



Bayer HealthCare



Bayer Consumer Care AG

Contract/Risk Management Process At Bayer

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Lifecycle of the C/R Management Process

1. Preparation of contract negotiation
2. Contract Negotiation, drafting and risk identification
3. Contract execution and preparation for recording the contract in the system
4. Filling in risk questionnaire
5. Monitoring of contract performance and of risk development
6. Termination of contract and post-contractual phase

1. Preparation of Contract Negotiation

- All contracts in system (exception CDA's)
- Check whether future contract = **“essential contract”** (see next slide)
 - ⇒ **No**: only General Contract Management Process
 - ⇒ **Yes**: + Risk Monitoring Process
- Check whether the future contract = **“intragroup contract”**
 - ⇒ **Yes**: only “General Contract Management Process (**contract not essential and no Risk assessment**)
- **Build up a negotiation team** (task of organizational unit of BCC). Integrate members from the legal, accounting and finance departments
- **Nominate** (if already possible at this stage of the process) a future **caretaker** for the contract

Definition of Essential Contract

- places the company under an unconditional or conditional payment obligation, or accords it an unconditional or conditional payment entitlement, **of more than EUR 10.0 million per year;**
and/or
- has a term of **more than three years and** places the individual company under an unconditional or conditional payment obligation, or accords it an unconditional or conditional payment entitlement, **totaling more than EUR 10.0 million over the entire life of the contract;**
and/or
- is essential for the individual company's business. "Essential" in this context means that under the given company's internal rules, **the contract can be signed only with the consent of that company's managing director or management board.**

2. Contract Negotiation, drafting of the future contract and Risk identification

- Contract **negotiation** (negotiation team)
- **Drafting** of the contract (responsible lawyer being a member of the negotiation team)
- **Prior to signing** the final version of an essential contract: **review** by accounting whether business and/or financial **risks** that would have to be reported in Bayer AG's financial reporting
- **Evaluation** and decision as of the execution of the contract (based on the possible risks)
 - ⇒ - : End of Contract Management Process
 - ⇒ + : Preparation for signature of the contract

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- **“Risks of importance”** (according to Bayer guidelines)
 1. Embedded derivatives
 2. Hidden leases
 3. Revenue recognition/non-consolidated companies
 4. Variable-interest entities (VIEs)
 5. Impending losses
 6. Guarantees
 7. Minimum obligations (including obligations to requisition or take back goods or to make payments)
 8. Contingent contractual obligations (e.g., contract penalties, contingent repayment obligations, contingent obligations upon termination of the contract)
 9. Foreign exchange risks
 10. Interest rate risks

3. Contract execution and preparation for recording contract in contract database (Caretaker + Legal)

- **Signing** of the contract (cf. BCC Signature Regulation)
- **Contract datasheet** by the Caretaker, to be given to the Legal Department (see next slide)
- Legal Department: **review** the Contract Datasheet, insertion into the **Contract Database** with **scan copy** of contract
- **Original copy** of contract has to be archived by legal department



Contract DataSheet

4. Risk questionnaire (Caretaker + Accounting)

- Once a contract into the contract database, **automatic filter** by eFiLia to identify contract. If a contract is **essential**:
- **Automatic email** from the system to the **caretaker** asking him to fill in a **risk questionnaire**
- **Caretaker** responsible for the **documentation** of the risk questionnaire (using the risk analysis the accounting department did before contract execution)
- However, **accounting** responsible of the **correctness** of the substantive information to be filled into the risk questionnaire



Risk questionnaire (Caretaker + Accounting) ...

- Automatic email to caretaker's supervisor, responsible accountant and responsible lawyer to **approve** the content of the risk questionnaire
- If **no approbation** of content of risk questionnaire: have to **comment** in a text field in the database why they do not approve
- **Comment** will be sent back to **caretaker** for change of the risk questionnaire
- After such a change the **approval procedure recommence** again

Risk questionnaire (Caretaker + Accounting) ...

- **Risk questionnaire** (mandatory information) (for each risk category)
 - ⇒ **Definition of the risk category** to be applicable
 - ⇒ **Name of the caretaker** for the contract
 - ⇒ **Contractual or legal provision** where the risk comes from (or reason of the risk if it cannot be read out of the contract)
 - ⇒ **Possible damage** that may occur if risk turns into damage
 - ⇒ **Countermeasure** to be taken if risks turn into damage to keep the damage as low as possible
 - ⇒ Give a **name of a person** to be informed once risk may turn into damage
 - ⇒ Setting up a **monitoring plan**

5. Monitoring of contract performance and of risk development (Caretaker)

- The “pure” Contract monitoring process: **same** for essential/non-essential contract.
- **Monitoring** that all **rights** under the contract are duly exercised and all **obligations** are duly fulfilled
- **Amendments** to the contract in writing and respective documents will be inserted **into eFiLia** (must reflect current status contract)
- Ensuring that possible **due dates** mentioned in the contract observed (e.g. for milestone payments)
- **New due dates** can be inserted into eFiLia (automatic escalation emails)

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- For “**Essential contracts**”: not only monitoring of contract performance, but also monitoring of risk development.
 - **Risk monitoring** implies the following:
 - ⇒ Observing whether **risk** in eFiLia may result in a financial charge for Bayer. In such a case, contact the accounting department
 - ⇒ **Review of risk questionnaire** by caretaker every **6 months** (automatic email)
 - ⇒ If risk questionnaire **not accurate**, contact accounting for adaptation
 - Email every **6 months** for **reviewing status of contracts** to possible new situation: essential/NOT essential
 - **System of escalation emails**

6. Termination of contract and post-contractual phase (Caretaker)

- Make sure that the contract is duly **terminated** (contact legal department)
- Check **post-contractual obligations**
- Check with accounting whether **risk assessment process will continue** during the post-termination phase or if the process is to be ended, indicating in the database “no risk”
- After expiry of post-contractual obligations: caretaker make sure that contract gets status “**completely terminated contract**” + inform legal and accounting
- **End** of contract/risk management process