance with Article 264;</i></p> <p><i>(f) it has an independent system of supervision based on core principles, principles and standards adopted by the IAIS;</i></p>	
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			<p><i>(g) it has been established obligations on professional secrecy for all persons acting on behalf of its supervisory authorities, in particular on the exchange of information with EIOPA and supervisory authorities as defined in Article 13(10).</i></p> <p><i>Any decisions on temporary equivalence shall take into account the reports by the Commission in accordance with Article 177(2). Those decisions shall be regularly reviewed on the basis of progress reports by the relevant third country, which are presented to and assessed by the Commission and EIOPA every six months.</i></p> <p><i>EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.</i></p> <p><i>The Commission may adopt delegated acts, in accordance with Article 301a, further specifying the conditions laid down in the first subparagraph.</i></p>	
<p>Art. 2 point 42</p> <p>Art. 227 para 5a, 5b (new)</p>	<p>(42) In Article 227 the following paragraphs 6 and 7 are added:</p> <p>"6. By way of derogation from the second subparagraph of paragraph 1, Member States may for a transitional period provide that the group solvency calculation take into account, as regards the undertaking referred to in that subparagraph, the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as laid down by the third country concerned. The transitional period shall last for a maximum of 5 years from the date</p>	<p>(c) Paragraphs 6 to 8 are added:</p> <p>"6. By way of derogation from the second subparagraph of paragraph 1, Member States may for a transitional period provide that the group solvency calculation take into account, as regards the undertaking referred to in that subparagraph, the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as laid down by the third country concerned. The transitional period shall last from 1 January 2014 until 31 December 2018 or</p>	<p>6. The period referred to in paragraph 5 shall be five years from the date referred to in Article 310 or until the date on which, in accordance with paragraph 4, the supervisory regime of that third country has been deemed to be equivalent to that laid down in Title I, Chapter VI, whichever is the earliest. That period may be extended with a maximum of one more year, where such time is necessary for EIOPA and the</p>	



<p>referred to in the first sub-paragraph of Article 309(1). This derogation shall only apply where the Commission has made a decision in accordance with paragraph 7 that specified conditions have been met by the third country.</p> <p>7. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying in relation to paragraph 6 the length of the transitional period which may be shorter than the maximum of 5 years and the conditions which are to be met by the third country. Those conditions shall cover commitments given by the supervisory authorities, their convergence to an equivalent regime over a set period of time, the existing or intended content of the regime, and matters of cooperation, exchange of information and professional secrecy obligations.</p> <p>8. The Commission may adopt a decision in respect of solvency regimes of third</p>	<p><u>until the date on which, in accordance with paragraph 4 of this Article, the solvency regime of that third country has been deemed to be equivalent to that laid down in Title I, Chapter VI, whichever is the earliest.</u> This derogation shall only apply where the Commission has made a decision in accordance with paragraph 7 that specified conditions have been met by the third country.</p> <p><u>No later than 3 years after 1 January 2014, the Commission shall review in relation to each third country for which the Commission has made a decision in accordance with paragraph 6, the progress on convergence to an equivalent regime that has been made by the third country.</u></p> <p>7. The Commission may adopt delegated acts, in accordance with Article 301a [...], specifying in relation to paragraph 6 [...] the conditions which are to be met by the third country. Those conditions shall cover commitments given by the third countries, their convergence to an equivalent regime over a set period of time, the existing or intended content of the regime, and matters of cooperation, exchange of information and professional secrecy obligations.</p> <p>8. The Commission may adopt a decision in respect of solvency regimes of third</p>	<p><i>Commission to carry out the assessment of equivalence for the purposes of paragraph 4.</i></p> <p><i>7. Where in accordance with paragraph 5 a decision has been taken that the supervisory regime of a third country is temporarily equivalent, that third country shall be deemed to be equivalent of the purposes of the second subparagraph of paragraph 1.";</i></p>	
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	<p>countries, referred to in paragraph 6 that the conditions set out in paragraph 4 and the delegated act have been met by the third country.</p> <p>Those decisions shall be adopted after consultation with the European Insurance and Occupational Pensions Committee and in accordance with the regulatory procedure referred to in Article 301(2). The decisions shall be reviewed regularly."</p>	<p>countries, referred to in paragraph 6 that the conditions set out in paragraph 7 and the delegated act have been met by the third country.</p> <p>Those decisions shall be adopted after consultation with the European Insurance and Occupational Pensions Committee and in accordance with the [...] <u>examination</u> procedure referred to in Article 301(2). The decisions shall be reviewed regularly."</p>		
<p>Art. 2 point 40a (new)</p> <p>Art. 231</p>	<p>(43) Article 231(3) to (6) are replaced by the following:</p>	<p>(43) Article 231 is amended as follows:</p>	<p><i>(40a) Article 231 is replaced by the following:</i></p> <p>"Article 231 Group internal model</p> <p>1. In the case of an application for permission to calculate the consolidated group Solvency Capital Requirement, as well as the Solvency Capital Requirement of insurance and reinsurance undertakings in the group, on the basis of an internal model, submitted by an insurance or reinsurance undertaking and its related undertakings, or jointly by the related undertakings of an insurance holding company, the supervisory authorities concerned shall cooperate to decide whether or not to grant that permission and to determine the terms and conditions, if any, to which such permission is subject.</p> <p>An application as referred to in the first subparagraph shall be submitted</p>	



	<p>"3. During the period referred to in paragraph 2, the group supervisor and any of the other supervisory authorities concerned may consult EIOPA. EIOPA shall also be consulted where the participating undertaking so requests. Where EIOPA is consulted, all supervisory authorities concerned shall be</p>	<p><u>(a) The last subparagraph of paragraph 1 is replaced by the following:</u> <u>"The group supervisor shall inform EIOPA and the other supervisory authorities concerned without delay."</u></p> <p>(b) Paragraphs (2) to (6) are replaced by the following:</p> <p><u>"2. The group supervisor shall without delay forward the complete application to EIOPA and to the other supervisory authorities concerned and initiate discussions with a view to reaching a joint decision on the application [...]"</u></p> <p><u>[...]The group supervisor shall provide the other supervisory authorities concerned with a document setting out its proposal within five months from the date of receipt of the complete application by the group supervisor.</u></p> <p><u>The supervisory authorities concerned shall do everything within their power to reach a joint decision on the application within six months from the date of receipt of the complete application by the group supervisor.</u></p> <p>[...]</p>	<p>to the group supervisor.</p> <p>The group supervisor shall inform and forward the complete application to the other members of the college of supervisors without delay.</p> <p>2. The supervisory authorities concerned shall do everything within their power to reach a joint decision on the application within six months from the date of receipt of the complete application by the group supervisor.</p> <p>3. If, within the six-month period referred to in paragraph 2, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the group supervisor shall defer its decision and await any decision that EIOPA may take</p>	
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<p>informed and the period referred to in paragraph 2 shall be extended by two months.</p> <p>4. The group supervisor shall provide the applicant with a document setting out the fully reasoned joint decision referred to in paragraph 2.</p> <p>Where EIOPA has been consulted in accordance with paragraph 3, the supervisory authorities concerned shall duly consider such advice before taking their joint decision. The group supervisor shall provide the applicant with a document setting out the fully reasoned</p>	<p>4. The group supervisor shall provide the applicant with a document setting out the fully reasoned joint decision referred to in paragraph 2.</p>	<p><i>in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision. That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</i></p> <p><i>If, in accordance with Article 41(2) and (3) and Article 44(1)(3) of Regulation (EU) No 1094/2010, the decision proposed by the panel is rejected, the group supervisor shall take a final decision. That decision shall be recognised as determinative and applied by the supervisory authorities concerned. The six-month period shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</i></p> <p><i>EIOPA shall take its decision within one month. The matter shall not be referred to EIOPA after the end of the six-month period or after a joint decision has been reached.</i></p> <p><i>4. EIOPA may develop draft implementing technical standards to ensure uniform conditions of application of the joint decision process referred to in paragraph 2 with regard to the applications for permissions referred to in paragraph 1, with a view to facilitating joint decisions.</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first</i></p>	
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<p>joint decision and an explanation of any significant deviation from the advice adopted by EIOPA.</p> <p>5. In the absence of a joint decision within the periods set out in paragraphs 2 and 3 respectively, the group supervisor shall make its own decision on the application.</p> <p>In making its decision, the group supervisor shall duly take into account the following:</p> <p>(a) any views and reservations of the other supervisory authorities concerned expressed during the applicable period;</p> <p>(b) where EIOPA has been consulted, its advice.</p> <p>The group supervisor shall provide the applicant and the other supervisory authorities concerned with a document setting out its fully reasoned decision and an explanation of any significant deviation from any advice adopted by EIOPA.</p> <p>That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</p>	<p>5. In the absence of a joint decision within <u>six months from the date of receipt of the complete application by the group supervisor[...]</u>, the group supervisor shall make its own decision on the application.</p> <p>In making its decision, the group supervisor shall duly take into account the following:</p> <p>(a) any views and reservations of the other supervisory authorities concerned expressed during the applicable period; [...]</p> <p>The group supervisor shall provide the applicant and the other supervisory authorities concerned with a document setting out its fully reasoned decision [...].</p> <p>That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</p>	<p><i>subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p> <p><i>5. Where the supervisory authorities concerned have reached a joint decision referred to in paragraph 2, the group supervisor shall provide the applicant with a document setting out the full reasons.</i></p> <p>6. In the absence of a joint decision within six months from the date of receipt of the complete application by the group, the group supervisor shall make its own decision on the application.</p> <p>In making its decision, the group supervisor shall duly take into account any views and reservations of the other supervisory authorities concerned expressed during the applicable period.</p> <p><i>The group supervisor shall provide the applicant and the other supervisory authorities concerned with a document setting out its fully reasoned decision.</i></p> <p>That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</p> <p>7. Where any of the supervisory authorities concerned considers that the risk profile of an insurance or reinsurance undertaking under its supervision deviates significantly from the assumptions underlying the</p>	
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	<p>6. If, at the end of the periods referred to in paragraphs 2 and 3, respectively, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19 of Regulation .../... [EIOPA], the group supervisor shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The periods referred to in paragraphs 2 and 3 respectively shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</p> <p>EIOPA shall take its decision within one month. The matter shall not be referred to EIOPA after the end of the periods referred to in paragraphs 2 and 3 respectively or after a joint decision has been reached."</p>	<p>6. If, <u>within the six months period referred to in paragraph 2[...]</u>, any of the supervisory authorities concerned <u>refers</u> the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the group supervisor shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The <u>five month</u> period referred to in paragraph 2 [...] shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</p> <p>EIOPA shall take its decision within one month <u>after the 6 month period referred to in paragraph 2</u>. The matter shall not be referred to EIOPA after the end of the <u>six month</u> period referred to in paragraph 2[...] or after a joint decision has been reached."</p>	<p>internal model approved at group level, and as long as that undertaking has not properly addressed the concerns of the supervisory authority, that authority may, in accordance with Article 37, impose a capital add-on to the Solvency Capital Requirement of that insurance or reinsurance undertaking resulting from the application of such internal model.</p> <p>In exceptional circumstances, where such capital add-on would not be appropriate, the supervisory authority may require the undertaking concerned to calculate its Solvency Capital Requirement on the basis of the standard formula referred to in Title I, Chapter VI, Section 4, Subsections 1 and 2. In accordance with Article 37(1)(a) and (c), the supervisory authority may impose a capital add-on to the Solvency Capital Requirement of that insurance or reinsurance undertaking resulting from the application of the standard formula.</p> <p>The supervisory authority shall explain any decision referred to in the first and second subparagraphs to both the insurance or reinsurance undertaking and the other members of the college of supervisors.</p> <p><i>EIOPA may issue guidelines to ensure consistent and coherent application of this paragraph."</i></p>	
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Art. 2 point 40b (new)			(40b) In Article 232, the third paragraph is replaced by the following: "Article 37(1) to (5), together with the delegated acts, regulatory and implementing technical standards taken in accordance with Article 37(6) and (7), shall apply <i>mutatis mutandis</i> ."	Comments: "Implementing measures" replaced by "the delegated acts, regulatory and implementing technical standards"
Art. 232 para 3				
Art. 2 point 40c (new)			(40c) In Article 233(6), the third subparagraph is replaced by the following: "Article 37(1) to (5), together with the delegated acts, regulatory and implementing technical standards taken in accordance with Article 37(6) and (7), shall apply <i>mutatis mutandis</i> ."	
Art. 233 para 6, subpara 3				
Art. 2 point 44	(44) Article 234 is replaced by the following: "Article 234 <i>Delegated acts</i>	(44) Article 234 is replaced by the following: "Article 234 <i>Delegated acts</i>	(44) Article 234 is replaced by the following: "Article 234 <i>Regulatory technical standards concerning Articles 220 to 229 and 230 to 233</i>	
Art. 234	The Commission shall adopt delegated acts in accordance with Article 301a and subject to the conditions of Articles 301b and 301c specifying the technical principles and methods set out in Articles 220 to 229 and the application of Articles 230 to 233 to ensure uniform application within the Union."	The Commission shall adopt delegated acts in accordance with Article 301a[...]specifying the technical principles and methods set out in Articles 220 to 229 and the application of Articles 230 to 233."	<i>In order to ensure consistent harmonisation of this Article, EIOPA shall develop draft regulatory technical standards to specify the technical principles and methods set out in Articles 220 to 229 and the application of Articles 230 to 233, reflecting the economic nature of specific legal structures. EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i> <i>Power is delegated to the Commission to</i>	



			<i>adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.";</i>	
Art. 2 point 45 Art. 237	(45) Article 237 is amended as follows:	(45) Article 237 is amended as follows:	(45) Article 237 is replaced by the following:	
Art. 2 point 45 point a Art. 237, para 3, 4, 5	(a) Paragraphs 3, 4 and 5 are replaced by the following:	(a) <u>The last subparagraph of paragraph 1 is replaced by the following:</u> <u>An application as referred to in the first subparagraph shall be submitted only to the supervisory authority having authorised the subsidiary. That supervisory authority shall without delay inform and forward the complete application to EIOPA and to the other supervisory authorities within the college of supervisors and initiate discussions with a view to reaching a joint decision on the application.</u> (aa) Paragraphs <u>2</u> to 5 are replaced by the	<i>"Article 237 Subsidiaries of an insurance or reinsurance undertaking: decision on the application</i> 1. In the case of applications for permission to be subject to the rules laid down in Articles 238 and 239, the supervisory authorities concerned shall work together within the college of supervisors, in full consultation, to decide whether or not to grant the permission sought and to determine the other terms and conditions, if any, to which such permission should be subject. An application as referred to in the first subparagraph shall be submitted only to the supervisory authority having authorised the subsidiary. That supervisory authority shall inform and forward the complete application to the other members of the college of supervisors without delay.	



	<p>following:</p> <p>"2. [...]The group supervisor shall provide the other supervisory authorities concerned with a document setting out its proposal within two months from the date of receipt of the complete application by the group supervisor.</p> <p>The supervisory authorities concerned shall do everything within their power to reach a joint decision on the application within three months from the date of receipt of the complete application by all supervisory authorities within the college of supervisors.</p> <p>[...]</p> <p>"3. During the period referred to in paragraph 2, in the case of diverging views concerning the approval of the application referred to in paragraph 1, the group supervisor or any of the other supervisory authorities concerned may consult EIOPA. Where EIOPA is consulted, all supervisory authorities concerned shall be informed and the period referred to in paragraph 2 shall be extended by one month.</p> <p>Where EIOPA has been consulted, the supervisory authorities concerned shall duly consider such advice before taking their joint decision.</p>	<p>2. The supervisory authorities concerned shall do everything within their power to reach a joint decision on the application within three months from the date of receipt of the complete application by all supervisory authorities within the college of supervisors.</p> <p><i>3. If, within the three-month period referred to in paragraph 2, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the group supervisor shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision. That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</i></p> <p><i>If, in accordance with Article 41(2) and (3) and Article 44(1)(3) of Regulation (EU) No 1094/2010, the decision proposed by the panel is rejected, the group supervisor shall take a final decision. That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</i></p>	
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	<p>4. The supervisory authority having authorised the subsidiary shall provide to the applicant the joint decision referred to in paragraphs 2 and 3, shall state the full reasons and shall, where EIOPA has been consulted, contain an explanation of any significant deviation from the advice adopted by EIOPA. The joint decision shall be recognised as determinative and shall be applied by the supervisory authorities concerned.</p> <p>5. In the absence of a joint decision of the supervisory authorities concerned within the periods set out in paragraphs 2 and 3, the group supervisor shall take its own decision with regard to the application.</p>	<p>4. The supervisory authority having authorised the subsidiary shall provide the applicant <u>with the fully reasoned</u> joint decision referred to in paragraph 2 [...]. The joint decision shall be recognised as determinative and shall be applied by the supervisory authorities concerned.</p> <p>5. In the absence of a joint decision of the supervisory authorities concerned within <u>three months from the date of receipt of the complete application by all [...]supervisory authorities within the college of supervisors [...]</u>, the group supervisor shall take its own decision with regard to the application.</p>	<p><i>The three-month period shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</i></p> <p><i>EIOPA shall take its decision within one month. The matter shall not be referred to EIOPA after the end of the three-month period or after a joint decision has been reached.</i></p> <p><i>4. EIOPA may develop draft implementing technical standards to ensure uniform conditions of application of the joint decision process referred to in paragraph 2 with regard to the applications for permissions referred to in paragraph 1, with a view to facilitating joint decisions.</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p> <p><i>5. Where the supervisory authorities concerned have reached a joint decision referred to in paragraph 2, the supervisory authority having authorised the subsidiary shall provide the applicant with a document setting out the full reasons. The joint decision shall be recognised as determinative and shall be applied by the supervisory authorities concerned.</i></p>	
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	<p>In taking its decision, the group supervisor shall duly consider the following:</p> <p>(a) any views and reservations of the supervisory authorities concerned expressed during the applicable period;</p> <p>(b) any reservations of the other supervisory authorities within the college of supervisors expressed during the applicable period;</p> <p>(c) where the EIOPA has been consulted, its advice.</p> <p>The decision shall state the full reasons and shall contain an explanation of any significant deviation from the reservations of the other supervisory authorities concerned and any advice of EIOPA. The group supervisor shall provide the applicant and the other supervisory authorities concerned with a copy of the decision."</p>	<p>In taking its decision, the group supervisor shall duly consider the following:</p> <p>(a) any views and reservations of the supervisory authorities concerned expressed during the applicable period;</p> <p>(b) any reservations of the other supervisory authorities within the college of supervisors expressed during the applicable period;</p> <p>The decision shall state the full reasons and shall contain an explanation of any significant deviation from the reservations of the other supervisory authorities concerned [...]. The group supervisor shall provide the applicant and the other supervisory authorities concerned with a copy of the decision."</p>	<p>6. In the absence of a joint decision of the supervisory authorities concerned within the <i>three-month period</i> set out in <i>paragraph 2</i>, the group supervisor shall take its own decision with regard to the application.</p> <p>In taking its decision, the group supervisor shall duly consider the following:</p> <p>(a) any views and reservations of the supervisory authorities concerned expressed during the applicable period;</p> <p>(b) any reservations of the other supervisory authorities within the college of supervisors expressed during the applicable period.</p> <p>The decision shall state the full reasons and shall contain an explanation of any significant deviation from the reservations of the other supervisory authorities concerned. The group supervisor shall provide the applicant and the other supervisory authorities concerned with a copy of the decision. <i>The decision shall be recognised as determinative and shall be applied by the supervisory authorities concerned.</i>";</p>	
Art. 2 point 45 point b	<p>(b) The following paragraph 6 is added:</p> <p>"6. Where, at the end of the periods referred to in paragraphs 2 and 3 of this</p>	<p>(b) The following paragraph 6 is added:</p> <p>"6. <u>If, within the three months period referred to in paragraph 2</u>[...], any of the</p>	<p>█</p>	



Art. 237 para 5a (new)	<p>Article, respectively, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19 of Regulation .../... [EIOPA], the supervisory authority concerned shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The periods referred to in paragraphs 2 and 3, respectively, shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation. EIOPA shall take its decision within one month. The matter shall not be referred to EIOPA after the end of the periods referred to in paragraphs 2 and 3, respectively, or after a joint decision has been reached."</p>	<p>supervisory authorities concerned <u>refers</u> the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the <u>group</u> supervisor concerned shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The <u>two month</u> period referred to in paragraph 2 [...] shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation. EIOPA shall take its decision within one month <u>after the period of 3 months established in paragraph 2</u>. The matter shall not be referred to EIOPA after the end of the <u>three month</u> period referred to in paragraph 2 [...], or after a joint decision has been reached."</p>		
Art. 2 point 45a (new) Art. 238 para 4			<p><u>(45a) In Article 238, paragraph 4 is replaced by the following:</u></p> <p><u>"4. The college of supervisors shall do everything within its power to reach an agreement on the proposal of the supervisory authority having authorised the subsidiary or on other possible measures.</u></p> <p><u>That agreement shall be recognised as determinative and applied by the supervisory authorities concerned."</u>;</p>	<p><u>(45a) In Article 238, paragraph 4 is replaced by the following:</u></p> <p><u>"4. The college of supervisors shall do everything within its power to reach an agreement on the proposal of the supervisory authority having authorised the subsidiary or on other possible measures.</u></p> <p><u>That agreement shall be recognised as determinative and applied by the supervisory authorities concerned."</u>;</p>
Art. 2 point 46	(46) Article 238(5) is replaced by the following:	(46) Article 238(5) is replaced by the following:	(46) Article 238(5) is replaced by the following:	

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<p>Art. 238, para 5</p>	<p>"5. Where the supervisory authority and the group supervisor disagree, either supervisor may, within one month from the proposal of the supervisory authority, refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../... [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred to it by that Article, and shall take its decision within two months of such referral. The matter shall not be referred to EIOPA after the end of the one month period referred to in this subparagraph or after an agreement has been reached within the college in accordance with paragraph 4 of this Article.</p> <p>The supervisory authority having authorised that subsidiary shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The decision shall state the full reasons on which it is based.</p> <p>The decision shall be submitted to the subsidiary and to the college of</p>	<p>"5. Where the supervisory authority and the group supervisor disagree, [...] <u>the group</u> supervisor may, within one month from the proposal of the supervisory authority, refer the matter to EIOPA [...] in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred to it by that Article, and shall take its decision within <u>one</u> [...] month of such referral. The matter shall not be referred to EIOPA after the end of the one month period referred to in this subparagraph or after an agreement has been reached within the college in accordance with paragraph 4 of this Article.</p> <p>The supervisory authority having authorised that subsidiary shall defer its decision and await any decision that EIOPA may take in accordance with Article 19[...] of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p>The decision shall state the full reasons on which it is based.</p> <p>The decision shall be submitted to the subsidiary and to the college of</p>	<p>"5. Where the supervisory authority and the group supervisor disagree, either supervisor may, within one month from the proposal of the supervisory authority, refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred to it by that Article, and shall take its decision within one month of such referral. <i>The one-month period shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</i> The matter shall not be referred to EIOPA after the end of the one month period referred to in this subparagraph or after an agreement has been reached within the college in accordance with paragraph 4 of this Article.</p> <p>The supervisory authority having authorised that subsidiary shall defer its decision and await any decision that EIOPA may take in accordance with <i>Article 19</i> of that Regulation, and shall take its decision in conformity with EIOPA's decision.</p> <p><i>That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</i></p> <p>The decision shall state the full reasons on which it is based.</p> <p>The decision shall be submitted to the subsidiary and to the college of</p>	
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	supervisors."	supervisors."	supervisors.";	
Art. 2 point 47	(47) In Article 239 the following paragraph 4 is added:	(47) [...]	(47) In Article 239 the following paragraph is added:	
Art. 239, para 3a (new)	<p>"4. Where the supervisory authority and the group supervisor disagree on the approval of the recovery plan at the end of the four months period referred to in paragraph 1 of this Article or on the approval of the proposed measures at the end of the one month period referred to in paragraph 2 of this Article, either supervisor may, at the end of the applicable period, refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../... [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred to it by that Article, and shall take its decision within one month of such referral. The matter shall not be referred to EIOPA after the end of the applicable period referred to in this subparagraph or after an agreement has been reached within the college in accordance with the second subparagraph of paragraph 1 or the second subparagraph of paragraph 2 of this Article.</p> <p>The supervisory authority having authorised that subsidiary shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that regulation, and shall take its final decision in conformity with</p>		<p>"4. Where <i>any of</i> the supervisory <i>authorities concerned disagrees</i> on the approval of the recovery plan <i>within</i> the <i>four-month</i> period referred to in paragraph 1 or on the approval of the proposed measures <i>within</i> the one month period referred to in paragraph 2, <i>any supervisory authority</i> may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred to it by that Article, and shall take its decision within one month of such referral. The matter shall not be referred to EIOPA after the end of the <i>four-month or the one-month</i> period <i>respectively</i> referred to in this subparagraph or after an agreement has been reached within the college in accordance with the second subparagraph of paragraph 1 or the second subparagraph of paragraph 2. <i>The four-month or the one-month period respectively shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</i></p> <p>The supervisory authority having authorised that subsidiary shall defer its decision and await any decision that EIOPA may take in accordance with Article 19(3) of that regulation, and shall take its final decision in conformity with</p>	<p>Comments:</p> <p>Council = Still difficulty with home/host balance EP = With reference to Article 44 EIOPA-Regulation argues that this should have been solved.</p> <p>EIOPA Art 44(1)(3): "With regard to decisions in accordance with Article 19(3), for decisions taken by the group supervisor, the decision proposed by the panel shall be considered as adopted, if approved by a simple majority, unless it is rejected by members representing a blocking minority of the votes as defined in Article 16(4) of the Treaty on European Union and in Article 3 of the Protocol (No 36) on transitional provisions. "</p>

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	<p>EIOPA's decision.</p> <p>The decision shall state the full reasons on which it is based.</p> <p>The decision shall be submitted to the subsidiary and to the college of supervisors."</p>		<p>EIOPA's decision. <i>That decision shall be recognised as determinative and applied by the supervisory authorities concerned.</i></p> <p>The decision shall state the full reasons on which it is based.</p> <p>The decision shall be submitted to the subsidiary and to the college of supervisors.";</p>	
<p>Art. 2 point 48 Art. 241</p>	<p>(48) Article 241 is replaced by the following:</p> <p><i>" Article 241 Subsidiaries of an insurance or reinsurance undertaking: delegated acts</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying:</p> <p>(a) the criteria to be applied when assessing whether the conditions stated in Article 236 are satisfied;</p> <p>(b) the criteria to be applied when assessing what should be considered an emergency situation under Article 239(2);</p> <p>(c) the procedures to be followed by supervisory authorities when exchanging information, exercising their rights and fulfilling their duties in accordance with Articles 237 to 240."</p>	<p>(48) Article 241 is replaced by the following:</p> <p><i>" Article 241 Subsidiaries of an insurance or reinsurance undertaking: delegated acts</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a [...], specifying:</p> <p>(a) the criteria to be applied when assessing whether the conditions stated in Article 236 are satisfied;</p> <p>(b) the criteria to be applied when assessing what should be considered an emergency situation under Article 239(2);</p> <p>(c) the procedures to be followed by supervisory authorities when exchanging information, exercising their rights and fulfilling their duties in accordance with Articles 237 to 240."</p>	<p>(48) Article 241 is replaced by the following:</p> <p><i>"Article 241 Subsidiaries of an insurance or reinsurance undertaking: delegated acts</i></p> <p>The Commission shall adopt delegated acts, in accordance with Article 301a specifying:</p> <p>(a) the criteria to be applied when assessing whether the conditions stated in Article 236 are satisfied;</p> <p>(b) the criteria to be applied when assessing what should be considered an emergency situation under Article 239(2);</p> <p>(c) the procedures to be followed by supervisory authorities when exchanging information, exercising their rights and fulfilling their duties in accordance with Articles 237 to 240.";</p>	
<p>Art. 2 point 49 Art.</p>	<p>(49) In Article 242(1), the date "31 October 2014" is replaced by the date "31 December 2014".</p>	<p>(49) In Article 242(1), the date "31 October 2014" is replaced by the date "31 December 2015".</p>	<p>(49) Article 242(1) <i>is replaced by the following:</i></p>	

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242, para 1			"1. By 31 December 2014, the Commission shall make an assessment of the application of Title III, in particular as regards the cooperation of supervisory authorities within, and functionality of, the college of supervisors and the supervisory practices concerning setting the capital add-ons, and shall present a report to the European Parliament and the Council accompanied, where appropriate, by proposals for the amendment of this Directive.";	
Art. 2 point 50 Art. 242, para 2	(50) In Article 242(2), the date "31 October 2015" is replaced by the date "31 December 2015".	(50) Article 242(2) <u>is amended as follows:</u> (a) The date "31 October 2015" is replaced by the date "31 December 2016".	(50) Article 242(2) <i>is amended as follows:</i> (a) <i>the date "31 October 2015" is replaced by the date "31 December 2015";</i> (b) <i>point (e) is deleted;</i>	
Art. 2 point 50 a (new) Art. 242 para 2 a (new)		<u>(50a) Article 242 the following paragraph 3 is added:</u> <u>"3. No later than 3 years after 1 January 2014, the Commission shall review the requirements laid down with respect to the calculation of group solvency, in accordance with Article 233, of an insurance or reinsurance undertaking which is a participating undertaking in a third-country insurance or reinsurance undertaking."</u>		
Art. 2 point 51 Art. 244,	(51) Article 244 (4) is replaced by the following: "4. The Commission may adopt delegated acts in accordance with Article 301a and	(51) Article 244(4) is replaced by the following: "4. The Commission may adopt delegated acts in accordance with Article 301a [...]	(51) Article 244(4) is replaced by the following: "4. The Commission <i>shall</i> adopt delegated acts in accordance with Article	



para 4	subject to the conditions of Articles 301b and 301c as regards the definition and identification of a significant risk concentration and the reporting on such a risk concentration for the purposes of paragraphs 2 and 3."	as regards the definition and identification of a significant risk concentration and the reporting on such a risk concentration for the purposes of paragraphs 2 and 3."	<p>301a as regards the definition and identification of a significant risk concentration for the purposes of paragraphs 2 and 3.</p> <p><i>In order to ensure consistent harmonisation in relation to supervision of risk concentration, EIOPA shall develop draft regulatory technical standards to specify the identification of a significant risk concentration and the determination of appropriate thresholds for the purposes of paragraph 3.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>4a. In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards to establish standard forms, templates and procedures for the reporting on such risk concentrations for the purposes of paragraph 2.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical</i></p>
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			<i>standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i>	
Art. 2 point 52 Art. 245, para 4	(52) Article 245 (4) is replaced by the following: "4. The Commission may adopt delegated acts in accordance with Article 301a and subject to the conditions of Articles 301b and 301c as regards the definition and identification of a significant intra-group transaction and the reporting on such an intra-group transaction for the purposes of paragraphs 2 and 3."	(52) Article 245 (4) is replaced by the following: "4. The Commission may adopt delegated acts in accordance with Article 301a[...] as regards the definition and identification of a significant intra-group transaction and the reporting on such an intra-group transaction for the purposes of paragraphs 2 and 3."	<p>(52) Article 245(4) is replaced by the following:</p> <p>"4. The Commission may adopt delegated acts in accordance with Article 301a as regards the definition of a significant intra-group transaction for the purposes of paragraphs 2 and 3.</p> <p><i>In order to ensure consistent harmonisation in relation to supervision of intra-group transactions, EIOPA may develop draft regulatory technical standards to specify the identification of a significant intra-group transaction for the purposes of paragraph 3.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>4a. In order to ensure uniform conditions of application of this Article, EIOPA may develop draft implementing technical standards to establish standard forms, templates and procedures for the reporting on such intra-group transactions for the purposes of paragraph 2.</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the fourth</i></p>	



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			<i>subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.";</i>	
Art. 2 point 53 Art. 247, para 4-7	(53) Article 247(4) to (7) is replaced by the following:	(53) <u>In</u> Article 247 <u>paragraphs</u> (4) to (7) <u>are</u> replaced by the following: <u>[...]</u>	<p>(53) <i>In</i> Article 247, <i>paragraphs 3 to 7</i> <i>are</i> replaced by the following:</p> <p>"3. In particular cases, the supervisory authorities concerned may, at the request of any of the authorities, take a joint decision to derogate from the criteria set out in paragraph 2 where their application would be inappropriate, taking into account the structure of the group and the relative importance of the insurance and reinsurance undertakings' activities in different countries, and designate a different supervisory authority as group supervisor.</p> <p>For that purpose, any of the supervisory authorities concerned may request that a discussion be opened on whether the criteria referred to in paragraph 2 are appropriate. Such a discussion shall not take place more often than annually.</p> <p>The supervisory authorities concerned shall do everything within their power to reach a joint decision on the choice of the group supervisor within three months from the request for discussion. Before taking their decision, the supervisory authorities concerned shall give the group an opportunity to state its opinion.</p> <p><i>The designated group supervisor shall</i></p>	



	<p>"4. During the three-month period referred to in the third subparagraph of paragraph 3, any of the supervisory authorities concerned may request that EIOPA be consulted. Where EIOPA is consulted, that period shall be extended by two months.</p> <p>5. Where EIOPA is consulted, the supervisory authorities concerned shall duly take into account EIOPA's advice before taking their joint decision. The joint decision shall state the full reasons and shall contain an explanation of any significant deviation from any advice given by EIOPA.</p> <p>6. In the absence of a joint decision derogating from the criteria set out in paragraph 2 of this Article, the task of</p>	<p>5. [...] The joint decision shall state the full reasons [...].</p> <p>6. In the absence of a joint decision derogating from the criteria set out in paragraph 2 of this Article, the task of</p>	<p><i>submit the joint decision to the group stating the full reasons.</i></p> <p><i>4. If, within the three-month period referred to in the third subparagraph of paragraph 3, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19(1), (2), (3) and 6, of Regulation (EU) No 1094/2010, the supervisory authorities concerned shall defer their joint decision and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take their joint decision in conformity with EIOPA's decision. That joint decision shall be recognised as determinative and applied by the supervisory authorities concerned. The three-month period shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation.</i></p> <p><i>EIOPA shall take its decision within one month of a referral under the first subparagraph. The matter shall not be referred to EIOPA after the end of the three-month period or after a joint decision has been reached. The designated group supervisor shall submit the joint decision to the group and to the college of supervisors stating the full reasons.</i></p> <p>6. In the absence of a joint decision ■, the task of group supervisor shall be exercised by the supervisory authority</p>	
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<p>group supervisor shall be exercised by the supervisory authority identified in accordance with paragraph 2 of this Article. However, if at the end of the periods set out in paragraphs 3 and 4 of this Article any of the supervisors concerned have referred the matter to EIOPA in accordance with Article 19 of Regulation .../... [EIOPA], they shall await the decision of EIOPA.</p> <p>The periods referred to in paragraphs 3 and 4, respectively, shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation. EIOPA shall take its decision within one month. The matter shall not be referred to EIOPA after a joint decision has been reached.</p> <p>The task of group supervisor shall be exercised by the supervisory authority identified in the decision taken by EIOPA. The decision shall be submitted to the group and to the college of supervisors.</p> <p>7. EIOPA shall inform the European Parliament, the Council and the Commission of any major difficulties with the application of paragraphs 2, 3 and 6 on at least an annual basis.</p>	<p>group supervisor shall be exercised by the supervisory authority identified in accordance with paragraph 2 of this Article. However, if at the end of the period set out in paragraph 3 [...] of this Article any of the supervisory <u>authorities</u> concerned have referred the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, they shall await the decision [...] <u>that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall take their final decision in conformity with EIOPA's decision.</u></p> <p>The periods referred to in paragraph 3 [...] shall be deemed the conciliation period within the meaning of Article 19(2) of that Regulation. EIOPA shall take its decision within one month <u>after the period of 3 months established in paragraph 3.</u> The matter shall not be referred to EIOPA <u>after the end of the three month period referred to in paragraph 3, or</u> after a joint decision has been reached.</p> <p>The task of group supervisor shall be exercised by the supervisory authority identified in the decision taken by EIOPA. The decision shall be submitted to the group and to the college of supervisors.</p> <p>7. EIOPA shall inform the European Parliament, the Council and the Commission of any major difficulties with the application of paragraphs 2, 3 and 6 on at least an annual basis.</p>	<p>identified in accordance with paragraph 2 of this Article. ■</p> <p>7. EIOPA shall inform the European Parliament, the Council and the Commission of any major difficulties with the application of paragraphs 2, 3 and 6 on at least an annual basis.</p>
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	In the event that any major difficulties arise from the application of the criteria set out in paragraphs 2 and 3 of this Article, the Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying those criteria."	In the event that any major difficulties arise from the application of the criteria set out in paragraphs 2 and 3 of this Article, the Commission shall adopt delegated acts, in accordance with Article 301a[...], specifying those criteria."	In the event that any major difficulties arise from the application of the criteria set out in paragraphs 2 and 3 of this Article, the Commission shall adopt delegated acts in accordance with Article 301a further specifying those criteria.";	
Art. 2 point 54 Art. 248	(54) Article 248 is amended as follows:	(54) Article 248 is amended as follows:	(54) Article 248 is amended as follows:	
Art. 2 point 54 point a Art. 248, para 2, subpara 1a (new)	(a) The following subparagraph is added to paragraph 2: "Where the group supervisor fails to carry out the tasks referred to in paragraph 1 or where the members of the college do not cooperate to the extent required in this paragraph, any of the supervisory authorities concerned may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred on it by Article 11 of that Regulation."	(a) The following subparagraph is added to paragraph 2: "Where the group supervisor fails to carry out the tasks referred to in paragraph 1 or where the members of the college do not cooperate to the extent required in this paragraph, any of the supervisory authorities concerned may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by Article 19 of that Regulation."	(a) in paragraph 2 , the following subparagraph is added: "Where the group supervisor fails to carry out the tasks referred to in paragraph 1 or where the members of the college of supervisors do not cooperate to the extent required in this paragraph, any of the supervisory authorities concerned may refer the matter to EIOPA and request its assistance in accordance with Article 19(1), (2), (3) and 6 of Regulation (EU) No 1094/2010 . In that case, EIOPA may act in accordance with the powers conferred on it by Article 19 of that Regulation.";	
Art. 2 point 54 point b Art. 248, para 4, subpara 2-3			(aa) in paragraph 3, the first subparagraph is replaced by the following: "3. The membership of the college of supervisors shall include the group supervisor, the supervisory authorities of all the Member States in which the head	



	<p>(b) The second and third subparagraphs of paragraph 4 are replaced by the following:</p> <p>"Where diverging views concerning the coordination arrangements arise, any member of the college of supervisors may refer the matter to EIOPA.</p> <p>After consulting the supervisory authorities concerned, the group supervisor shall duly consider any advice produced by EIOPA within two months of receipt thereof before taking its final decision. The decision shall state the full reasons and shall contain an explanation of any significant deviation from any advice given by EIOPA. The group supervisor shall transmit the decision to the other supervisory authorities concerned."</p>	<p>(b) The second and third subparagraphs of paragraph 4 are replaced by the following:</p> <p>"Where diverging views concerning the coordination arrangements arise, any member of the college of supervisors may refer the matter to EIOPA <u>in accordance with Article 19 of Regulation 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by Article 19 of that Regulation.</u> [...] The group supervisor shall [...] take its final decision <u>in conformity with EIOPA's decision.</u> [...] The group supervisor shall transmit the decision to the other supervisory authorities concerned."</p>	<p><i>office of all subsidiary undertakings is situated, and EIOPA."</i>;</p> <p>(b) in paragraph 4, the second subparagraph is replaced by the following:</p> <p>"Where diverging views concerning the coordination arrangements arise, any member of the college of supervisors may refer the matter to EIOPA and request its assistance in accordance with Article 19(1), (2), (3) and 6, of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by Article 19 of that Regulation. That decision shall be recognised as determinative and applied by the supervisory authorities concerned. "";</p> <p><i>(ba) in paragraph 5, the second paragraph is replaced by the following:</i> "Without prejudice to the rights and duties allocated by this Directive to the group supervisor and to other supervisory authorities, the coordination arrangements may entrust additional tasks to the group supervisor, the other supervisory authorities or EIOPA where this would result in the more efficient supervision of the group and would not impair the supervisory activities of the members of the college of supervisors in respect of their individual responsibilities.";</p>	
<p>Art. 2 point 54 point c</p> <p>Art. 248, para 6-7</p>	<p>(c) Paragraphs 6 and 7 are replaced by the</p>	<p>(c) Paragraphs 6 and 7 are replaced by the</p>	<p>(c) paragraphs 6 and 7 are replaced by the</p>	



<p>following:</p> <p>"6. Powers are conferred on the Commission to adopt implementing technical standards concerning the operational functioning of colleges. Those implementing technical standards shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing technical standards by 31 December 2011 and develop reviewed draft standards for submission to the Commission at least every three years.</p> <p>7. The Commission shall adopt delegated acts in accordance with Article 301a and subject to the conditions of Articles 301b and 301c for the coordination of group supervision for the purposes of paragraphs 1 to 6, including the definition of "significant branch".</p>	<p>following:</p> <p>"6. <u>In order to ensure uniform conditions of application of this Article, EIOPA [...]</u> <u>may develop draft</u> implementing technical standards concerning the operational functioning of colleges. [...]</p> <p><u>EIOPA shall review the operational functioning of colleges every three years and, if necessary, develop draft implementing technical standards or review the implementing technical standards referred to in the third subparagraph.</u></p> <p><u>Power is conferred on the Commission to adopt the</u> implementing technical standards <u>referred to in the first and second subparagraphs</u> in accordance with Article 15 of Regulation (EU) No 1094/2010.</p> <p>7. The Commission shall adopt delegated acts in accordance with Article 301a [...] for the coordination of group supervision for the purposes of paragraphs 1 to 6, including the definition of "significant branch".</p>	<p>following:</p> <p><i>"6. EIOPA shall elaborate guidelines for the operational functioning of colleges of supervisors on the basis of comprehensive reviews of their work in order to assess the level of convergence between them. Such reviews shall be carried out at least every three years. Member States shall ensure that the group supervisor transmits to EIOPA the information on the functioning of the colleges of supervisors and on any difficulties encountered that are relevant for those reviews.</i></p> <p><i>In order to ensure consistent harmonisation in relation to the coordination between supervisory authorities, EIOPA may develop draft regulatory technical standards to specify the operational functioning of colleges of supervisors based on the guidelines referred to in the first subparagraph.</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>7. In order to ensure consistent harmonisation in relation to the coordination between supervisory authorities, EIOPA shall develop draft regulatory technical standards to specify the coordination arrangements for group supervision for the purposes of</i></p>	
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			<p>paragraphs 1 to 6, including the definition of "significant branch".</p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i></p>	
<p>Art. 2 point 55</p> <p>Art. 249, para 1a (new)</p>	<p>(55) In Article 249, the following paragraph 1a is inserted:</p>	<p>(55) Article 249 is amended as follows: <u>(a)</u> the following paragraph 1a is inserted:</p>	<p>(55) Article 249 is amended as follows:</p> <p><i>(a) in paragraph 1, the second subparagraph is replaced by the following:</i></p> <p>"With the objective of ensuring that the supervisory authorities, including the group supervisor, have the same amount of relevant information available to them, without prejudice to their respective responsibilities, and irrespective of whether they are established in the same Member State, they shall provide one another with such information in order to allow and facilitate the exercise of the supervisory tasks of the other authorities under this Directive. In that regard, the supervisory authorities concerned and the group supervisor shall communicate to one another without delay all relevant information as soon as it becomes available or exchange information on request. The information referred to in this</p>	



	<p>"1a. Where a supervisory authority has not communicated relevant information or a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable time, the supervisory authorities may refer the matter to EIOPA and request its assistance.</p> <p>Where the matter is referred to EIOPA, without prejudice to the provisions of Article 258 TFEU, EIOPA may act in accordance with the powers conferred on it by Article 19 of Regulation (EU) No .../2010 [EIOPA]."</p>	<p>"1a. Where a supervisory authority has not communicated relevant information or a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable time, the supervisory authorities may refer the matter to EIOPA <u>in accordance with Article 19 of Regulation 1094/2010[...]</u>.</p> <p>Where the matter is referred to EIOPA, without prejudice to the provisions of Article 258 TFEU, EIOPA may act in accordance with the powers conferred on it by Article 19 of Regulation (EU) No <u>1094/2010</u>."</p>	<p>subparagraph includes, but is not limited to, information about actions of the group and supervisory authorities, and information provided by the group."</p> <p>(b) the following paragraph is inserted:</p> <p>"1a. Where a supervisory authority has not communicated relevant information or a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within two weeks, the supervisory authorities may refer the matter to EIOPA.</p> <p>Where the matter is referred to EIOPA, without prejudice to the provisions of Article 258 TFEU, EIOPA may act in accordance with the powers conferred on it by Article 19(1), (2), (3) and 6, of Regulation (EU) No 1094/2010."</p>	
Art. 2 point 56 Art. 249	(56) Article 249 is amended as follows:	(b) Paragraph 3 is replaced by the following:	█	
Art. 2 point 54 point a Art. 249, para 3	<p>(a) Paragraph 3 is replaced by the following:</p> <p>"3. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, determining the items which are, on a systematic basis, to be gathered by the group supervisor and disseminated to other supervisory authorities concerned or to be transmitted</p>	<p>"3. The Commission shall adopt delegated acts, in accordance with Article 301a[...], determining the items which are, on a systematic basis, to be gathered by the group supervisor and disseminated to other supervisory authorities concerned or to be transmitted to the group supervisor by the other supervisory</p>	<p>(c) paragraph 3 is replaced by the following:</p> <p>"3. In order to ensure consistent harmonisation in relation to the coordination between supervisory authorities, EIOPA shall develop draft regulatory technical standards to specify:</p>	



	to the group supervisor by the other supervisory authorities concerned. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the items essential or relevant for supervision at group level with a view to enhancing convergence of supervisory reporting."	authorities concerned. The Commission shall adopt delegated acts, in accordance with Article 301a[...], specifying the items essential or relevant for supervision at group level with a view to enhancing convergence of supervisory reporting."	– the items which are, on a systematic basis, to be gathered by the group supervisor and disseminated to other supervisory authorities concerned or to be transmitted to the group supervisor by the other supervisory authorities concerned. – the items essential or relevant for supervision at group level with a view to enhancing convergence of supervisory reporting.	
Art. 2 point 54 point b Art. 249	(b) The following paragraph 4 is added: "4. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of this Article as supplemented by the delegated acts referred to in paragraph 3 of this Article concerning the matters covered by those delegated acts, specifically with regard to the templates and procedures for the submission of information to the group supervisor as well as the procedure for the cooperation and the exchange of information between supervisory authorities as laid down in this Article. The implementing technical standards	(c) The following paragraph 4 is added: "4. <u>In order to ensure uniform conditions of application of this Article, EIOPA [...]</u> shall develop draft implementing technical standards [...] concerning the matters covered by those delegated acts, specifically with regard to the templates and procedures for the submission of information to the group supervisor as well as the procedure for the cooperation and the exchange of information between supervisory authorities as laid down in this Article. <u>EIOPA shall submit those draft</u>	<i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i> <i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010."</i> (d) the following paragraph is added: "4. <i>In order to ensure uniform conditions of application in relation to the coordination between supervisory authorities, EIOPA may develop draft implementing technical standards to establish standard forms, templates and procedures for</i> the submission of information to the group supervisor as well as the procedure for the cooperation and the exchange of information between supervisory authorities as laid down in this Article.	



	referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing technical standards to the Commission by 31 December 2011."	<u>implementing technical standards to the Commission by 31 December 2014.</u> [...] <u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</u>	<i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i>	
Art. 2 point 56a (new) Art. 250			(56a) Article 250 is amended as follows: "Article 250 Consultation between supervisory authorities 1. Without prejudice to Article 248, the supervisory authorities concerned shall, where a decision is of importance for the supervisory tasks of other supervisory authorities, prior to that decision, consult each other in the college of supervisors with regard to the following: (a) changes in the shareholder structure, organisational or management structure of insurance and reinsurance undertakings in a group, which require the approval or authorisation of supervisory authorities; and (b) major sanctions or exceptional measures taken by supervisory authorities, including the imposition of a capital add-on to the Solvency Capital Requirement under Article 37	

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			<p>and the imposition of any limitation on the use of an internal model for the calculation of the Solvency Capital Requirement under Title I, Chapter VI, Section 4, Subsection 3.</p> <p>For the purposes of point (b), the group supervisor shall always be consulted.</p> <p><i>For the purpose of consultation on the imposition of a capital add-on under Article 37, the procedure set out in Article 238(4) and (5) shall apply mutadis mutandis, whereby only the group supervisor may refer the matter to EIOPA.</i></p> <p>In addition, the supervisory authorities concerned shall, where a decision is based on information received from other supervisory authorities, consult each other prior to that decision.";</p>	
Art. 2 point 57	(57) Article 254(2) is replaced by the following:	(57) <u>In</u> Article 254(2), <u>the first subparagraph</u> is replaced by the following:		
Art. 254 para 2	" 2. Member States shall provide that their authorities responsible for exercising group supervision shall have access to any information relevant for the purposes of that supervision regardless of the nature of the undertaking concerned. Articles 35 and 308a(1) shall apply <i>mutatis mutandis</i> ."	" 2. Member States shall provide that their authorities responsible for exercising group supervision shall have access to any information relevant for the purposes of that supervision regardless of the nature of the undertaking concerned. Article 35 shall apply <i>mutatis mutandis</i> ."		
Art. 2 point 58	(58) In Article 255(2), the following fourth subparagraph is added:	(58) In Article 255(2), the following fourth subparagraph is added:	(58) In Article 255(2), the following subparagraph is added:	

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Art. 255 para 2 subpara 3a (new)	"Where the request to another supervisory authority to have a verification carried out in accordance with this paragraph has been rejected or has not been acted within a reasonable period of time, or where a request of the supervisory authority which made the request to participate in the verification under the third subparagraph has been rejected or has not been acted upon within a period of reasonable time, the requesting authority may refer the matter to EIOPA and may request its assistance in accordance with Article 19 of Regulation .../2010 [EIOPA]. In that case, EIOPA may act in accordance with the powers conferred on it by that Article."	"Where the request to another supervisory authority to have a verification carried out in accordance with this paragraph has been rejected or has not been acted within a reasonable period of time, or where a request of the supervisory authority which made the request to participate in the verification under the third subparagraph has been rejected or has not been acted upon within a period of reasonable time, the requesting authority may refer the matter to EIOPA [...] in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by [...] Article 19 of that Regulation."	"Where the request to another supervisory authority to have a verification carried out in accordance with this paragraph has not been acted <i>upon</i> within <i>two weeks</i> , or where the supervisory authority <i>is practically prohibited to exercise its right to participate in accordance with</i> the third subparagraph, the requesting authority may refer the matter to EIOPA and may request its assistance in accordance with <i>Article 19(1), (2) and (6)</i> , of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.";
Art. 2 point 58a (new) Art. 255 para 2 subpara 1a (new)			(58a) <i>In Article 255(2), the following subparagraph is added:</i> <i>"In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA shall be entitled to participate in on-site verifications where they are carried out jointly by two or more supervisory authorities.";</i>
Art. 2 point 59 Art. 256	(59) Article 256 is amended as follows:	(59) Article 256 is amended as follows:	(59) Article 256 is amended as follows:
Art. 2 point 59 point a Art. 256 para 1	(a) Paragraph 1 is replaced by the following: " 1. Member States shall require participating insurance and reinsurance undertakings or insurance holding companies to disclose publicly, on an	(a) Paragraph 1 is replaced by the following: "1. Member States shall require participating insurance and reinsurance undertakings or insurance holding companies to disclose publicly, on an	(a) paragraph 1 is replaced by the following: "1. Member States shall require participating insurance and reinsurance undertakings <i>and</i> insurance holding companies <i>and mixed financial holding</i>



	annual basis, a report on the solvency and financial condition at the level of the group. Articles 51, 53, 54, 55 and 308a(4) shall apply <i>mutatis mutandis</i> ."	annual basis, a report on the solvency and financial condition at the level of the group. Articles 51, 53, 54 <u>and</u> 55 shall apply <i>mutatis mutandis</i> ."	<i>companies</i> to disclose publicly, on an annual basis, a report on the solvency and financial condition at the level of the group. Articles 51, 53, 54 and 55 shall apply <i>mutatis mutandis</i> .";
Art. 2 point 59 point b Art. 256 para 4	(b) Paragraph 4 is replaced by the following: "4. The Commission shall adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, further specifying the information which must be disclosed and the means by which this is to be achieved as regards the single solvency and financial condition report."	(b) Paragraph 4 is replaced by the following: "4. The Commission shall adopt delegated acts, in accordance with Article 301a [...], further specifying the information which must be disclosed, <u>the deadlines for the disclosure of the information</u> and the means by which this is to be achieved as regards the single solvency and financial condition report."	(b) paragraph 4 is replaced by the following: "4. The Commission shall adopt delegated acts in accordance with Article 301a ■ further specifying the information which must be disclosed ■ as regards the single solvency and financial condition report.";
Art. 2 point 59 point c Art. 256 para 4a (new)	(c) The following paragraph 5 is added: "5. Powers are conferred on the Commission to adopt implementing technical standards to determine the conditions of application of this Article as supplemented by the delegated acts referred to in paragraph 4 of this Article, concerning the matters covered by those delegated acts, specifically with regard to the templates for the disclosure of the group solvency and financial report as laid down in this Article. The implementing technical standards referred to in the first subparagraph shall be adopted in accordance with Article 15 of Regulation .../... [EIOPA]. EIOPA shall develop draft implementing	(c) The following paragraph 5 is added: "5. <u>In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft</u> implementing technical standards specifically with regard to the templates for the disclosure of the group solvency and financial report as laid down in this Article. EIOPA shall <u>submit those</u> draft implementing technical standards to the Commission by <u>30 September 2012</u> . <u>Power is conferred on the Commission to</u>	(c) the following paragraph is added: "5. <i>In order to ensure uniform conditions of application in relation to the group solvency and financial condition report, EIOPA shall develop draft</i> implementing technical standards <i>on the procedures to be followed and formats and templates to be used for</i> the disclosure of the group solvency and financial report as laid down in this Article. <i>EIOPA shall submit those draft</i> implementing technical standards <i>to the Commission by [...].</i> <i>Power is conferred on the Commission</i>



	technical standards for submission to the Commission by 31 December 2011."	<u>adopt</u> the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."	<i>to adopt the</i> implementing technical standards <i>referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010."</i> ;	
Art. 2 point 59a (new) Art. 256a (new)			<i>(59a) The following article is inserted:</i> <i>"Article 256a</i> <i>Group structure</i> <i>Member States shall require insurance and reinsurance undertakings to disclose publicly, at the level of the insurance or reinsurance group, on an annual basis, the legal structure and the governance and organisational structure, including all regulated entities, non-regulated entities and material branches belonging to the group."</i> ;	
Art. 2 point 60 Art. 258 point 3	(60) Article 258 (3) is replaced by the following: "The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, for the coordination of enforcement measures referred to in paragraphs 1 and 2."	(60) Article 258 (3) is replaced by the following: "The Commission may adopt delegated acts, in accordance with Article 301a [...], for the coordination of enforcement measures referred to in paragraphs 1 and 2."	(60) Article 258(3) is replaced by the following: "3. The Commission may adopt delegated acts in accordance with Article 301a for the coordination of enforcement measures referred to in paragraphs 1 and 2."	
Art. 2 point 61 Art. 259	(61) Article 259 is replaced by the following: " <i>Article 259</i> <i>Reporting of EIOPA</i> 1. EIOPA shall report to the European Parliament annually in accordance with Article 35 of Regulation.../[EIOPA]	(61) Article 259 is replaced by the following: " <i>Article 259</i> <i>Reporting of EIOPA</i> 1. EIOPA shall report to the European Parliament annually in accordance with Article <u>50</u> of Regulation (EU) No 1094/2010.	(61) Article 259 is replaced by the following: "Article 259 Reporting of EIOPA 1. EIOPA shall report to the European Parliament annually in accordance with <i>Article 50</i> of Regulation (EU) No 1094/2010.	



	<p>2. EIOPA shall report, inter alia, on all relevant and significant experiences of the supervisory activities and cooperation between supervisors in the framework of Title III, and, in particular:</p> <p>(a) the process of the nomination of the group supervisor, the number of group supervisors and geographical spread;</p> <p>(b) the working of the college of supervisors, in particular the involvement and commitment of supervisory authorities where they are not the group supervisor.</p> <p>3. EIOPA may, for the purposes of paragraph 1 of this Article, also report on the main lessons drawn from the reviews referred to in Article 248(6), where appropriate."</p>	<p>2. EIOPA shall report, inter alia, on all relevant and significant experiences of the supervisory activities and cooperation between supervisors in the framework of Title III, and, in particular:</p> <p>(a) the process of the nomination of the group supervisor, the number of group supervisors and geographical spread;</p> <p>(b) the working of the college of supervisors, in particular the involvement and commitment of supervisory authorities where they are not the group supervisor.</p> <p>3. EIOPA may, for the purposes of paragraph 1 of this Article, also report on the main lessons drawn from the reviews referred to in Article 248(6), where appropriate."</p>	<p>2. EIOPA shall report, inter alia, on all relevant and significant experiences of the supervisory activities and cooperation between supervisors in the framework of Title III, and, in particular:</p> <p>(a) the process of the nomination of the group supervisor, the number of group supervisors and geographical spread;</p> <p>(b) the working of the college of supervisors, in particular the involvement and commitment of supervisory authorities where they are not the group supervisor.</p> <p>3. EIOPA may, for the purposes of paragraph 1 of this Article, also report on the main lessons drawn from the reviews referred to in Article 248(6), where appropriate.";</p>	
Art. 2 point 62	(62) Article 260 is amended as follows:	(62) Article 260 is amended as follows:	(62) Article 260 is replaced by the following :	
Art. 260				
Art. 2 point 62 point a				
Art. 260 para 1 subpara 2	(a) In paragraph 1, the second subparagraph is replaced by the following:	(a) In paragraph 1, the second subparagraph is replaced by the following:	"1. In the case referred to in Article 213(2)(c), the supervisory authorities concerned shall verify whether the insurance and reinsurance undertakings, the parent undertaking of which has its head office outside the Union, are subject to supervision, by a third-country supervisory authority, which is equivalent to that provided for by this Title on the supervision at the level of the group of insurance and reinsurance undertakings referred to in Article 213(2)(a) and (b).	



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
 EUROPAISCHES PARLAMENT EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
 PARLEMENT EUROPÉEN PARLAIMINT NA HEORPA PARLAMENTO EUROPEO EIROPAS PARLaments
 EUROPOS PARLAMENTAS EUROPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
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	<p>"The verification shall be carried out by the supervisory authority which would be the group supervisor if the criteria set out in Article 247(2) were to apply, at the request of the parent undertaking or of any of the insurance and reinsurance undertakings authorised in the Union or on its own initiative, unless the Commission had concluded previously in respect of the equivalence of the third country concerned. In so doing, that supervisory authority shall consult the other supervisory authorities concerned and EIOPA, before taking a decision."</p>	<p>"The verification shall be carried out by the supervisory authority which would be the group supervisor if the criteria set out in Article 247(2) were to apply, at the request of the parent undertaking or of any of the insurance and reinsurance undertakings authorised in the Union or on its own initiative, unless the Commission had concluded previously in respect of the equivalence of the third country concerned. In so doing, that supervisory authority shall consult the other supervisory authorities concerned and EIOPA, before taking a decision."</p>	<p><i>Where no decision has been taken in accordance with paragraph 3 or 5 the verification shall be carried out by the supervisory authority which would be the group supervisor if the criteria set out in Article 247(2) were to apply (hereinafter the "acting group supervisor"), at the request of the parent undertaking or of any of the insurance and reinsurance undertakings authorised in the Union or on its own initiative. EIOPA shall assist the acting group supervisor in accordance with Article 33(2) of Regulation (EU) No 1094/2010.</i></p> <p>In so doing, that acting group supervisor shall, assisted by EIOPA, consult the other supervisory authorities concerned and EIOPA, before taking a decision on equivalence. That decision shall be taken in accordance with the criteria adopted in accordance with paragraph 2. The acting group supervisor shall not take any decision in relation to a third country that is in opposition to any previous decision taken vis-à-vis that third-country save where it is necessary to take into account of significant changes to the supervisory regime laid down in Title I and to the supervisory regime in the third country.</p> <p><i>Where supervisory authorities disagree with the decision taken in accordance with subparagraph 3, they may refer the matter to EIOPA and request its assistance in accordance with Article</i></p>	
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			19(1), (2), (3) and (6), of Regulation (EU) No 1094/2010 within three months after notification of the decision by the acting group supervisor. In that case, EIOPA may act in accordance with the powers conferred on it by that Article."	
Art. 2 point 62 point b Art. 260 para 2	(b) Paragraph 2 is replaced by the following: "2. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying the criteria to assess whether the prudential regime in a third country for the supervision of groups is equivalent to that laid down in this Title.	(b) Paragraph 2 is replaced by the following: "2. The Commission may adopt delegated acts, in accordance with Article 301a [...], specifying the criteria to assess whether the prudential regime in a third country for the supervision of groups is equivalent to that laid down in this Title.	2. The Commission may adopt delegated acts in accordance with Article 301a, specifying the criteria to assess whether the <i>supervisory</i> regime in a third country for the supervision of groups is equivalent to that laid down in this Title. 3. If the criteria adopted in accordance with the paragraph 2 have been fulfilled by a third country, the Commission may, in accordance with Article 301a, and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of that third country is equivalent to that laid down in this Title. Such a Commission decision shall be regularly reviewed to take into account any significant changes to the supervisory regime laid down in this Title, and to the supervisory regime in the third country. EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.	
Art. 2 point 62 point c Art. 260 para 3a (new)	(c) the following paragraph 4 is added "4. By way of derogation from Article 261(1), the first paragraph of Article 262(1) and the second paragraph of Article 263, Member States may, for a transitional period, rely on the group	(c) <u>The following paragraphs 4 to 7 are added:</u> 4. By way of derogation from Article 261(1), <u>the first paragraph of Article 262(1) and the second paragraph of Article 263, Member States may, for a transitional period, rely on the group</u>	4. In the absence of a decision adopted by the Commission in accordance with paragraph 3 or 5, Article 262 shall apply.	



	supervision exercised by the third-country supervisory authorities. The transitional period shall last for a maximum of 5 years from the date referred to in the first sub-paragraph of Article 309(1). This derogation shall only apply where the Commission has made a decision in accordance with paragraph 5 that specified conditions have been met by the third country. "	<u>supervision exercised by the third-country supervisory authorities of insurance and reinsurance undertakings, the parent undertaking of which has its head office outside the Community on 1 January 2014 in situations other than those covered in paragraph 5. The transitional period shall last from 1 January 2014 until 31 December 2018, or until the date on which, in accordance with paragraph 2 of this Article, the prudential regime of that third country has been deemed to be equivalent to that laid down in this Title, whichever is the earliest. This derogation shall only apply where the Commission has made a decision in accordance with paragraph 7 that specified conditions have been met by the third country.</u> <u>No later than 3 years after 1 January 2014, the Commission shall review in relation to each third country for which the Commission has made a decision in accordance with paragraph 7, the progress on convergence to an equivalent regime that has been made by the third country.</u>	
Art. 2 point 62 point d Art. 260 para 4a (new)	(d) the following paragraph 5 is added: "5. The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, specifying in relation to paragraph 4 the length of the transitional period which may be shorter than the maximum of 5 years and the conditions which are to be met by the third country. Those conditions shall cover commitments given by the supervisory authorities, their convergence to an	<u>[...] 5. During the transitional period, Member States shall not rely on the group supervision exercised by the third country-supervisory authorities for which a decision has been made in accordance with paragraph 7, where there is an insurance or reinsurance undertaking situated in a Member State which has a balance sheet total that exceeds the balance sheet total of the parent undertaking situated outside the</u>	<u>5. By way of derogation from paragraph 3, and even if the criteria specified in accordance with paragraph 2 have not been fulfilled the Commission may, for a limited period and in accordance with Article 301a, and assisted by EIOPA in accordance with Article 33(2) of Regulation (EU) No 1094/2010, decide that the supervisory regime of a third country applied to undertakings with the head office in that third country is</u>



	<p>equivalent regime over a set period of time, the existing or intended content of the regime, and matters of cooperation, exchange of information and professional secrecy obligations.</p>	<p><u>Community. In that case, the task of the group supervisor shall be exercised by the supervisory authority of the Member State determined in accordance with Article 247.</u></p>	<p><i>temporarily equivalent to that laid down in Title I, if that third country has complied with at least the following criteria:</i></p> <p><i>(a) it has given written commitments to the Union to adopt and apply a supervisory regime that is capable of being assessed equivalent in accordance with paragraph 3, before the end of that limited period;</i></p> <p><i>(b) it has established a convergence programme to fulfil the commitment under point (a);</i></p> <p><i>(c) it has allocated sufficient resources to fulfil the commitment under point (a);</i></p> <p><i>(d) it has a supervisory regime that is risk based and based on economic valuation of assets and liabilities;</i></p> <p><i>(e) it has concluded agreements to exchange confidential supervisory information in accordance with Article 264;</i></p> <p><i>(f) it has an independent system of supervision based on core principles, principles and standards adopted by the IAIS;</i></p> <p><i>(g) it has established, for all persons acting on behalf of its supervisory authorities, obligations on professional secrecy in particular on the exchange of information with EIOPA and</i></p>	
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			<p><i>supervisory authorities as defined in Article 13(10).</i></p> <p><i>Any decisions on temporary equivalence shall take into account the reports by the Commission in accordance with Article 177(2). Those decisions shall be regularly reviewed, on the basis of progress reports by the relevant third country, which are presented to and assessed by the Commission and EIOPA every six months.</i></p> <p><i>EIOPA shall publish and keep up to date on its website a list of all third countries referred to in the first subparagraph.</i></p> <p><i>The Commission may adopt delegated acts in accordance with Article 301a further specifying the conditions laid down in the first subparagraph.</i></p>	
<p>Art. 2 point 62 point e</p> <p>Art. 260 para 4b (new)</p>	<p>(e) the following paragraph 6 is added:</p> <p>"6. The Commission may adopt, a decision in respect of prudential regimes of third countries referred to in paragraph 4 that the conditions set out in paragraph 4 and the delegated act have been met by the third country.</p> <p>Those decisions shall be adopted after consultation of the European Insurance and Occupational Pensions Committee and in accordance with the regulatory procedure referred to in Article 301(2). The decisions shall be reviewed regularly."</p>	<p>[...] 6. The Commission may adopt delegated acts, in accordance with Article 301a, specifying in relation to paragraph 4 the conditions which are to be met by the third country. Those conditions shall cover commitments given by the third countries, their convergence to an equivalent regime over a set period of time, the existing or intended content of the regime, including the extent to which a third country's current prudential regime exercises group supervision, and matters of cooperation, exchange of information and professional secrecy obligations. Delegated acts may also cover powers for supervisory authorities to impose</p>	<p>6. The period referred to in paragraph 5 shall be five years from the date referred to in Article 310 or until the date on which, in accordance with paragraph 3, the supervisory regime of that third country has been deemed to be equivalent to that laid down in this Title, whichever is the earliest.</p> <p>That period may be extended with a maximum of one more year, where such time is necessary for EIOPA and the Commission to carry out the assessment of equivalence for the purposes of paragraph 3.</p>	



		<p><u>additional supervisory reporting requirements during the transitional period.</u></p> <p><u>7. The Commission may adopt, a decision in respect of prudential regimes of third countries referred to in paragraph 4 that the conditions set out in paragraph 6 and the delegated act have been met by the third country.</u></p> <p><u>Those decisions shall be adopted after consultation of the European Insurance and Occupational Pensions Committee and in accordance with the [...] examination procedure referred to in Article 301(2). The decisions shall be reviewed regularly.</u></p>	<p>7. Where a decision in accordance with paragraph 5 is taken that the supervisory regime of a third country is temporarily equivalent, Member States may apply Article 261. EIOPA shall issue guidelines for the consistent and coherent application by Member States of this paragraph by 1 January 2014. Member States shall make every effort to comply with those guidelines. Where a Member State decides not to apply Article 261 in respect of a group, no other Member State may apply that Article in respect of that group."</p>	
Art. 2 point 63	(63) In Article 262 the first subparagraph of paragraph 1 is amended as follows:	(63) In Article 262 the first subparagraph of paragraph 1 is <u>replaced by the following:</u>	(63) In Article 262 the first subparagraph of paragraph 1 is replaced by the following:	
Art. 262 para 1 subpara 1	"1. In the absence of equivalent supervision referred to in Article 260, Member States shall apply either of the following to insurance and reinsurance undertakings:	"1. In the absence of equivalent supervision referred to in Article 260, Member States shall apply either of the following to insurance and reinsurance undertakings: [...]	"1. In the absence of equivalent supervision referred to in Article 260, or where a Member State does not apply Article 261 in the event of temporarily equivalence in accordance with Article 260(7), that Member State shall apply either of the following to insurance and reinsurance undertakings:	
Art. 2 point 64 point a	(64) (a) Articles 218 to 235, Article 244 to 258 and Article 308a(9) <i>mutatis mutandis</i>	<p>(a) Articles 218 to 235, Articles 244 to 258 and Article 308a(8) <i>mutatis mutandis</i>;</p> <p>(b) one of the methods set out in paragraph 2."</p>	<p>(a) Articles 218 to 235, and Articles 244 to 258 <i>mutatis mutandis</i>;</p> <p>(b) one of the methods set out in paragraph 2.";</p>	



Art. 2 point 65 point b	(65) (b) one of the methods set out in paragraph 2."			
Art. 2 point 66 Art. 300 para 1	(66) In the first paragraph of Article 300, the date "31 October 2012" is replaced by the date "31 December 2012".	(66) In the first paragraph of Article 300, the date "31 October 2012" is replaced by the date "31 December 2013".	(66) In Article 300, the <i>first paragraph is replaced by the following:</i> "The amounts expressed in euro in this Directive shall be revised every five years, by increasing the base amount in euro by the percentage change in the Harmonised Indices of Consumer Prices of all Member States as published by Eurostat starting from 31 December 2012 until the date of revision and rounded up to a multiple of EUR 100 000."	
Art. 2 point 67 Art. 301 para 3	(67) Article 301 (3) is deleted.	(67) Article 301 is amended as follows: (a) Paragraph 2 is replaced by the following: "2. Where reference is made to this paragraph, Articles 5 and 10 of Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article[...] 11 thereof." [...] (b) Paragraph (3) is deleted.	(67) In Article 301, paragraphs 2 and 3 are deleted.	
Art. 2 point 68 Art. 301a, 301b, 301c (new)	(68) The following articles 301a, 301b and 301c are inserted: "Article 301a Exercise of the delegation 1. The powers to adopt delegated acts referred to in Articles 17, 31, 35, 37, 50, 56, 58, 75, 86, 92, 97, 99, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 249, 256, 258, 260 and 308b shall be conferred	(68) The following article 301a [...] is inserted: "Article 301a Exercise of the delegation 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. 2. The delegation of power referred to in Articles 17, 31, 35, 37, 50, 56, 58, 75, 86,	(68) The following articles are inserted: "Article 301a Exercise of the delegation 1. The power to adopt delegated acts is conferred on the Commission <i>subject to</i> the <i>conditions laid down in</i> this Article. <i>1a. The delegation of power referred to in Articles 17, 37, 50, 56, 109a, 172, 216,</i>	



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<p>on the Commission for a period of 5 years following the entry into force of this Directive.</p> <p>The Commission shall draw up a report in respect of the delegated power at the latest 6 months before the end of the 5 year period. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 301b.</p> <p>2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 301b and 301c..</p> <p style="text-align: center;"><i>Article 301b</i> <i>Revocation of the delegation</i></p> <p>1. The delegation of power referred to in Articles 17, 31, 35, 37, 50, 56, 58, 75, 86, 92, 97, 99, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241,</p>	<p>92, 97, 99, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 249, 256, 258, 260 and 308a [...] shall be conferred on the Commission for a period of 5 years from ...*.</p> <p>The Commission shall draw up a report in respect of the <u>delegation of power not later than 9</u> months before the end of the 5 year period. The delegation of power shall be <u>tacitly</u> extended for periods of an identical duration, unless the European Parliament or the Council <u>opposes such extension not later than three months before the end of each period</u>.</p> <p>3. The delegation of power referred to in Articles 17, 31, 35, 37, 50, 56, 58, 75, 86, 92, 97, 99, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241,</p>	<p>217, 227, 241, 244, 245, 247, 256, 258, 260 shall be conferred on the Commission for a period of four years from*.</p> <p><i>The Commission shall draw up a report in respect of the delegated power at the latest six months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</i></p> <p>1b. The delegation of power referred to in Articles 17, 37, 50, 56, 109a, 172, 216, 217, 227, 241, 244, 245, 247, 256, 258, 260 may be revoked at any time by the</p>
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* Date of entry into force of this Directive.

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<p>244, 245, 247, 248, 249, 256, 258 260 and 308b may be revoked at any time by the European Parliament or by the Council.</p> <p>2. The institution which has commenced an internal procedure for deciding whether to revoke a delegation of power shall inform the other legislator and the Commission at the latest one month before the final decision is taken, stating the delegated power which could be subject to revocation and the reasons for a revocation.</p> <p>3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.</p> <p style="text-align: center;"><i>Article 301c</i> <i>Objections to delegated acts</i></p> <p>1. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council, that period shall be extended by one month.</p> <p>2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected</p>	<p>244, 245, 247, 248, 249, 256, 258, 260 and <u>308a</u> may be revoked at any time by the European Parliament or by the Council.</p> <p><u>A</u> decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect <u>the day following the publication of the decision in the Official Journal of the European Union</u> or at a later date specified therein. It shall not affect the validity of <u>any</u> delegated acts already in force.</p> <p><u>4.</u> As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p><u>5. A delegated act adopted pursuant to Articles 17, 31, 35, 37, 50, 56, 58, 75, 86, 92, 97, 99, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 249, 256, 258, 260 and 308a shall enter into force only if no objection has been expressed either by the European Parliament or the Council</u></p>	<p><i>European Parliament or by the Council.</i></p> <p><i>A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</i></p> <p>2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>3. A delegated <i>act adopted pursuant to Articles 17, 37, 50, 56, 109a, 172, 216, 217, 227, 241, 244, 245, 247, 256, 258, 260 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European</i></p>
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	<p>to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.</p> <p>The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.</p> <p>3. If either the European Parliament or the Council objects to the delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act."</p>	<p><u>within a period of 3 months of notification of that act to the European Parliament and the Council or, if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 3 months at the initiative of the European Parliament or the Council."</u> [...]</p>	<p><i>Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.</i></p>	
			<p>Article 301b Sunrise clause</p>	



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			<p><i>When adopting for a first time the regulatory technical standards provided for in Article 35(6), Article 37(6a), Article 50, Article 58(8), Article 75(2), Article 86, Article 92(1), Article 97(1), Article 99(1), Article 111(1) and (2), Article 114(1), Article 127, Article 130, Article 135(1) and (2a), Article 143(1) and (2), Article 210(2), Article 211(2), Article 234, Article 245(4) Article 248(6) and (7), Article 249(3) and for a transitional period of a maximum two years after ...* the publication of this Directive in the Official Journal of the European Union the Commission shall follow the procedure for the adoption of delegated acts as set out in Article 301a. Any amendments to such delegated acts or, after the transitional period has expired, any new regulatory technical standards shall be adopted in accordance with the procedures as set out in the relevant Articles."</i></p>	
Art. 2 point 69 Art. 304 para 2	(69) In Article 304(2), the date "31 October 2015" is replaced by the date "31 December 2015".	(69) In Article 304(2), the date "31 October 2015" is replaced by the date "31 December 201 <u>6</u> ".	<p>(69) In Article 304, paragraph 2 is replaced by the following:</p> <p>"The Commission shall submit to the European Insurance and Occupational Pensions Committee and the European Parliament, by 31 December 2015, a report on the application of the approach set out in paragraph 1 and the supervisory authorities' practices adopted pursuant to paragraph 1, accompanied, where appropriate, by adequate proposals. That report shall address, in particular, cross-border</p>	



			effects of the use of that approach with a view to preventing regulatory arbitrage by insurance and reinsurance undertakings.";	
Art. 2 point 70 Section 4, Art. 308 a (new)	(70) The following Article 308a is inserted: "SECTION 3 Transitional measures specified by delegated acts Article 308a Transitional provisions 1. Where the Commission has adopted a delegated act in accordance with Article 308b(1), Article 35(5) shall not apply for a maximum period of five years from the date referred to in the first sub-paragraph of Article 309(1).	(70) The following Article 308a is inserted: "SECTION 3 Transitional measures specified by delegated acts Article 308a Transitional provisions [...] 1. [...] By way of derogation from Article 76(2), Article 76(3) and Article 76(5), [...] the rates of the relevant risk-free interest rate term structure to calculate the best estimate with respect to insurance or reinsurance obligations corresponding to paid-in premiums for existing contracts: (a) for which, according to national law by the last date of the application of Directive 2002/83/EC, technical provisions were calculated using the interest rate referred to in Article 20.B.a.ii of Directive 2002/83/EC; and (b) where the insurance or reinsurance undertaking complies with the laws, regulations and administrative provisions for the establishment of technical provisions which are adopted pursuant to Article 20 of Directive 2002/83/EC, Article 15 of Directive 73/239/EEC and Article 32 of Directive 2005/68/EC;	(70) The following <i>section</i> is inserted: "SECTION 3 <i>Insurance and reinsurance</i> Article 308a <i>Phasing-in</i> <i>1. Between 1 January and 31 December 2013, insurance and reinsurance undertakings and supervisory authorities shall take all measures necessary to comply as of 1 January 2014 with the national laws, regulations and administrative provisions implementing this Directive.</i>	



	<p>2. Where the Commission has adopted a delegated act in accordance with Article 308b(2), the condition referred to in Article 37(1)(a) that the supervisory authority has concluded that the risk profile of the insurance or reinsurance undertaking has deviated significantly from the assumptions underlying the Solvency Capital Requirement as calculated using the standard formula shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1). Equally, the requirement in Article 37(2) that capital add-ons imposed under point a) of Article 37(1) are to be calculated in such a way so as to ensure the undertaking complies with Article 101(3) shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1).</p>	<p><u>shall, subject to prior supervisory approval, be calculated as set out in paragraph 2.</u></p> <p><u>2. For each currency and in respect of each maturity the rate shall be calculated as the weighted average of:</u></p> <p><u>(a) the interest rate referred to in Article 20.B.a.ii of Directive 2002/83/EC as calculated at the last date of the application of Directive 2002/83/EC; and</u></p> <p><u>(b) the rate for that maturity of the relevant risk-free interest rate term structure as measured in accordance with Article 76(2), Article 76(3) and Article 76(5).</u></p> <p><u>The weight for the rate expressed in point (b) shall increase at least linearly at the end of each year from 0 % during the first year following the last date of the application of Directive 2002/83/EC, to 100 % as of 7 years after 1 January 2014.</u></p>	<p><i>2. From 1 January 2013 Member States shall ensure that the supervisory authorities have the power to:</i></p> <p><i>(a) decide on:</i></p> <p><i>(i) the approval of undertaking specific parameters in accordance with Article 104 (7);</i></p> <p><i>(ii) the approval of ancillary own funds in accordance with Article 90;</i></p> <p><i>(iii) the approval of the classification of own funds items referred to in the third paragraph of Article 95;</i></p> <p><i>(iv) the approval of a full or partial internal model in accordance with Articles 112 and 113;</i></p> <p><i>(v) the approval of special purpose vehicles to be established in their territory;</i></p> <p><i>(vi) the approval of ancillary own funds of an intermediate insurance holding company in accordance with Article 226(2);</i></p> <p><i>(vii) a decision referred to in Article 228;</i></p> <p><i>(viii) the approval of a group internal model in accordance with Article 231 and Article 233(5);</i></p> <p><i>(ix) the permission to be subject to Articles 238 and 239, in accordance with Article 236;</i></p> <p><i>(b) determine the level and scope of group supervision in accordance with Sections 2 and 3 of Title III, Chapter I;</i></p>	
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		<p>(c) determine the choice of method to calculate group solvency in accordance with Article 220;</p> <p>(d) make the determination on equivalence and temporary equivalence in accordance with Articles 227 and 260;</p> <p>(e) identify the group supervisor in accordance with Article 247;</p> <p>(f) establish a college of supervisors in accordance with Article 248;</p> <p>(g) make the determinations referred to in Articles 262 and 263; and</p> <p>(h) determine the application of waivers and transitional periods in accordance with Article 308a(3) and Article 308b.</p> <p>Member States shall oblige the supervisory authorities concerned to consider applications submitted by insurance and reinsurance undertakings for approval or permission in accordance with paragraph 3. The decisions taken by the supervisory authorities on applications for approval or permission shall not become applicable before the date referred to Article 310.</p>
<p>3. Where the Commission has adopted a delegated act in accordance with Article 308b(3), Article 41(1) and Article 41(3) shall not apply for a maximum period of</p>	<p>3. The Commission shall adopt delegated acts further specifying the criteria to be met by existing contracts in order to be eligible for the transitional measure</p>	<p>3. Without prejudice to Article 308b, as of 1 July 2013 insurance and reinsurance undertakings shall:</p>



<p>3 years from the date referred to in the first sub-paragraph of Article 309(1).</p> <p>4. Where the Commission has adopted a delegated act in accordance with Article 308b(4), Article 51(1) shall not apply for a maximum period of 3 years from the date referred to in the first sub-paragraph of Article 309(1).</p> <p>5. Where the Commission has adopted a delegated act in accordance with Article 308b(5), Article 75(1) shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1).</p> <p>6. Where the Commission has adopted a delegated act in accordance with Article 308b(6), Article 76(2), Article 76(3) and Article 76(5) shall not apply for a maximum period of 10 years from the</p>	<p><u>referred to in paragraphs 1 and 2.</u></p> <p><u>4. By way of derogation from Article 94, basic own-fund items that meet the criteria set out in the delegated act adopted by the Commission in accordance with paragraph 5, shall be included in Tier 1 or Tier 2 basic own funds for up to 10 years after 1 January 2014.</u></p> <p><u>5. The Commission shall adopt delegated acts specifying the basic own-fund items subject to the transitional measures and the transitional requirements referred to in paragraph 4 as to the classification of own fund items, which will apply to those specified basic own-fund items and requiring that during the transitional period insurance and reinsurance undertakings comply at least with the laws, regulations and administrative provisions adopted pursuant to Article 27 of Directive 2002/83/EC, Article 16 of Directive 73/239/EEC and Article 36 of Directive 2005/68/EC in respect of those own fund items.</u></p> <p><u>6. By way of derogation from Article 100, Article 101(3) and Article 104:</u></p> <p><u>(a) until 31 December 2015 the standard parameters to be used when calculating</u></p>	<p><i>(a) calculate estimates for the Solvency Capital Requirement, the Minimum Capital Requirement and the amount of own funds, determine the balance sheet in accordance with this Directive, and provide the supervisory authorities concerned with this information;</i></p> <p><i>(b) provide supervisory authorities with the information referred to in Article 35 on an annual basis in relation to the financial year ending on or after 1 July 2013.</i></p> <p><i>The reference date of the balance sheet referred to in point (a) shall be the first day of the financial year starting on or after 1 July 2012, but before 1 July 2013.</i></p> <p><i>Supervisory authorities may waive the requirement laid down in point (b) for insurance and reinsurance undertakings which do not comply fully with the requirements to have appropriate systems and structures in place in accordance with Article 35(5), provided that insurance and reinsurance undertakings remain subject to the reporting requirements in force in their respective jurisdiction before the date referred to in Article 309(1).</i></p>
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<p>date referred to in the first sub-paragraph of Article 309(1).</p> <p>7. Where the Commission has adopted a delegated act in accordance with Article 308b(7), Article 94 shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1).</p> <p>8. Where the Commission has adopted a delegated act in accordance with Article 308b(8), the first paragraph of Article 100, Article 101(3), Article 102, and Article 104 shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1).</p> <p>9. Where the Commission has adopted a delegated act in accordance with Article 308b(9), Article 218(2) and (3) shall not apply for a maximum period of 10 years from the date referred to in the first sub-paragraph of Article 309(1) .</p>	<p><u>the concentration risk sub-module and the spread risk sub-module in accordance with the standard formula shall be the same in relation to exposures to Member States' central governments or central banks denominated and funded in the domestic currency of any Member State as the ones that would be applied to such exposures denominated and funded in their domestic currency:</u></p> <p><u>(b) the standard parameters to be used for equities that the undertaking purchased on or before 31 December 2013, when calculating the equity risk sub-module in accordance with the standard formula without the option set out in Article 304 shall be calculated as the weighted averages of:</u></p> <p><u>(i) the standard parameter to be used when calculating the equity risk sub-module in accordance with Article 304; and</u></p> <p><u>(ii) the standard parameter to be used when calculating the equity risk sub-module in accordance with the standard formula without the option set out in Article 304.</u></p> <p><u>The weight for the parameter expressed in point (ii) shall increase at least linearly at the end of each year from 0 % during the year starting on 1 January 2014 to 100 % as of 5 years after 1 January 2014.</u></p> <p><u>7. The Commission shall adopt delegated acts further specifying the procedure and</u></p>		
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		<p><u>criteria to be met, including the equities that shall be subject to the transitional measure, in order to use the standard parameters calculated in accordance with point b of paragraph 6.</u></p> <p><u>8. By way of derogation from Articles 218(2) and (3), the transitional provisions as referred to in Article 308a(1) to (7) shall apply <i>mutatis mutandis</i>.</u></p> <p><u>The Commission shall adopt delegated acts [...]setting out the changes which relate to the general principles in calculating group solvency set out in Articles 222 and 223 and [...]the application of the calculation methods set out in Articles 225 to 229 and the methods for calculating group solvency in Articles 230 to 233 and Article 235, where the transitional provisions referred to in the first subparagraph are applicable. [...]</u></p> <p><u>9. Where, on the date of entry into force of this Directive, home Member States applied provisions referred to in Article 4 of Directive 2003/41/EC, such home Member States may, until 31 December 2015, continue to apply the laws, regulations and administrative provisions that had been adopted by them with a view to comply with Articles 1-19, 27-30, 32-35 as well as Articles 37-67 of Directive 2002/83/EC as in force on the last date of application of Directive 2002/83/EC."</u></p>		
Art. 2 point 71	(71) The following Article 308b is inserted:	(71) [...]		



<p>Art. 308b (new)</p>	<p>Article 308b Delegated Acts</p> <p>The Commission may adopt delegated acts, in accordance with Article 301a and subject to the conditions of Articles 301b and 301c, regarding the following :</p> <p>(a) with regard to Article 308a(1), specifying the length of the transitional period which may be shorter than the maximum of 3 years, specifying any phasing of the transitional period, and specifying the transitional requirements as to the systems and structures undertakings shall have in place to comply with information required to be provided for supervisory purposes and requiring that insurance and reinsurance undertakings comply at least with the laws, regulations and administrative provisions related to production of accounts and periodic submission of returns which are adopted pursuant to Article 13 Directive of 2002/83/EC, Article 11 of Directive 84/641/EC and Article 17 of Directive 2005/68/EC.</p> <p>(b) with regard to Article 308a(2), specifying the length of the transitional period which may be shorter than 10 years, specifying any phasing of the transitional period, specifying a requirement to take the assumptions underlying a transitional Solvency Capital Requirement referred to in Article 308b(8) rather than the Solvency Capital</p>		<p>Article 308b Transitional periods</p> <p><i>1. Member States may allow insurance and reinsurance undertakings or insurance and reinsurance groups with a balance sheet total less than EUR25 billion, which do not comply with the Solvency Capital Requirement on the date referred to in Article 310 a period not exceeding two years in which to do so provided that such undertakings or groups have, in accordance with Article 138(2) and Article 142, submitted for the approval of the supervisory authorities concerned the measures which they propose to take for such purpose.</i></p> <p><i>2. Member States may allow insurance and reinsurance undertakings which do not comply fully with the requirements to have appropriate systems and structures in place in accordance with Article 35(5) and Article 55(1) on the date referred to in Article 310, a period not exceeding two years in which to do so.</i></p> <p><i>3. During that period, Member States may allow insurance and reinsurance undertakings which do not comply fully with the requirements to disclose publicly the information referred to in Articles 51 and 53, 54 and 55, to disclose and include in regular supervisory reporting only the information which</i></p>	
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<p>Requirement into account when concluding whether the conditions for imposing a capital add-on under Article 37(1)(a) are met and specifying the calculation of the capital add-on by reference to the calibration and confidence level attributes of that transitional Solvency Capital requirement rather than those of the standard formula Solvency Capital Requirement;</p> <p>(c) with regard to Articles 308a(3), the length of the transitional period which may be shorter than the maximum of 3 years, the phasing of the transitional period and the transitional requirements as to the system of governance and the extent to which the systems, functions, and requirements referred to in Articles 41 to 49 to be complied with by insurance and reinsurance undertakings during the transitional period and requiring that insurance and reinsurance undertakings comply at least with the laws, regulations and administrative provisions requiring sound administrative procedures and internal control which are adopted pursuant to Article 10 of Directive 2002/83/EC, Article 9 of Directive 84/641/EC and Article 15 of Directive 2005/68/EC.</p> <p>(d) with regard to Article 308a(4), the length of the transitional period which may be shorter than the maximum of 3 years, any phasing of the transitional period, and any transitional requirements as to the content and timing of the</p>		<p><i>implemented systems and structures are able to provide.</i></p> <p><i>4. Member States may allow insurance and reinsurance groups which do not comply fully with the requirements to have appropriate systems and structures in place in accordance with Articles 254 on the date referred to in Article 310 a period not exceeding two years in which to do so.</i></p> <p><i>5. During that period, Member States may allow insurance and reinsurance groups which do not comply fully with the requirements to disclose publicly the information referred to in Article 256, to disclose and include in regular supervisory reporting only the information which implemented systems and structures are able to provide.</i></p> <p><i>6. Notwithstanding Article 94, basic own-fund items that were issued prior to ...*, and that could be used to meet the available solvency margin up to at least 50 % of the solvency margin according to Article 16(3) of Directive 73/239/EEC, Article 1 of Directive 2002/13/EC, Article 27(3) of Directive 2002/83/EC and Article 36(3) of Directive 2005/68/EC shall be included in Tier 1 basic own funds for up to 10 years after the date referred to in Article 310.</i></p> <p><i>7. Notwithstanding Article 94, basic own-fund items that were issued prior to ...*, and that could be used to meet the</i></p>	
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<p>information which must be publicly disclosed by insurance and reinsurance undertakings and requiring that insurance and reinsurance undertakings be at least required to disclose a report containing a high level summary of the information listed in Article 51(1).</p> <p>(e) with regard to Article 308a(5) the length of the transitional period which may be shorter than the maximum of 10 years, any phasing of the transitional period, any specification of the assets and liabilities which shall be subject to transitional requirements as to valuation and the transitional requirements as to the methods and assumptions to be used in the valuation of the specified assets and liabilities and requiring that insurance and reinsurance undertakings comply at least with the Member State's laws, regulations and administrative provisions for valuation of such assets and liabilities which were applicable on 31 December 2012;</p> <p>(f) with regard to Article 308a(6) , the length of the transitional period which may be shorter than the maximum of 10 years, the phasing of the transitional period and the transitional requirements as to the methodologies and assumptions to be used in the calculation of technical provisions and which will apply during the transitional period and requiring that insurance and reinsurance undertakings comply at least with the laws, regulations and administrative provisions for the</p>		<p><i>available solvency margin up to 25 % of the solvency margin according to Article 16(3) of Directive 73/239/EEC, Article 1 of Directive 2002/13/EC, Article 27(3) of Directive 2002/83/EC and Article 36(3) of Directive 2005/68/EC shall be included in Tier 2 basic own funds for up to 10 years after the date referred to in Article 310.</i></p> <p><i>8. With respect to insurance and reinsurance undertakings investing in tradable securities or other financial instruments based on repackaged loans that were issued before 1 January 2011, the requirements referred to in Article 135(2)(a) shall apply from 31 December 2014, but only in circumstances where new underlying exposures are added or substituted after 31 December 2014.</i></p> <p><i>9. The standard parameters to be used for equities that the undertaking purchased on or before ...*, when calculating the equity risk sub-module in accordance with the standard formula without the option set out in Article 304 shall be calculated as the weighted averages of:</i></p> <p><i>(a) the standard parameter to be used when calculating the equity risk sub-module in accordance with Article 304; and</i></p> <p><i>(b) the standard parameter to be used when calculating the equity risk sub-module in accordance with the standard formula without the option set out in</i></p>	
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<p>establishment of technical provisions which are adopted pursuant to Article 20 of Directive 2002/83/EC, Article 15 of Directive 73/239/EEC and Article 32 of Directive 2005/68/EC;</p> <p>(g) with regard to Articles 308a(7), the length of the transitional period which may be shorter than the maximum of 10 years, the phasing of the transitional period, the specification of the own fund items subject to the transitional, and the transitional requirements as to the classification of own fund items, which will apply to those specified own funds items and requiring that during the transitional period insurance and reinsurance undertakings comply at least with the laws, regulations and administrative provisions adopted pursuant to Article 27 of Directive 2002/83/EC, Article 16 of Directive 73/239/EEC and Article 36 of Directive 2005/68/EC in respect of those own fund items;</p> <p>(h) with regard to Articles 308a(8), the length of the transitional period which may be shorter than the maximum of 10 years, any phasing of the transitional period and any transitional requirements as to the calculation and use of a transitional Solvency Capital Requirement. The calculation of the transitional Solvency Capital requirement may include modifications to the stresses, scenarios, correlation coefficients and parameters of the Solvency Capital</p>		<p>Article 304.</p> <p><i>The weight for the parameter expressed in point (b) of the first subparagraph shall increase at least linearly at the end of each year from 0 % during the year starting on 1 January 2014 to 100 % as from 7 years after 1 January 2014.</i></p> <p><i>The Commission shall adopt delegated acts in accordance with Article 301a further specifying the criteria to be met, including the equities that may be subject to the transitional period.</i></p> <p><i>In order to ensure uniform conditions of application of that transitional period, EIOPA shall develop draft implementing technical standards on the procedures to be followed for the application of this paragraph.</i></p> <p><i>EIOPA shall submit those draft implementing technical standards to the Commission by [...].</i></p> <p><i>Power is conferred on the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.</i></p> <p>10. Where, on ...*, Member States applied provisions referred to in Article 4 of Directive 2003/41/EC, such Member States may, until amendments to Articles 17 to 17c of Directive 2003/41/EC have been adopted, continue to apply the laws,</p>	
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<p>Requirement standard formula that would otherwise apply. The delegated act shall also require that insurance and reinsurance undertakings comply with a transitional Solvency Capital Requirement that is no higher than the Solvency Capital Requirement and no lower than the sum of the Minimum Capital Requirement and fifty per cent of the difference between the Solvency Capital Requirement and the Minimum Capital Requirement;</p> <p>(i) with regard to Article 308a(9), changes which relate to the choice of calculation method and general principles in calculating group solvency set out in Article 220 to 229 and Articles 230 to 233 and Article 235 in relation to the methods for calculating group solvency. The delegated acts may also set out the changes which relate to the calculation of group solvency under supervision at group level as referred to in Article 213(2)(c), where the equivalent supervision is absent as referred to in Article 262. Those changes to the calculation of group own funds and the group solvency capital requirement shall be consequential to any transitional requirements on own funds classification and the Solvency Capital Requirement which apply at the level of individual insurance or reinsurance undertakings during the transitional period as referred to in Article 308a(7) and Article 308a(8) The delegated act shall require that insurance and reinsurance undertakings</p>		<p>regulations and administrative provisions that had been adopted by them with a view to complying with Articles 1 to 19, 27 to 30, 32 to 35 and 37 to 67 of Directive 2002/83/EC as in force on the last date of application of Directive 2002/83/EC.</p> <p>11. Third countries applying legislation which is recognised as equivalent to this Directive may apply transitional periods equivalent to those laid down in paragraphs 1 to 10.</p> <p>12. Member States may allow the ultimate parent insurance or reinsurance undertaking during a period of up to seven years after the date referred to in Article 309(1) to apply for the approval of an internal group model applicable to a part of a group where both the undertaking and the ultimate parent undertaking are located in the same member state and if this part forms a distinct part having a significantly different risk profile from the rest of the group.</p>	
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	<p>ensure that eligible own funds, taking account of the transitional provisions in Article 308a(7), are available in the group. Those eligible own funds shall be at least equal to a group Solvency Capital Requirement which shall be calculated by reference to the calculation method of the transitional Solvency Capital Requirement referred to in Article 308a(8) or the amount of the transitional Solvency Capital Requirement;</p> <p>(j) with regard to Article 254(2)), changes which relate to the information to be reported to the authorities responsible for exercising group supervision which are consequential to the requirements for supervisory reporting at the level of individual insurance or reinsurance undertakings which apply during the transitional period referred to in Article 308a(1))</p> <p>(k) with regard to Article 256(1) changes which relate to the content and timing of the information which must be publicly disclosed and which are consequential to the requirements for public disclosure at the level of individual insurance or reinsurance undertakings which apply during the transitional period as referred to in Article 308a(4)."</p>		<p>Article 308c Matching adjustment for certain life insurance obligations</p> <p>1. By way of derogation from Articles 75,</p>	
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			<p><i>76 and 77, Member States may allow life insurance undertakings to calculate the rates of the relevant risk-free interest rate term structure to calculate the best estimate with respect to life insurance obligations with a matching adjustment as set out in paragraphs 2 and 3, provided that the following conditions relating to the life insurance obligations and the assets covering them are met:</i></p> <p><i>(a) the life insurance undertaking has assigned a portfolio of assets, consisting of bonds and other assets with similar cash-flow characteristics, to cover the best estimate of the portfolio of life insurance obligations and maintains that assignment over the lifetime of the obligations, except for the purpose of maintaining the replication of cash-flows between assets and liabilities where the cash-flows have materially changed such as the default of a bond;</i></p> <p><i>(b) the portfolio of life insurance obligations to which the matching adjustment is applied and the assigned portfolio of assets are ring-fenced, managed and organised separately from the other activities of the life insurance undertaking, without any possibility of transfer;</i></p> <p><i>(c) the future cash-flows of the assigned portfolio of assets replicate each of the future cash-flows of the portfolio of life insurance obligations in the same currency and any mismatch does not</i></p>	
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			<p><i>give rise to risks which are material in relation to the risks inherent in the life insurance business to which a matching adjustment is applied;</i></p> <p><i>(d) the life insurance contracts underlying the portfolio of life insurance obligations do not give rise to future premium payments;</i></p> <p><i>(e) the only underwriting risks connected to the portfolio of life insurance obligations are longevity risk, expense and revision risk and the contracts underlying the life insurance obligations include no options for the policy holder or only a surrender option where the surrender value does not exceed the value of the assets, valued in accordance with Article 75, covering the life insurance obligations at the time the surrender option is exercised;</i></p> <p><i>(f) the cash-flows of the assets of the assigned portfolio of assets are fixed;</i></p> <p><i>(g) the cash-flows of the assets of the assigned portfolio of assets cannot be changed by the issuers of the assets or any third parties;</i></p> <p><i>(h) no assets of the assigned portfolio of assets have a credit quality below the adequate credit quality determined in accordance with paragraph 7;</i></p> <p><i>(i) the life insurance undertaking publicly discloses the application of the</i></p>	
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			<p><i>matching adjustment in accordance with this Article and the monetary effect on its financial position;</i></p> <p><i>(j) the activities of the life insurance undertaking in relation to which the matching adjustment is applied in accordance with this Article are pursued only in the Member State where the undertaking has been authorised;</i></p> <p><i>(k) the supervisory authority has approved the application of the matching adjustment to the portfolio of life insurance obligations where it is satisfied that the requirements set out in points (a) to (j) are complied with.</i></p> <p><i>Where cash-flows of the life insurance obligations as referred to in point (f) depend on inflation, the life insurance undertaking may use assets where the cash-flows are fixed except for a dependence on inflation, provided that those assets replicate the inflation included cash-flows of the portfolio of life insurance obligations.</i></p> <p><i>2. For each currency and in respect of each maturity the matching adjustment shall be calculated in accordance with the following principles:</i></p> <p><i>(a) the matching adjustment shall be equal to the difference of the following:</i></p> <p><i>(i) the annual effective rate, calculated as the single discount rate that, where</i></p>	
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			<p><i>applied to the cash-flows of the portfolio of life insurance obligations, results in a value that is equal to the value in accordance with Article 75 of the portfolio of assigned assets; and</i></p> <p><i>(ii) the annual effective rate, calculated as the single discount rate that, where applied to the cash-flows of the portfolio of life insurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of life insurance obligations where the time value is taken into account using the basic risk-free interest rate term structure;</i></p> <p><i>(b) the matching adjustment shall not include the fundamental spread reflecting the risks retained by the life insurance undertaking;</i></p> <p><i>(c) the matching adjustment shall provide the right management incentives, taking into account at least the credit quality of the assigned assets.</i></p> <p><i>3. For the purposes of paragraph 2(b) the fundamental spread shall be:</i></p> <p><i>(a) assessed dynamically on an ongoing basis, and shall be equal to the sum of the following:</i></p> <p><i>(i) the credit spread corresponding to the probability of default of the assets; and</i></p> <p><i>(ii) the credit spread corresponding to the expected loss resulting from downgrading of the asset.</i></p> <p><i>(b) no lower than 75 % of the long term</i></p>	
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			<p><i>average of the spread over the basic risk free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets.</i></p> <p><i>The probability of default referred to in point (a)(i) shall be based on long-term default statistics that are relevant for the asset in relation to its duration, credit quality and asset class.</i></p> <p><i>4. Life insurance undertakings applying the calculation method laid down in paragraphs 2 and 3 shall not be allowed to apply any other adjustments to the risk-free interest rate term structure. Life insurance undertakings that apply the matching adjustment to a portfolio of life insurance obligations shall not revert back to the approach that does not include a matching adjustment. Where a life insurance undertaking that applies the matching adjustment is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and take the necessary measures to restore compliance with these conditions. Where such undertaking is not able to restore compliance with these conditions within two months it shall cease applying the matching adjustment to any of its life insurance obligations and shall only be able to apply the matching adjustment again after a period of 24 months.</i></p> <p><i>5. Life insurance undertakings applying the matching adjustment laid down in</i></p>	
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			<p><i>this Article shall not be allowed to apply the adapted relevant risk-free interest rate term structure referred to in Article 77a or the symmetric adjustment mechanism referred to in Article 106a.</i></p> <p><i>6. The Commission shall adopt delegated acts in accordance with Article 301a further specifying:</i></p> <p><i>(a) the criteria to be met by life insurance undertakings in order to be eligible to apply the matching adjustment referred to in this Article;</i></p> <p><i>(b) the criteria in order to approve and verify the compliance with the requirements set out in paragraph 1;</i></p> <p><i>(c) the assumptions and methods to apply in the calculation of the fundamental spread referred to in paragraph 3;</i></p> <p><i>(d) the criteria to verify compliance with the requirements set out in paragraph 2(c).</i></p> <p><i>7. In order to ensure consistent harmonisation in relation to the credit quality of the assets, EIOPA shall develop draft regulatory technical standards to specify the credit quality of the assigned assets, which shall be higher than the minimum quality generally considered to be investment grade, for the purposes of paragraph 1(h), including, where relevant,</i></p>	
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			<p><i>appropriate limits necessary to guarantee an adequate credit quality of all assets for the undertaking as a whole.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>8. Where life insurance undertakings calculate all or a material part of their technical provisions with a relevant risk-free interest rate term structure that includes a matching adjustment larger than zero, they shall submit to the supervisory authority annually the following written information:</i></p> <p><i>(a) a description of the impact of a reduction of the matching adjustment to zero;</i></p> <p><i>(b) where the reduction of the matching adjustment to zero would result in non-compliance with the Solvency Capital Requirement, an analysis of the undertaking's plans to re-establish in such a situation the level of eligible own funds covering the Solvency Capital Requirement or to reduce the risk profile to ensure compliance with the Solvency Capital Requirement;</i></p> <p><i>(c) the amount of technical provisions</i></p>	
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			<p><i>for life insurance obligations to which the matching adjustment is applied.</i></p> <p><i>9. EIOPA, in close cooperation with the ESRB, and after conducting a public consultation, shall assess the application of Articles 77a, 77b, 106, 106a, 304 and paragraphs 1 to 8 of this Article, including the delegated and implementing acts adopted pursuant thereto. That assessment shall be made in relation to the availability of long-term guarantees in life insurance products, the behaviour of life insurance undertakings as long-term investors and, more generally, financial stability. Based on that assessment, the Commission shall send a report to the European Parliament and to the Council by 1 January 2021, or, where appropriate for the matching adjustment, by 1 January 2019.</i></p> <p><i>The report shall focus, in particular, on the effects on:</i></p> <p><i>(a) the functioning and stability of European life insurance markets;</i></p> <p><i>(b) the internal market and in particular competition and level playing field in European life insurance markets;</i></p> <p><i>(c) policy holder protection;</i></p> <p><i>(d) the extent to which life insurance undertakings continue to operate as long-term investors;</i></p>	
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			<p><i>(e) the availability and pricing of annuity products;</i></p> <p><i>(f) the availability and pricing of other (competing) products;</i></p> <p><i>(g) long-term investment strategies by undertakings in relation to products to which paragraphs 1 to 7 is applied relative to those in relation to other long-term guarantees;</i></p> <p><i>(h) consumer choice and consumer awareness of risk;</i></p> <p><i>(i) well-diversified and less well-diversified life insurance undertakings; and</i></p> <p><i>(j) other effects on the real economy.</i></p> <p><i>In addition, the report shall build on the supervisory experience with the application of Articles 77a, 77b, 106, 106a, 304 and paragraphs 1 to 8 of this Article including the delegated and implementing acts adopted pursuant thereto.</i></p> <p><i>The report shall be followed, if necessary, by appropriate legislative proposals.</i></p> <p><i>10. Where the report referred to in paragraph 9 concludes that the matching adjustment is not the appropriate measure in the context of a</i></p>	
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			<p><i>well-functioning and stable life insurance market and the underlying principles of this Directive, the Commission shall adopt a delegated act in accordance with Article 301a to replace this Article with the following transitional provisions for the application of the matching adjustment:</i></p> <p>Article 308c</p> <p>Transitional measure for the matching adjustment for certain life insurance obligations</p> <p><i>1. By way of derogation from Articles 75, 76 and 77, Member States may allow life insurance undertakings to calculate the rates of the relevant risk-free interest rate term structure to calculate the best estimate with respect to life insurance obligations with a matching adjustment as set out in paragraphs 2 and 3, provided that the following conditions relating to the life insurance obligations and the assets covering them are met:</i></p> <p><i>(a) the life insurance undertaking has assigned a portfolio of assets, consisting of bonds and other assets with similar cash-flow characteristics, to cover the best estimate of the portfolio of life insurance obligations and maintains that assignment over the lifetime of the obligations, except for the purpose of maintaining the replication of cash-flows between assets and liabilities where the cash-flows have materially changed such as the default of a bond;</i></p>	
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			<p><i>(b) the portfolio of life insurance obligations to which the matching adjustment is applied and the assigned portfolio of assets are ring-fenced, managed and organised separately from the other activities of the life insurance undertaking, without any possibility of transfer;</i></p> <p><i>(c) the future cash-flows of the assigned portfolio of assets replicate each of the future cash-flows of the portfolio of life insurance obligations in the same currency and any mismatch does not give rise to risks which are material in relation to the risks inherent in the life insurance business to which a matching adjustment is applied;</i></p> <p><i>(d) the life insurance contracts underlying the portfolio of life insurance obligations do not give rise to future premium payments;</i></p> <p><i>(e) the only underwriting risks connected to the portfolio of life insurance obligations are longevity risk, expense and revision risk; the contracts underlying the life insurance obligations include no options for the policy holder or only a surrender option where the surrender value does not exceed the value of the assets, valued in accordance with Article 75, covering the life insurance obligations at the time the surrender option is exercised;</i></p>	
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			<p><i>(f) the cash-flows of the assets of the assigned portfolio of assets are fixed;</i></p> <p><i>(g) the cash-flows of the assets of the assigned portfolio of assets cannot be changed by the issuers of the assets or any third parties;</i></p> <p><i>(h) no assets of the assigned portfolio of assets have a credit quality below the adequate credit quality determined in accordance with paragraph 7;</i></p> <p><i>(i) the life insurance undertaking publicly discloses the application of the matching adjustment in accordance with this Article and the monetary effect on its financial position;</i></p> <p><i>(j) the activities of the life insurance undertaking in relation to which the matching adjustment is applied in accordance with this Article are pursued only in the Member State where the undertaking has been authorised;</i></p> <p><i>(k) the supervisory authority has approved the application of the matching adjustment to the portfolio of life insurance obligations where it is satisfied that the requirements set out in points (a) to (j) are complied with;</i></p> <p><i>Where cash-flows of the life insurance obligations as referred to in point (f) depend on inflation, the life insurance undertaking may use assets where the cash-flows are fixed except for a</i></p>	
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			<p><i>dependence on inflation, provided that those assets replicate the inflation included cash-flows of the portfolio of life insurance obligations.</i></p> <p><i>2. For each currency and in respect of each maturity the matching adjustment shall be calculated in accordance with the following principles:</i></p> <p><i>(a) the matching adjustment shall be equal to the difference of the following:</i></p> <p><i>(i) the annual effective rate, calculated as the single discount rate that, where applied to the cash-flows of the portfolio of life insurance obligations, results in a value that is equal to the value in accordance with Article 75 of the portfolio of assigned assets; and</i></p> <p><i>(ii) the annual effective rate, calculated as the single discount rate that, where applied to the cash-flows of the portfolio of life insurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of life insurance obligations where the time value is taken into account using the basic risk-free interest rate term structure.</i></p> <p><i>(b) the matching adjustment shall not include the fundamental spread reflecting the risks retained by the life insurance undertaking.</i></p> <p><i>(c) the matching adjustment shall provide the right management</i></p>	
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			<p><i>incentives, taking into account at least the credit quality of the assigned assets.</i></p> <p><i>3. For the purposes of paragraph 2(b) the fundamental spread shall be:</i></p> <p><i>(a) assessed dynamically on an ongoing basis, and equal to the sum of the following:</i></p> <p><i>(i) the credit spread corresponding to the probability of default of the assets; and</i></p> <p><i>(ii) the credit spread corresponding to the expected loss resulting from downgrading of the asset.</i></p> <p><i>(b) no lower than 75 % of the long-term average of the spread over the basic risk free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets.</i></p> <p><i>The probability of default referred to in point (a)(i) shall be based on long-term default statistics that are relevant for the asset in relation to its duration, credit quality and asset class.</i></p> <p><i>4. Life insurance undertakings applying the calculation method laid down in paragraphs 2 and 3 shall not be allowed to apply any other adjustments to the risk-free interest rate term structure. Life insurance undertakings that apply the matching adjustment to a portfolio of life insurance obligations shall not revert back to the approach that does not include a matching adjustment. Where a life insurance undertaking that applies</i></p>	
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			<p><i>the matching adjustment is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and take the necessary measures to restore compliance with these conditions. Where such undertaking is not able to restore compliance with these conditions within two months it shall cease applying the matching adjustment to any of its life insurance obligations and shall only be able to apply the matching adjustment again after a period of 24 months.</i></p> <p><i>5. Life insurance undertakings applying the matching adjustment laid down in this Article shall not be allowed to apply the adapted relevant risk-free interest rate term structure referred to in Article 77a or the symmetric adjustment mechanism referred to in Article 106a.</i></p> <p><i>6. The Commission shall adopt delegated acts in accordance with Article 301a further specifying:</i></p> <p><i>(a) the criteria to be met by life insurance undertakings in order to be eligible to apply the matching adjustment referred to in this Article;</i></p> <p><i>(b) the criteria in order to approve and verify the compliance with the requirements set out in paragraph 1;</i></p> <p><i>(c) the assumptions and methods to apply in the calculation of the fundamental spread referred to in</i></p>	
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			<p>paragraph 3:</p> <p><i>(d) the criteria to verify compliance with the requirements set out in paragraph 2(c).</i></p> <p><i>7. In order to ensure consistent harmonisation in relation to the credit quality of the assets, EIOPA shall develop draft regulatory technical standards to specify the credit quality of the assigned assets, which shall be higher than the minimum quality generally considered to be investment grade, for the purposes of paragraph 1 point h, including, where relevant, appropriate limits necessary to guarantee an adequate credit quality of all assets for the undertaking as a whole.</i></p> <p><i>EIOPA shall submit those draft regulatory technical standards to the Commission by [...].</i></p> <p><i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</i></p> <p><i>8. Where life insurance undertakings calculate all or a material part of their technical provisions with a relevant risk-free interest rate term structure that includes a matching adjustment larger than zero, they shall submit to the supervisory authority annually the following written information:</i></p>	
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			<p><i>(a) a description of the impact of a reduction of the matching adjustment to zero;</i></p> <p><i>(b) where the reduction of the matching adjustment to zero would result in non-compliance with the Solvency Capital Requirement, an analysis of the undertaking's plans to re-establish in such a situation the level of eligible own funds covering the Solvency Capital Requirement or to reduce the risk profile to ensure compliance with the Solvency Capital Requirement;</i></p> <p><i>(c) the amount of technical provisions for life insurance obligations to which the matching adjustment is applied.</i></p> <p><i>9. For each currency and in respect of each maturity the interest rate shall be calculated as the weighted average of:</i></p> <p><i>(a) the interest rate referred to in paragraphs 1 to 8; and</i></p> <p><i>(b) the interest rate for that maturity of the relevant risk-free interest rate term structure as measured in accordance with Articles 75, 76 and 77.</i></p> <p><i>The weight for the interest rate shall increase at least linearly at the end of each year from one-seventh during the first year of application of this Article, to 100 % as from seven years after the application date of this Directive."</i></p>	
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Art. 2 point 72 Art. 309 para 1	<p>(72) In Article 309(1), the first subparagraph is replaced by the following:</p> <p>"Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with Articles 4, 10, 13, 18, 23, 26 to 32, 34 to 49, 51 to 55, 67, 68, 71, 72, 74 to 85, 87 to 91, 93 to 96, 98, 100 to 110, 112, 113, 115 to 126, 128, 129, 131-134, 136-142, 144, 146, 148, 162 to 167, 172, 173, 178, 185, 190, 192, 210 to 233, 235-240, 243 to 258, 260 to 263, 265, 266, 303 and 304 and Annexes III and IV by 31 December 2012.</p> <p>Member States shall apply those provisions from 1 January 2013."</p>	<p>(72) In Article 309(1), the first subparagraph is replaced by the following:</p> <p>"Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with Articles 4, 10, 13, <u>14</u>, 18, 23, 26 to 32, 34 to 49, 51 to 55, 67, 68, 71, 72, 74 to 85, 87 to 91, 93 to 96, 98, 100 to 110, 112, 113, 115 to 126, 128, 129, 131-134, 136-142, 144, 146, 148, 162 to 167, 172, 173, 178, 185, 190, 192, 210 to 233, 235-240, 243 to 258, 260 to 263, 265, 266, 303, 304, <u>308a and 309a, as well as</u> Annexes III and IV by <u>31 March 2013</u>. [...]</p> <p><u>Member States shall apply the laws, regulations and administrative provisions referred to in the first subparagraph from 1 January 2014.</u></p> <p><u>Notwithstanding the second subparagraph and exclusively for the purposes of the assessments carried out on the basis of Articles 90, 95, 104(7), 112, 113, 211, 230, 231, 304 and 308a, Member States shall apply the laws, regulations and administrative provisions referred to in the first subparagraph from 1 June 2013.</u></p> <p><u>Notwithstanding the second subparagraph, Member States shall apply the laws, regulations and administrative provisions necessary to comply with Article 309a from 1 April 2013.</u></p> <p><u>The supervisory authorities' decisions regarding approvals taken in accordance with Articles 90, 95, 104(7), 112, 113,</u></p>	<p>(72) <i>in Article 309, paragraph 1</i> is replaced by the following:</p> <p>"1. Member States shall <i>bring into force</i> the laws, regulations and administrative provisions necessary to comply with Articles 4, 10, 13, <i>14, Article 17(3), Articles</i> 18, 23, 26 to 32, 34 to 49, 51 to 55, <i>Article 58(8)</i>, Articles 67, 68, 71, 72, 74 to 85, 87 to 91, 93 to 96, 98, 100 to 110, 112, 113, 115 to 126, 128, 129, <i>131 to 134, 136 to 142, 143</i>, 144, 146, 148, 162 to 167, 172, 173, 178, 185, 190, 192, 210 to 233, <i>235 to 240</i>, 243 to 258, 260 to 263, 265, 266, 303 and 304, and Annexes III and IV by 31 December 2012. <i>They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</i>";</p>
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		<p><u>211, 230, 231, 304 and 308a shall not become applicable before 1 January 2014. By way of derogation of Article 112(4), the supervisory authorities shall decide on the application within six months from the receipt of the complete application or on 31 December 2013, whichever is the latest.</u></p> <p><u>By way of derogation of Article 231(2), the supervisory authorities concerned shall do everything within their power to reach a joint decision on the application within six months from the date of receipt of the complete application by the group supervisors or on 31 December 2013, whichever is the latest. The same shall apply mutatis mutandis to the six months period referred to in Article 231(5) and (6)."</u></p>		
<p>Art. 2 point 72 a (new)</p> <p>Article 309 a (new)</p>		<p><u>(72a) The following Article 309a is inserted:</u></p> <p><u>"Article 309a</u> <u>Implementation plan</u></p> <p><u>1. Supervisory authorities shall [...] require insurance and reinsurance undertakings to provide by 1 June 2013 an implementation plan providing evidence of the progress made in view of the preparation for the application of the laws, regulations and administrative provisions referred to in the first subparagraph of Article 309(1).</u></p> <p><u>2. The implementation plan shall contain information on the state of preparedness of insurance and reinsurance undertakings</u></p>		



		<p><u>to operate in accordance with this Directive, inter alia with respect to the valuation of assets and liabilities, the calculation of capital requirements, the adaptation of a system of governance, including the Own Risk and Solvency Assessment, and the adaptation of processes and procedures for supervisory reporting and public disclosure. The implementation plan shall also contain information concerning how insurance and reinsurance undertakings will achieve the full readiness to operate in accordance with Directive 2009/138/EC and whether they intend, where possible, to make use of any of the provisions contained in Article 3a, Article 135(2)(a), Article 138(3a), Article 172(4) to (6), Article 227(6) to (8), 260(4) to (7) and 308a.</u></p> <p><u>3. Supervisory authorities may require insurance and reinsurance undertakings to provide the necessary information on the actions outlined in the implementation plan.”</u></p>		
<p>Art. 2 point 72b (new)</p> <p>Article 309b (new)</p>		<p>(72b) The following Article 309b is inserted:</p> <p>“Article 309b</p> <p><u>Guidelines on implementation plan</u></p> <p><u>In accordance with Article 16 of Regulation (EU) No 1094/2010 and Article 29(3) of Directive 2009/138/EC, EIOPA shall, by 31 March 2013, issue guidelines as regards the requirements related to the implementation plan.”</u></p>		



Art. 2 point 73 Art. 310 para 1	(73) In Article 310, the date "1 November 2012" in the first paragraph is replaced by the date "1 January 2013".	(73) In Article 310, the date "1 November 2012" in the first paragraph is replaced by the date "1 January 2014".	(73) <i>in the first paragraph of</i> Article 310, the date "1 November 2012" is replaced by the date " 1 January 2014 ".	
Art. 2 point 73a (new) Art. 310a (new)			<p><i>(73a) the following Article is inserted:</i></p> <p>"Article 310a Staff and resources of EIOPA</p> <p><i>EIOPA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Directive and submit a report to the European Parliament, the Council and the Commission."</i></p>	
Art. 2 point 74 Art. 311	<p>(74) The second paragraph of Article 311 is replaced by the following:</p> <p>"Articles 1, 2, 3, 5 to 9, 11, 12, 14 to 17, 19-22, 24, 25, 33, 57 to 66, 69, 70, 73, 143, 145, 147, 149 to 161, 168 to 171, 174 to 177, 179 to 184, 186 to 189, 191, 193 to 209, 267 to 300, 302, 305- to 08 and Annexes I and II, V, VI and VII shall apply from 1 January 2013."</p>	<p>(74) The second paragraph of Article 311 is replaced by the following:</p> <p>Articles 1, 2, 3, 5 to 9, 11, 12, <u>15</u> to 17, 19-22, 24, 25, 33, <u>56</u> to 66, 69, 70, 73, 143, 145, 147, 149 to 161, 168 to 171, 174 to 177, 179 to 184, 186 to 189, 191, 193 to 209, 267 to 300, 302, 305- to <u>308</u> and Annexes I and II, V, VI and VII shall apply from 1 January <u>2014</u>.</p> <p><u>Exclusively for the purposes of the assessments carried out on the basis of Articles 90, 95, 104(7), 112, 113, 211, 230, 231, 304 and 308a, the Articles referred to in the second paragraph shall apply from 1 June 2013."</u></p>	<p>(74) Article 311 is replaced by the following:</p> <p>"Article 311 Entry into force</p> <p>This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>Articles 308a und 308b shall apply from 1 January 2013.</p> <p>Articles 1, 2, 3, 5 to 9, 11, 12, 15, 16, Article 17(2), Articles 19 to 22, 24, 25, 33, 57, Article 58(1) to (7), Articles 59 to 66, 69, 70, 73, 145, 147, 149 to 161, 168 to 171, 174 to 177, 179 to 184, 186 to 189, 191, 193 to 209, 267 to 300, 302, 305 to 308, and Annexes I and II, V, VI and VII shall apply from 1 January</p>	



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			<p>2014.</p> <p><i>The Commission may adopt delegated acts, regulatory and implementing technical standards prior to the date referred to in the third paragraph."</i></p>	
Art. 2 point 75	(75) In Annex III, part A, point 28 is replaced by the following:	(75) In Annex III, part A, point 28 is replaced by the following:	(75) in Annex III, part A, point 28 is replaced by the following:	
Annex III, part A, point 28	"28. in any event and as an alternative to the forms of non-life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Council Regulation (EC) No 2157/2001(1)"	"28. in any event and as an alternative to the forms of non-life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Council Regulation (EC) No 2157/2001(1)"	"28. in any event and as an alternative to the forms of non-life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Council Regulation (EC) No 2157/2001(1)";	
Art. 2 point 76	(76) In Annex III, part A, the following point 29 is added:	(76) In Annex III, part A, the following point 29 is added:	(76) in Annex III, part A, the following point is added:	
Annex III, part A, point 28 a (new)	"29. in any event and as an alternative to the forms of non-life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Council Regulation (EC) No 1435/2003(*)." * OJ L 207, 18.8.2003, p. 1.	"29. [...] <u>to the extent that Member States allow for the legal form of a cooperative society to take up the business of non-life insurance</u> , [...] as an alternative to the forms of non-life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Council Regulation (EC) No 1435/2003(1)."	"29. <i>to the extent that the Member State concerned allows for the legal form of a cooperative society to take up the business of non-life insurance</i> and as an alternative to the forms of non-life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Council Regulation (EC) No 1435/2003 ² .";	
Art. 2 point 77	(77) In Annex III, part B, point 28 is replaced by the following:	(77) In Annex III, part B, point 28 is replaced by the following:	(77) in Annex III, part B, point 28 is replaced by the following:	
Annex III, part B, point 28	"28. in any event and as an alternative to the forms of life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as	"28. in any event and as an alternative to the forms of life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as	"28. in any event and as an alternative to the forms of life insurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as	

¹ OJ L 207, 18.8.2003, p. 1.

² OJ L 207, 18.8.2003, p. 1.



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	defined in Regulation (EC) No 2157/2001"	defined in Regulation (EC) No 2157/2001."	defined in Regulation (EC) No 2157/2001";	
Art. 2 point 78 Annex III, part B, point 28 a (new)	(78) In Annex III, part B, point 29 is added: "29. in any event and as an alternative to the forms of life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003."	(78) In Annex III, part B, point 29 is added: "29. [...] <u>to the extent that Member States allow for the legal form of a cooperative society to take up the business of life insurance</u> , [...] as an alternative to the forms of life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003."	(78) in Annex III, part B, <i>the following</i> point is added: "29. <i>to the extent that the Member State concerned allows for the legal form of a cooperative society to take up the business of life insurance</i> and as an alternative to the forms of life insurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003."	
Art. 2 point 79 Annex III, part C, point 28	(79) In Annex III, part C, point 28 is replaced by the following: "28. in any event and as an alternative to the forms of reinsurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Regulation (EC) No 2157/2001"	(79) In Annex III, part C, point 28 is replaced by the following: "28. in any event and as an alternative to the forms of reinsurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Regulation (EC) No 2157/2001"	(79) In Annex III, part C, point 28 is replaced by the following: "28. in any event and as an alternative to the forms of reinsurance undertaking listed in points (1) to (27) and (29), the form of a European Company (SE) as defined in Regulation (EC) No 2157/2001"	
Art. 2 point 80 Annex III, part C, point 28 a (new)	(80) In Annex III, part C, point 29 is added: "29. in any event and as an alternative to the forms of reinsurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003."	(80) In Annex III, part C, point 29 is added: "29. [...] <u>to the extent that Member States allow for the legal form of a cooperative society to take up the business of reinsurance</u> , [...] as an alternative to the forms of reinsurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003."	(80) in Annex III, part C, <i>the following</i> point is added: "29. <i>to the extent that the Member State concerned allows for the legal form of a cooperative society to take up the business of reinsurance</i> and as an alternative to the forms of reinsurance undertaking listed in points (1) to (28), the form of a European Cooperative Society (SCE) as defined in Regulation (EC) No 1435/2003.";	
Art. 2 point 81	(81) The correlation table in Annex VII is amended as follows:	(81) The correlation table in Annex VII is amended as follows:	(81) the correlation table in Annex VII is amended as follows:	



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Annex VII	(a) Under "This Directive", Article 13(27) is inserted as corresponding to Article 5, point (d) of directive 73/239/EEC. (b) Under "This Directive", the references to Article 210(1)(f) and Article 210(1) (g) shall be replaced respectively with references to Article 212(1) (f) and Article 212(1)(g).	(a) Under "This Directive", Article 13(27) is inserted as corresponding to Article 5, point (d) of directive 73/239/EEC. (b) Under "This Directive", the references to Article 210(1)(f) and Article 210(1) (g) shall be replaced respectively with references to Article 212(1) (f) and Article 212(1)(g).	(a) Under "This Directive", Article 13(27) is inserted as corresponding to Article 5(d) of Directive 73/239/EEC. (b) Under "This Directive", the references to Article 210(1)(f) and █ (g) are replaced respectively with references to Article 212(1)(f) and █ (g).	
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ARTICLE 2a Amendments to Regulation (EC) No 1060/2009 (Credit Rating Agencies)				
Art 2 a (new)			<p><i>Article 2a</i> <i>Amendments to Regulation (EC) No 1060/2009</i></p> <p><i>Regulation (EC) No 1060/2009 is amended as follows:</i></p> <p><i>Article 2(3) is replaced by the following:</i> "3. A credit rating agency shall apply for registration under this Regulation as a condition for being recognised as an External Credit Assessment Institution (ECAI) in accordance with Article 81 of Directive 2006/48/EC or Article 109a of Directive 2009/138/EC, unless it only issues the credit ratings referred to in paragraph 2."</p>	

ARTICLE 2b Revision				
Art. 2b (new)			<p><i>Article 2b</i> <i>Revision</i></p>	



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			<p><i>The Commission shall, by 1 January 2015 and every year thereafter, submit to the European Parliament and to the Council a report specifying whether the ESAs have submitted the draft regulatory and implementing technical standards provided for in Directives 2002/92/EC, 2003/71/EC and 2009/138/EC, whether the submission of such draft regulatory technical or implementing standards is mandatory or optional, with any appropriate proposals.</i></p>	
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ARTICLE 3 Transposition				
Art. 3 para 1	<p><i>Article 3</i> <i>Transposition</i></p> <p>1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with Article 1(1), Article 2(3), Article 2(6), Article 2(8), Article 2(9) Article 2(12), Article 2(13), Article 2(24), Article 2(25), Article 2(28), Article 2(30), Article 2(32), Article 2(33), , Article 2(39), Article (41) to (42), Article 2(44) to 2(46), Article 2(52) to (54), Article 2(56), Article 2(58), Article 2(61) to (62), Article 2(67), Article 2(69), Article 2(70), and Article 2(71) to 2(80) of this Directive by 31 December 2012 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p>	<p><i>Article 3</i> <i>Transposition</i></p> <p>Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with Article 1(1), Article 2(0), <u>Article 2(3)</u>, Article 2(6), Article 2(8), Article 2(9) Article 2(12), Article 2(13), <u>Article 2(15)</u>, <u>Article 2(20)</u>, Article 2(24), Article 2(25), Article 2(28), <u>Article 2(29a)</u>, Article 2(30), <u>Article 2(31a)</u>, Article 2(32) <u>to (34)</u>, <u>Article 2 (37)</u>, <u>Article 2(40)</u>, <u>Article 2(43)</u>, Article 2(45) to 2(46), Article 2(53) to (55), Article 2(57) <u>to (59)</u>, Article 2(62) to (63), <u>Article 2(70)</u>, Article 2(72) to 2(80) of this Directive by <u>31 March 2013</u> at the latest. [...].</p>	<p>Article 3 Transposition</p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1(1) and Article 2(3), (6), (8), (9), (12), (13), (24), (25), (28), (30), (32), (33), (37), (40) to (43), (45), (46), (47), (53) to (55), (57), (59), (62), (63), (66) and (75) to (80) of this Directive by 31 December 2012. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p>	



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	<p>They shall apply those provisions from 1 January 2013.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>They shall apply those provisions from 1 January <u>2014 without prejudice to subparagraphs 3 to 6 of Article 309(1).</u></p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>They shall apply those measures from 1 January 2013.</p> <p>When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	
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ARTICLE 4 Entry into force

Art. 4	<p><i>Article 4</i> <i>Entry into force</i></p> <p>This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. Articles 2(15) and 2(20) shall apply from 1 January 2013.</p>	<p><i>Article 4</i> <i>Entry into force</i></p> <p>This Directive shall enter into force on day following that of its publication in the Official Journal of the European Union.</p>	<p>Article 4 Entry into force</p> <p>This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p><i>Article 2(15), (20) and (59a)</i> shall apply from 1 January 2013.</p>	
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ARTICLE 5 Addressees

Art. 5				
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	<i>Article 5 Addressees</i>	<i>Article 5 Addressees</i>	<i>Article 5 Addressees</i>	
	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	