Summary of Comments on CEIOPS-CP-41/09 Consultation Paper on the Draft L2 Advice on TP - Calculation as a whole	CEIOPS-SEC-104-09

CEIOPS would like to thank Association of British Insurers, AVOE – Aktuarvereinigung Österreichs – Actuarial , CEA, CFO Forum, CRO Forum, European Union member firms of Deloitte Touche To, Federation of European Accountants (FEE), FFSA, German Insurance Association – Gesamtverband der D, Groupe Consultatif, Institut des actuaires (France), Investment & Life Assurance Group (ILAG), Munich RE, Pearl Group Limited, and PricewaterhouseCoopers LLP

The numbering of the paragraphs refers to Consultation Paper No. 41 (CEIOPS-CP-41/09)

No.	Name	Reference	Comment	Resolution
1.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	General Comment	Unbundling should be kept optional Unless necessary, unbundling should be kept optional in particular we disagree with the need to split unit linked contracts into their separate components. Examples are necessary in order to understand what some notions could be implying.	Not agree The optional approach proposed is not consistent with the level 1 Directive. The wording has been clarified at some points.
2.	Association of British Insurers	General Comment	We believe the requirements set out in this paper will need to be interpreted in a reasonable and pragmatic fashion. Otherwise, it will be impossible for any kind of liability to meet CEIOPS' criteria for hedgeable cash flows. This would not be a good outcome and would mean ignoring appropriate market data on the valuation of liabilities. We believe the approach taken by QIS 4, which allowed technical provisions to be calculated as a whole where the basis risk was immaterial, was more realistic in this respect. This would be more in line with current market practice.	Not agree The Advice supports restrictions on the calculation as whole of the TP considering this method supposes an exception to one of the principles sets out in the level 1 text, namely the three building blocks in the valuation process and the separated calculation of the Best Estimate and the Risk Margin.

			Technical provisions should be valued consistently with available market prices. We would note that companies can significantly de-risk their business and match their liabilities using appropriate asset strategies, financial derivatives, etc. And it is essential that technical provisions are valued consistently with the market prices of these instruments. In this regard we would reiterate the points made in our response to CP42 that the risk margin should not double count elements such as the market price of market risk. The definition given of a deep, liquid and transparent (DLT) market seems inconsistent with the directive as it appears to require a best estimate plus risk margin (rather than valuing "as a whole" on a market consistent basis) whenever either the possible replicating instruments are not quoted in deep, liquid and transparent markets or whenever there is policyholder behaviour or demographic effects affecting cash flows. The main concern is to ensure that the risk margin should not reflect any financial risk related to the so called "not replicable" obligations. See also our response to CP42 on unavoidable market risk in the risk margin. More examples are requested of situations where it is possible to calculate the technical provisions as a whole The main examples provided in the CP relate to examples where the technical provisions have to be calculated as the sum of two components calculated separately (namely the Best Estimate and the Risk Margin). We request additional examples of where the technical provision can be calculated as a whole. Unbundling should be kept optional	Not agree It corresponds to CP42 Not agree It corresponds to CP42 Noted. The circumstances under which an exception could work are scarce by definition See comment 1

			Unbundling should be kept optional in particular we disagree with the need to split unit linked contracts into their separate components. Proportionality should be taken into account in the proposals to unbundle cash flows. There should be consideration of proportionality. Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risks components of the contract are interdependent). Where the cash-flows that cannot be replicated are a very small proportion (should also consider nature and complexity) of the total cash-flows throughout the duration of the liability, then there shouldn't be a requirement to unbundle these cash-flows to calculate the best estimate and risk margin separately. We support the objective of harmonisation regarding practices to calculate provisions as a whole, which is the objective of CEIOPS' advice.	The calculation of TP as a whole is not a simplified method, but the most accurate in some restricted circumstances, so proportionality doesn't seem to be specifically applicable here, but as the general principle that it is. Noted
3.			Confidential comment deleted.	
4.	AVOE – Aktuarverein igung Österreichs – Actuarial	General Comment	The paper imposes a reasonable approach to evaluate only hedge able risks by their market prices. We welcome that it is very strictly stated that any biometric or insurance risks which can not be replicated by tradable financial instruments is clearly excluded from this approach and should be	Agree Agree

			unbundled.	
5.	CEA, ECO-SLV-09-436	General Comment	We understand that the criteria used to determine whether to treat certain liabilities as hedgeable need to be applied in a prudent manner and that clear criteria are necessary. However this paper imposes criteria that are too strict and means in practice that other than a few instances, no insurance liabilities will satisfy this criteria It is very important to apply the principle of proportionality - where the cash-flows that cannot be replicated are a very small proportion (should also consider nature and complexity) of the total cash flows throughout the duration of the liability, then there shouldn't be a requirement to unbundle these cash flows to calculate the best estimate and risk margin separately. This was the approach taken in QIS4. Understandably, we would expect regular monitoring in place in order to ensure that the non-hedgeable risk remains insignificant in order for this technique to still apply. However, followed strictly, the requirements currently set out in Ceiops' paper make it virtually impossible for any kind of liability to meet Ceiops' criteria for hedgeable cash flows. Technical provisions should be valued consistently with available market prices. Market data is useful and valuable. It needs to be made clear that the requirements should be interpreted in a reasonable and pragmatic way. Unbundling of cash flows should be optional and subject to proportionality Unbundling should be kept optional; in particular we disagree with the need to split unit linked contracts into their separate components.	Not agree See comment 2 para 1 Wording has been improved Not agree The calculation of TP as a whole is not a simplified method, but the most accurate in some restricted circumstances, so proportionality doesn't seem to be specifically applicable here, but as the general principle that it is. Not agree See comment 2 Wording has been improved Not agree See comment 1 Agree

			Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable, for example where cash flows arising from financial and insurance risks components are interdependent. We support the objective of Ceiops' advice, to harmonise practices to calculate provisions as a whole. More examples are requested of situations where it is possible to calculate the technical provisions as a whole The main examples provided in the advice relate to examples where the technical provisions have to be calculated as the sum of the best estimate and the risk margin. We request additional examples of where the technical provisions can be calculated as whole.	4.24 has been amended in this direction Agree Noted. Noted. The circumstances under which an exception could work are scarce by definition
6.	CFO Forum	General Comment	The CFO Forum believes that the scenarios which render cash flows non-replicable are too restrictive. In the current drafting of the consultation paper, the requirements under which cash flows can be replicated are too high a hurdle to be used in practice. We recommend that the requirements are relaxed. See comments in 4.14 and 4.23 for more details.	Not agree see comment 2 The Advice supports restrictions on the calculation as whole of the TP considering this method supposes an exception to one of the principles sets out in the level 1 text, namely the three building blocks in the valuation process and the separated calculation of the Best Estimate and the Risk Margin

			The application of the principle of proportionality should be stated within this guidance. The CFO Forum recommends that this guidance should state that the principle of proportionality applies. For example, in the event where there are cash flows that cannot be replicated, which form a very small portion of the total cash flows, then it should be permissible to calculate the technical provisions as a whole for the total cash flows, without unbundling the non-replicable cash flows.	Noted. Proportionality is always taken into account. The fact is that article 76.4 asks twice for the reliability in the same sentence which clearly means that CEIOPS' advice should consider this feature.
7.	CRO Forum	General Comment	1. 41.A Purpose of the advise should be to ensure preservation of capital structure and governance (priority: high) 2. The CRO Forum does not believe that the purpose of this advice is to prevent a similar financial crisis. The CRO Forum believes that the purpose of this advice is to ensure that capital structure and governance is preserved in the event of another similar crisis. 3. 41.B Overly restrictive definition of hedgeable risks should be avoided (priority: very high) 4. The advice in the paper is very restrictive on the definition for hedgeable risks, increasing the scope of cost of capital risk margin. This is driven by the following: ☐ Hedgeable risks defined as liabilities that can be replicated by financial instruments quoted in deep, liquid and transparent markets. (see General Comment 41.C) ☐ Definition of deep and liquid markets is quite dogmatic, eliminating most financial markets from meeting these criteria.	Not agree It would be irresponsible not to take into account the lessons learn from the current financial crisis The circumstances under which an exception could work are scarce by definition

			Thus a risk margin could be required in respect of financial risk exposures even if the risk is considered hedgeable. ☐ Liability cash flows that depend on non-market risks (referred to as "biometric developments") are considered non-hedgeable, rendering almost all life insurance risks as non-hedgeable, requiring a risk margin for all life risks liabilities. 5. 41.C Definition of deep, liquid and transparent (DLT) market inconsistent with directive (priority: high) 6. The CP defines a DLT market to have prices available to the public. The CRO Forum points out that some DLT markets do not make information available to the public. 7. The paper defines a DLT market as being permanent such that it will remain DLT henceforth. The CRO Forum believes this is unrealistic and the definition of a DLT market should be amended to refer to the expectation that a market will remain DLT.	Not agree The text has been clarified The wording has been improved searching flexibility for these criteria
8.	European Union member firms of Deloitte Touche To	General Comment	We welcome the additional guidance in respect of the valuation of Technical Provisions as a whole. The circumstances in which Technical Provisions shall be calculated as a whole resulting from CEIOPS' advice are very limited. It appears that this reflects CEIOPS' view that it is quite difficult to achieve a reliable replication of future cash-flows associated with (re)insurance obligations using financial instruments traded in deep, liquid and transparent markets. We note that this view needs to be consistent with the provision of the CP 42-09 on the calculation of the Risk Margin, in particular the inclusion and the calculation of the market risk in the SCR. While	Noted Agree The circumstances under which an exception could work are scarce by definition Noted Applicable to cp 42

			we agree with Par. 3.44 of CP 42-09 that replication of cash-flows and elimination of the SCR market risk (according to the standard formula) are different concepts, substance over form suggests that the definition of reliable replication needs to be consistent and when the replication of future cash flows with financial instruments is not possible (and Technical Provisions cannot be valued as a whole) then the Risk Margin should include an appropriate allowance for the market risk in the SCR. In such circumstances, if the market risk is limited to the risk associated with the lack of instruments with a certain maturity then a portion of risk that cannot be eliminated in practice would not be considered in the valuation of technical provisions. For example the existence of a policyholder's option to lapse the policy is a sufficient condition to prevent the replication of the future cash flows associated with the (re)insurance obligations according to CEIOPS' advice in CP 41-09. It follows that the Risk Margin needs to capture this aspect in the calculation of the market risk in the SCR.	Not Agree The text has been amended regarding the lapses
9.	FFSA	General Comment	1) Risk Margin : The consultation paper outlines the conditions when technical provisions should be calculated as a whole, and not as the sum of two components calculated separately (namely the Best Estimate and the Risk Margin). It does not outline the calculation of the risk margin which is addressed in the consultation paper 42. However, given the fact that these two aspects (condition on when technical provision should be calculated as the sum of two components and the calculation of the risk margin) are well connected together, FFSA recommends that this CP clarifies from the outset that the risk margin will not capture any financial risk whatsoever. Among others, the risk margin should not reflect any	Noted Applicable to cp 42

			financial risk related to the so called "non hedgeable" obligations. FFSA's recommendation is to exclude this unavoidable market risk from the risk margin. All market risks are already taken into account through the best estimate liabilities calculation, in particular through the time value of options and guarantees. 1. 2) Unbundling 2. Unbundling should be kept optional as unbundling beyond being complex can lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risks components of the contract are interdependent). In particular FFSA disagrees with the need to split unit linked components. 3. 3) Examples: 4. The main examples provided in the CP relate to examples where the technical provisions have to be calculated as the sum of two components calculated separately (namely the Best Estimate and the Risk Margin). FFSA would like to get additional examples where the technical provision can be calculated as a whole.	Not agree See comment 1 Noted. The circumstances under which an exception could work are scarce by definition
10.			Confidential comment deleted.	
11.	German Insurance Association – Gesamtverband der D	General Comment	GDV appreciates CEIOPS's effort regarding the implementing measures and likes to comment on this consultation paper. In general, GDV supports the detailed comment of CEA. Nevertheless, the GDV highlights the most important issues for the German market based on CEIOPS' advice in the blue boxes. It should be noted that our comments might change as our work develops. Our views may evolve depending in particular, on other elements of the framework which are not yet fixed – e.g. specific issues that will be discussed not until the third wave is disclosed.	Noted

			This paper imposes criteria that mean in practice that other than a very few instances, no insurance liabilities will satisfy this criteria. It needs to be made clear that the requirements should be interpreted in a reasonable and pragmatic way. It is very important to apply the principle of proportionality - where the cash-flows that cannot be replicated are a very small proportion (should also consider nature and complexity) of the total cash-flows throughout the duration of the liability, then there shouldn't be a requirement to unbundle these cash-flows to calculate the best estimate and risk margin separately. This was the approach taken in QIS4. Unbundling should be kept optional or makes no sense e.g. where cash flows are interrelated. In particular we disagree with the need to split unit linked contracts into their separate components. Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable.	Not agree see comment 2 Not agree The calculation of TP as a whole is not a simplified method, but the most accurate in some restricted circumstances, so proportionality doesn't seem to be specifically applicable here, but as the general principle that it is. Not agree see comment 1
12.	Groupe Consultatif	General Comment	We are uneasy about the apparent bias in this paper away from financial economic approaches, particularly in respect of non-diversifiable risk. While separate calculation of best estimate and risk margin (using a reasonable cost of capital) gives reasonable results in respect of diversifiable risks, such calculation does not work well for non-diversifiable risk where the market implied cost of capital can be highly variable, and tends to be highest in stressed circumstances. Thus we believe that calculation of provisions in	Not agree

			respect of market risk should always have regard to information from the market, even in circumstances where the depth and liquidity of the market may be impaired. To do otherwise may risk inadvertent understatement of technical provisions. We favour the approach adopted in QIS4 and see no good reason to move away from this.	
			The paper is also worrying because it seeks to treat well established liquid markets (e.g. the global reinsurance market) as being irrelevant to the market consistent valuation of insurance liabilities. We believe that for a valuation method to be honestly described as "market consistent" it should actually make use of data from the market where an established market exists.	Not agree The calculation of BE plus RM is market consistent
			It would appear to be difficult to calculate technical provisions as anything other than Best Estimate (BE) plus Risk Margin (RM) (i.e. alternative calculation would be to calculate "as a whole" by replicating with financial instruments for hedgeable risks).	Noted
			For the definition of a deep, liquid and transparent market one should be aware that there should be at least an expectation of a remaining market (here there is a definition that such a market is "permanent").	Noted The wording has been improved searching flexibility for these criteria
			The concept of materiality and proportionality should be considered in this advice, e.g. concerning replicating future cash flows, unbundling of hedgeable and nonhedegable.	Not agree
			We do appreciate that provisions will necessarily embrace both market-derived and what might be described as 'actuarial model' concepts. Care needs to be taken to achieve a coherent approach to risk margins across both.	Not agree

13.	Institut des actuaires (France)	General Comment	Institut des actuaires, the third European actuarial local association, representing 2300 actuaries from France, is keen on commenting the Consultation 41-09 which enables companies to avoid the separate calculation of the best estimate and the risk margin provisions in different rare cases.	Noted
14.	Munich RE	General Comment	We fully support all of the GDV statements and would like to add the following points: The advice in this consultation paper is quite dogmatic in its approach and does not appear to apply the principals of materiality.	Noted Not agree
15.	Pearl Group Limited	General Comment	We believe the requirements set out in this paper will need to be interpreted in a reasonable and pragmatic fashion. Otherwise, it will be impossible for any kind of liability to meet CEIOPS' criteria for hedgeable cashflows. We believe the approach taken by QIS 4, which allowed technical provisions to be calculated as a whole where the basis risk was immaterial, was more realistic in this respect. This would be more in line with current market practice. We believe CEIOPS should revert back to the QIS 4 approach. Technical provisions should be valued consistently with available market prices. We would can significantly de-risk our business and match our liabilities using appropriate asset strategies, financial derivatives, etc. And it is essential that technical provisions are valued consistently with the market prices of these instruments.	Not agree See previous comments Not agree The rationale for the current approach is fully founded in the advice Not agree Valuation is something different from the Enterprise Risk Management issues.

			In this regard we would reiterate the points made in our response to CP42 that the risk margin should not double count elements such as the market price of market risk. The risk margin should not capture any financial risk whatsoever, in particular, the risk margin should not reflect any financial risk related to the so called "non replicable" obligations.	Applicable to CP42
16.	Pricewaterho useCoopers LLP	General Comment	The definitions provided in Consultation Paper 41 will result in most insurance liabilities not meeting the requirements for "calculated as a whole" as expressed in Article 76(4) of the Level 1 text. Further, in many cases, it is not practical to unbundle contracts due to the interdependency of cash-flows. It would helpful to have further practical examples as to where "valuation as a whole" would be permitted. This would help to ensure greater harmonisation. In the calculation of technical provisions as a best estimate and risk margin it remains important to that the principle of market consistency as expressed in Article 75(3) and Recital 31 is met. The method should reflect reliable market prices (wherever possible) and where these do not exist or do not fully reflect the variation in future cash flows (both financial and non-financial) then adjustments to reflect the risk not captured should be made. Please see our comments on this matter in response to Consultation Papers 39 (Method to calculate the best estimate) and 42 (Calculation of the Risk Margin).	Noted Noted, but this is compatible with a restrictive view. See comment 2
17.			Confidential comment deleted.	
18.	Institut des actuaires (France)	2.1.	CEIOPS doesn't present its advice about "the methods to be used in the case where technical provisions are calculated as a whole" but restricts its advice to "the circumstances in which technical provisions shall be calculated as a whole"	Noted

			The article 76 (4) says that "the value of technical provisions (…) shall be determined on the basis of the market value of those financial instruments". We understand that the value of technical provisions is the market value of the financial instruments in the respect of article 74 (1a) of the level 1 text. In links with the financial crisis and the exceptional volatility of the market value of financial instruments, we think that we should take into account this volatility in the pricing of the financial instruments.	Noted but we should keep in mind the three building blocks principle and the reliability demanded by the Level 1 Text Noted, That is the foundation of the dynamic approach set out in the advice
19.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.4.	We confirm that there is a lot of confusion on how unit-linked products should be valued. More guidelines are obviously needed if a real harmonization is researched. Examples of calculation are welcome.	Noted This out of the scope of the advice
20.			Confidential comment deleted.	
21.	Association of British Insurers	3.6.	We agree that harmonisation is critical and clarity of requirements is important to ensure consistency of approach. However, definitions should not become so narrow and restrictive that it becomes practically impossible to consider any cashflows replicable.	noted
22.			Confidential comment deleted.	

23.	Federation of European Accountants (FEE)	4.1.	Example in paragraph 4.1.2: Reinsurance contracts are, at least in the definition of IFRS, financial instruments, but they are not traded in active markets.	Not agree
24.	Groupe Consultatif	4.1.	As noted earlier, we believe that to interpret the application of the directive to non-diversifiable risk in this manner runs counter to what we believe to be the intent of the directive.	Not agree
25.	Federation of European Accountants (FEE)	4.2.	We agree generally with the guidance provided in CP 41 but we would like to emphasise that a measurement claiming to be market-consistent should use for the whole or separately hedgeable parts directly observed market prices, if they are observable in active markets, as a default, not as a choice. In any case, the measurement, if a valuation technique (three building blocks) is applied, has to be calibrated to this observed market price. An observed price in an active market should have in any case precedence rather than using speculative estimates.	Noted Agree
26.	Groupe Consultatif	4.2.	The three conditions given by CEIOPS respect the article 76(4) of the Level 1 text. Nevertheless, the words “in a strict manner” are not written in the Level 1 text. Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks.	Noted The fact is that article 76.4 asks twice for the reliability in the same sentence which clearly means that CEIOPS’ advice should consider this feature.
27.	Institut des actuaires (France)	4.2.	The three conditions given by CEIOPS respect the article 76(4) of the Level 1 text. Nevertheless, the words “in a strict manner” are not written in the	Noted The fact is that article 76.4 asks twice for the reliability in the same sentence which clearly

			Level 1 text. Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks.	means that CEIOPS' advice should consider this feature.
28.	PricewaterhouseCoopers LLP	4.2.	We agree with the three circumstances in which the calculation of technical provisions "as a whole" is admissible. This comment also refers to 4.2	noted
29.	Association of British Insurers	4.8.	See comments to Para 4.22.	noted
30.	CEA, ECO-SLV-09-436	4.8.	See comments to Para 4.22.	noted
31.	German Insurance Association – Gesamtverband der D	4.8.	See comments to Para 4.22.	noted
32.	Pearl Group Limited	4.8.	To require that the cash-flows of the financial instruments need to perform as all risks underlying the cash-flows associated with the insurance obligations in the different scenarios considered in the calculation of the solvency position makes the concept of replicable cash-flows almost impossible to use. Small differences should be allowed, as per QIS4.	Not agree See previous comments
33.	PricewaterhouseCoopers LLP	4.8.	We agree that in order "to replicate reliably the future cash-flows associated with insurance or reinsurance obligations" the cash-flow of the financial instrument should provide the same expected amount and pattern of variability.	noted

			This comment also refers to 4.22.	
34.	European Union member firms of Deloitte Touche To	4.9.	We agree that, in order to replicate reliably the future cash-flows associated with (re)insurance obligations, a set of financial instruments needs to replicate the cash-flows in a wide range of scenarios, including the stressed scenarios considered in the modules and sub-modules of the solvency capital requirement calculation. However the advice from CEIOPS that "the financial instruments must provide not only the same expected amount [...] but also the same degree of variability" may not be detailed enough to support the convergence of interpretation. Cash-flows vary along the projection and across scenarios and there is not a single definition of variability. We suggest expanding the definition as reliable replication, including for example the following conditions: ☐ the expected present value of future cash-flows of financial instruments to be "approximately the same" as that of the future cash-flows associated with (re)insurance obligations across a wide range of scenarios ☐ the standard deviations and other moments of the two distributions are "similar".	Not agree
35.	Association of British Insurers	4.11.	The definition is too strict to be practically applicable. The first bullet point is subject to interpretation of what constitutes "large volume transactions" and what constitutes "little impact on prices". These terms should be defined in a sensible and proportionate way.	noted
36.	CEA, ECO-SLV-09-436	4.11.	See comment to Para 4.23.	noted
37.	CRO Forum	4.11.	Refer to comment 4.23	noted

38.	Federation of European Accountants (FEE)	4.11.	We recommend using the term "active market" as defined in IFRS. Deviations from this term may raise the question as to whether these deviations are intentional. The need of the "permanent"-requirement is not included in the IFRS-definition. We do not believe that it is useful to prohibit the use of current market prices if the properties specified are not expected to be permanent, since otherwise less objective estimates of non-existing market prices are used. It would be sufficient to restrict the consequence of the "permanent"-requirement to the decision that in absence of a permanently available market those internal cost models are to be used, even if temporarily market prices are available.	Noted The wording has been improved searching flexibility for these criteria
39.	German Insurance Association – Gesamtverband der D	4.11.	See comment to Para 4.23.	Noted
40.	Groupe Consultatif	4.11.	The properties specified in the paragraph 4.11 are expected by the CEIOPS to be permanent. In links with the financial crisis, this expectation seems too high with the reality of the financial markets. Exceptional conditions of the market should be excluded in the proof of the respect of the observable values. Excluding trade that are not open to the public but only to professional investors or experts investors limits the field of the financial instruments without answering the "observable value" question.	Noted The wording has been improved searching flexibility for these criteria
41.	Institut des	4.11.	The properties specified in the paragraph 4.11 are expected by the	Noted

	actuaires (France)		CEIOPS to be permanent. In links with the financial crisis, this expectation seems too high with the reality of the financial markets. Exceptional conditions of the market should be excluded in the proof of the respect of the observable values. Excluding trade that are not open to the public but only to professional investors or experts investors limits the field of the financial instruments without answering the "observable value" question.	The wording has been improved searching flexibility for these criteria
42.	Investment & Life Assurance Group (ILAG)	4.11.	In 1:200 events, it is conceivable that the markets themselves will have problems in staying open and it cannot be guaranteed that any market will be deep and liquid in those conditions.	Noted The wording has been improved searching flexibility for these criteria
43.	PricewaterhouseCoopers LLP	4.11.	The definition of "deep, liquid and transparent" is identical to QIS4. We query the last criteria that the first two characteristics are "expected to permanent," as dislocations in all markets can be observed over periods of time (particularly in the current economic environment). It would be helpful to have further guidance and examples as to how this and the first two criteria should be interpreted. This comment also refers to 4.23.	Noted The wording has been improved searching flexibility for these criteria
44.	Association of British Insurers	4.12.	We believe that a more moderate assessment should be drawn when it comes to the link made between the current crisis and the OTC instruments. Market observable prices should be used for valuation where there are such available prices. However, it is still reasonable to use mark-to-model techniques where such prices do not exist and so they should still have a role to play.	Not agree The valuation should be BE + RM under these circumstances

45.			Confidential comment deleted.	
46.	CEA, ECO-SLV-09-436	4.12.	We do not share Ceiops' assessment linking the current crisis with the lack of reliability of the valuation of OTC instruments. From our understanding the key issue was related to the lack of disclosure of techniques and assumptions used.	Noted Footnote 13 points out that is not a particular view of CEIOPS' Not agree The wording has been improved to clarify this
47.	CFO Forum	4.12.	Mark-to-model practices remain reliable where used appropriately and should be retained. The CFO Forum agrees that market observable prices should be used for valuation where there is a deep, liquid and transparent market; however mark-to-model techniques remain valid when such markets do not exist. This paragraph encourages the use of marking to deep, liquid and transparent markets and notes mark-to-model practices "as one of the main sources of the financial crisis". The CFO Forum agrees that the use of mark-to-model practices for complex financial instruments where the underlying risk have not been properly understood has contributed to the financial crisis, however, this does not mean that the techniques employed are necessarily bad and they will provide more reliable estimates when properly adjusted for otherwise not reflected risks. The industry would retain the use of mark-to-model practices.	The valuation should be BE + RM under these circumstances See previous comments
48.	CRO Forum	4.12.	We disagree with the comment that 'mark to model' practices and non actively traded assets are some of the main causes of the current economic situation. Whilst 'marking to market' may have	Noted One important lesson learned from the crisis should be not to

			been a contributory factor the main cause was the complexity of the transactions and both a failure to identify, and the under pricing of, risk. The problem with mark to model was not the technique itself but rather the calibration of models.	repeat past mistakes. Relaxed and unreliable modelling has been one of the factors triggering the crisis
49.	FFSA	4.12.	The CP appears to blame OTC instruments all together. We believe that a more moderate assessment should be drawn when it comes to the link made between the current crisis and the OTC instruments.	Noted See previous comments
50.	German Insurance Association – Gesamtverband der D	4.12.	We do not share CEIOPS' assessment linking the current crisis with the lack of reliability of the valuation of OTC instruments. From our understanding the key issue was related to the lack of disclosure of techniques and assumptions used,	Noted See previous comments
51.	Groupe Consultatif	4.12.	The reference to the crisis puzzles us. Of course we agree that ideally market information would ideally come from a permanently deep and liquid market. However we submit that the crisis teaches that it is better to have regard to information from an imperfect market than not to have regard to such information at all. Examples: Pure Unit-linked contract: Since the funds underlying unit-linked contracts are also managed we wonder whether the management fees (raised by the investment company) that reduce the performance of the share have any impact on the valuation of the liability in a market consistent environment. We'd like to illustrate the comment on para. 4.12 by an example:	noted The valuation should be BE + RM under these circumstances

			- We have two funds A and B that are eligible for unit-linked contracts. - Fund A and fund B have exactly the same asset allocation. - Fund A has a management fee of 1% (of the fund value) per annum and fund B has a management fee of 2% per annum. - Policyholders A and B sign a unit linked contract in t=0 and the insurance company invests 100€ on behalf of policyholder A in fund A and 100€ on behalf of policyholder B in fund B. At t=0 the shares of fund A and fund B are worth 100€ each. However, one year later fund A lists higher than fund B because fund A's management fees are lower. Shall we account for the different performance in a market consistent environment when valuing the technical provisions as a whole at t=0?	
52.	Pearl Group Limited	4.12.	We believe that a more moderate assessment should be drawn when it comes to the link made between the current crisis and the OTC instruments.	Noted Footnote 13 points out that is not a particular view of CEIOPS The wording has been improved to clarify this'
53.	ACA – ASSOCIATION DES COMPAGNIES	4.14.	In the case of Pure Unit-Linked, we understand it is replicable. However, a specific provision should be calculated separately for the expenses. We believe that this should be clearly mentioned in 4.28.	Not agree

	D'ASSURAN CES DU			
54.	Association of British Insurers	4.14.	Whilst we believe that a reliable replication of the cashflows is important, it may be perfectly possible to isolate a small element of the liability which is not captured through the financial instrument. This should not exclude any use of the prices available of the financial instrument which largely capture the cashflows in the liabilities and to make this workable in practice, it should be allowed to split a currently non-hedgeable cashflow into hedgeable and non-hedgeable components.	Not agree See previous comments
55.	CEA, ECO-SLV-09-436	4.14.	These requirements are too restrictive Whilst we believe that a reliable replication of the cash flows is important, it may be perfectly possible to isolate a small element of the liability which is not captured through the financial instrument. This should not exclude any use of the prices available of the financial instrument which largely capture the cash flows in the liabilities.	Not agree See previous comments
56.	CFO Forum	4.14.	The scenarios which render cash flows non-replicable are too restrictive. A possible alternative would be to split a currently non-replicable cash flow into hedgeable and non-hedgeable components.	Not agree See previous comments
57.	CRO Forum	4.14.	See comments on Para 4.28	
58.	European Union member firms of Deloitte	4.14.	We understand CEIOPS' intention to limit the allowance for calculating provisions as a whole to cases where the future cash-flows can be reliably replicated with financial instruments traded in deep, liquid and transparent markets; however we do not share the view that the future cash-flows' dependence on policyholder	Not agree

	Touche To		behaviour is a sufficient condition for preventing the existence of such financial instruments. Policyholder's behaviour is a modelling assumption and CEIOPS' Consultation Paper No.39 Para. 3.169 explicitly requires that this assumption should not be assumed to be independent of financial markets, which means that in cases of high correlation there might be financial instruments with reliable market values, traded in deep, liquid and transparent markets like options on interest rates or equity indexes, capable of replicating policyholders' behaviour. Derivatives on biometric events, namely longevity, are increasingly available and a few attempts to create a transparent market have already taken place; financial instruments with the characteristics required by CEIOPS might well exist by 2012. Hence we envisage that a principles-based framework should set out the requirements for the replication and the characteristics of the financial instruments with no specific restrictions where these requirements might not be met.	
59.	Federation of European Accountants (FEE)	4.14.	Paragraph 4.14 i: This condition (i.e. that "one or several features of the future cash depend on any type of biometric development or on the behaviour of the policyholder") is not principle based. Instead of referring to biometric risks, it should refer to insurance risk. It does not matter which risk type is present. The reference to the behaviour of policyholders is correct if it refers to expected irrational behaviour. Otherwise, a contract part that is equivalent to a traded put or call option would not qualify, since a put or call option depends on the behaviour of the counterparty. However, it is usually assumed that the counterparty acts fully rational. Paragraph 4.14 ii: We note, that the ownership of any financial	Not agree

			instrument causes to a minor extent internal expenses. That applies as well to any part of an insurance contract, even if it is purely financial.	
60.			Confidential comment deleted.	
61.	Groupe Consultatif	4.14.	The principles of materiality and proportionality should be taken into account.	Noted
62.	Institut des actuaires (France)	4.14.	The principles of materiality and proportionality should be taken into account.	Noted
63.	Munich RE	4.14.	Too restrictive. If desired and possible, it should be allowed to split a contract into two parts: one part that has only market risk and the remaining part containing the whole biometric risk (and possible some remaining market risk). The first part could be hedged with financial instruments and only the remaining part would be non-hedgeable. In this case the technical provisions would be defined as the sum of the value of the hedge, the best estimate for the remaining risk, and the risk margin for the remaining risk. An example for this is a fixed term life contract. It could be splitted into a part that unconditionally pays the insurance sum at the end of the term and a remaining part that covers the risk that the policyholder cancels or dies before the end of term.	The cash flows should be splitted
64.	Pricewaterhouse Coopers LLP	4.14.	The three criteria for full replication are strict and will not be met by many insurance contracts, as illustrated by the examples in the Consultation Paper. We note that that it remains important that where "partial" replication is achieved this is used, with adjustments for the risk not captured, to inform the valuation of technical provisions. We note that markets may develop in future which replicate certain biometric characteristics of cash-flows and that where this occurs	

			valuation "as a whole" should be permitted. This comment also refers to 4.28	
65.	Association of British Insurers	4.15.	Unbundling should remain optional to the insurer. The example given (e.g. unit linked contract) in point 4.1.2 outlines that the technical provision must be unbundled. This could suggest that all other contracts must be unbundled. In the example, we believe that the unbundling is motivated only by finding ways under which the calculation of the technical provisions 'as a whole' is admissible. Therefore, we would like to state that any unbundling should be kept optional. The text states that the contract does not have to be unbundled if this is not feasible, however this point needs to be clarified. Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risks components of the contract are interdependent). Unbundling should be at the option of the insurer. Unbundling of cash flows within the same contract may be technically difficult. It may be not feasible to separate cash flows that are "hedgeable" from "non-hedgeable" as most of the cash flows of life assurance products dependent on the insurance risks: mortality, lapse, etc....	Not agree Noted: The wording has been improved to clarify this
66.	CEA, ECO-SLV-09-436	4.15.	Unbundling should be kept optional The example given of a pure unit linked contract in point 4.1.2 states that the technical provision must be unbundled. As this is just an example, will this requirement also apply to other types of business?	Not agree Noted:

			We would like to state that any unbundling should be kept optional. The main text states that the contract does not have to be unbundled if this is not feasible, however this point needs to be clarified especially when compared with the examples. Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risk components of the contract are interdependent). It may be not feasible to separate cash flows that are hedgeable from non-hedgeable as most of the cash flows of life assurance products dependent on insurance risks. Unbundling should be at the option of the insurer. ☐ We request that Para 4.15 and Para 4.24 should be modified to precise that any unbundling remains optional.	The wording has been improved to clarify this
67.	CFO Forum	4.15.	Comments in 4.24 are also relevant here.	noted
68.	FFSA	4.15.	The example given (e.g. unit linked contract) in point 4.1.2 outlines that the technical provision must be unbundled. This could suggest that other contracts must be unbundled as well in other circumstances. In the example, we believe that the unbundling is motivated only by finding ways under which the calculation of the technical provisions 'as a whole' is admissible. Therefore, we would like to state that any unbundling should be kept optional as unbundling beyond being complex can lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risks components of the contract are interdependent). Consequently, FFSA believes that point 4.15 and 4.24 should be modified to precise that any unbundling remains optional.	Noted: The wording has been improved to clarify this

69.	German Insurance Association – Gesamtverband der D	4.15.	2. See comment to Para 4.24.	noted
70.	Pearl Group Limited	4.15.	Unbundling should remain optional at our descretion.	Not agree
71.	PricewaterhouseCoopers LLP	4.15.	1. In many cases, it is not practical to unbundle contracts as the cash-flows from different components are interdependent. We also question the "feasibility" criteria around unbundling and whether this could permit different approaches to the valuation of similar products. It would be helpful to have further example of unbundling to add clarity, for example, the treatment of unit linked products with options and guarantees. 2. Further, it would also be helpful that, where practical and relevant, the requirements for unbundling are aligned with those in IFRS. 3. This comment also refers to 4.24.	Noted: The wording has been improved to clarify this noted
72.			Confidential comment deleted.	
73.	CFO Forum	4.16.	The CFO Forum does not believe unbundling is required for a pure unit–linked contract (without any additional guarantee).	Noted: The wording has been improved to clarify this
74.	European Union member	4.16.	With the same arguments used in our comment to Para. 4.14.i, we do not share the view that there would be very limited cases of cash-flows that can be replicated reliably in addition to the case	Noted:

	firms of Deloitte Touche To		where the (re)insurance obligation consists in the delivery of a portfolio of financial instruments for which a reliable market value is observable or in the portfolio's price at the moment of the payment of the benefit. In particular it emerges from the example provided that the policyholder's right to lapse the policy is a sufficient condition for preventing a reliable replication. Policyholders' behaviour is a modelling assumption and CEIOPS' Consultation Paper No.39 Para. 3.169 explicitly requires that this behaviour should not be assumed to be independent of financial markets, which means that in cases of high correlation there might be financial instruments with reliable market values, like options on interest rates or equity indexes, capable of replicating policyholders' behaviour. Therefore we support a wider identification of cases where the reliable replication can be achieved.	The wording has been improved to clarify this
75.	Federation of European Accountants (FEE)	4.16.	The assumption (i.e. "there could be very limited cases…") is only valid if the surrender value deviates from the fair value. If the surrender value is the fair value, lapses do not affect the value of the obligation.	Noted: The wording has been improved to clarify this
76.	Groupe Consultatif	4.16.	In the French market, the main contracts which are concerned are - the unit-linked contracts with the unbundling of the expense cash-flows and specific contractual options - "contrats de capitalisation" with the unbundling of the expense cash-flows and specific contractual options. The two kinds of contracts support nevertheless the lapse risk. If CEIOPS doesn't consider these two kind of contracts, it should be preferable to say if a contract exists in the market that respect the conditions of article 76 (4) in the way materiality and	Noted: The wording has been improved to clarify this.

			proportionality are considered by CEIOPS. More examples should be given.	
77.	Institut des actuaires (France)	4.16.	In the French market, the main contracts which are concerned are - the unit-linked contracts with the unbundling of the expense cash-flows and specific contractual options - “contrats de capitalisation” with the unbundling of the expense cash-flows and specific contractual options. The two kind of contracts support nevertheless the lapse risk. If CEIOPS doesn’t consider these two kind of contracts, it should be preferable to say if a contract exists in the market that respect the conditions of article 76 (4) in the way materiality and proportionality are considered by CEIOPS. More examples should be given.	Noted: The wording has been improved to clarify this
78.	Groupe Consultatif	4.18.	There is no place in P&C where a division between calculation of best estimate CF and calculation of a risk margin need not to be done. This should be no problem. 4.18 is therefore the core advice.	Noted
79.	Pearl Group Limited	4.18.	In the 2nd last line of the paragraph being has been mis-spelt.	Noted
80.	Association of British Insurers	4.19.	Flexibility will be needed when applying such requirements. We believe it may still be appropriate to calculate technical provisions as a whole even where there is a small non hedgeable element provided that the residual risk is immaterial. It should be possible to show, using approximations, that the risk margin on the non hedgeable elements would be small and that the overall risks are sufficiently captured within the SCR.	Noted: The wording has been improved searching flexibility where it is acceptable, but keeping the essential view of the advice

81.			Confidential comment deleted.	
82.	CEA, ECO-SLV-09-436	4.19.	Flexibility will be needed when applying such requirements The technical provisions should be able to be calculated as a whole if the non-hedgeable part of cash flows is small and provided that the residual risk is immaterial. Otherwise the work to calculate the risk margin for this part may be excessive in relation to the outcome. This is not because we believe that the risk will be zero, rather we believe that this risk is sufficiently covered by the SCR and does not warrant the additional calculation requirements. It should be possible to show, using approximations, that the risk margin on the non-hedgeable elements would be small and that the overall risks are sufficiently captured within the SCR.	Noted Ceiops is working in simplifications in the calculation of RM
83.	CRO Forum	4.19.	"The calculation of technical provisions 'as a whole' (Article 85c) is only admissible under three sine qua non circumstances, that should be assessed in a strict manner: … " Use of the word "strict" appears to suggest that this paragraph is more important than others in the consultation paper, implying that other paragraphs don't have to be strictly adhered to. We recommend that reference to a strict manner is removed because it's a given that the level 2 advice will be binding and will require a "strict" following. We also believe it is inappropriate to restrict the technical provision calculation "as a whole" method to risks that can be replicated using "financial instruments". The wording of this paragraph presupposes that no reliable market for non-financial risk transfer exists or will exist in future – while this may be true in some cases it is not appropriate to make such a blanket assumption.	Noted Agree The wording has been relaxed It is a direct message from the Directive

			It is entirely possible (in reality) to find reliable hedges for non-financial risks (e.g. using reinsurance or catastrophe bonds). While the question of whether these markets are sufficiently deep and liquid is indeed relevant, it should be dealt with elsewhere in the advice. Replicating portfolios can provide a good basis for determining the discounted value of future cash flows and associated financial risks. Such approaches should be permitted whilst recognising the need to adjust for variability in those cash flows due to non-financial risks.	Differentiate between valuation and ORSA purposes
84.	European Union member firms of Deloitte Touche To	4.19.	We would welcome CEIOPS' guidance on the indicators to assess the accuracy of replication It is mentioned that the performance of financial instruments should be the same as the performance of liability cash flows that are being replicated. For example, it is not just present value that should be the same, but also e.g. duration measure (Macaulay Duration, Effective Duration), Convexity, etc. These criteria should be clarified to avoid lack of harminonisation across Europe. It is mentioned that financial instruments in the replicating portfolio should have reliable market values which are observable. We would welcome CEIOPS's views on possible criteria, if any, that define which asset types would be allowed.	The examples are quite illustrative in this area.
85.	German Insurance Association – Gesamtverband der D	4.19.	Flexibility will be needed when applying such requirements This para. lists circumstances when the calculation of TP as a whole is admissible. We understand this in such a way that an undertaking must not calculate TP as a whole by a replicating portfolio if the cash flows of its TP can be directly calculated by an actuarial (stochastic or deterministic) method in the sense of CP39. The TP may be calculated as a whole if the non-hedgeable part of	Noted some degree of flexibility has been introduced in several points of the advice Differentiate valuation from ORSA purposes

			cash flows is small and provided that the residual risk is immaterial as the work to calculate the risk margin for this part would be excessive in relation to the outcome. This is not because we believe that the risk is zero, rather we believe that this risk is sufficiently covered by the SCR and it does not warrant to additional calculation requirements. It should be possible to show, using approximations, that the risk margin on the non hedgeable elements would be small and that the overall risks are sufficiently captured within the SCR.	Not agree
86.	Groupe Consultatif	4.19.	The three conditions given by CEIOPS respect the article 76(4) of the Level 1 text. Nevertheless, the words "in a strict manner" are not written in the Level 1 text. Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks. We believe it is inappropriate to restrict the "as a whole" method only to risks that can be replicated using "financial instruments". The CEIOPS wording of 4.19 presupposes that no reliable market for non-financial risk transfer exists or will exist in future – while this may be true in some cases it is not appropriate to make such a blanket assumption for 4.19. It is entirely possible (in reality) to find reliable hedges for non-financial risks (e.g. using reinsurance or catastrophe bonds). While the question of whether these markets are sufficiently deep and liquid is indeed relevant, it should be dealt with elsewhere in the advice.	Noted Agree It is a direct message from the directive

87.	Institut des actuaires (France)	4.19.	The three conditions given by CEIOPS respect the article 76(4) of the Level 1 text. Nevertheless, the words "in a strict manner" are not written in the Level 1 text. Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks.	agree
88.	Pearl Group Limited	4.19.	Flexibility will be needed when applying such requirements. We believe it could still be appropriate to calculate technical provisions as a whole even where there is a small non hedgeable element provided that the residual risk is immaterial. It should be possible to show, using approximations, that the risk margin on the non hedgeable elements would be small and that the overall risks are sufficiently captured within the SCR.	Not agree nevertheless some degree of flexibility has been introduced in several points of the advice
89.	PricewaterhouseCoopers LLP	4.19.	See comments under 4.2	
90.	Association of British Insurers	4.22.	To require that the cashflows of the financial instruments need to perform as all risks underlying the cash-flows associated with the insurance obligations in the different scenarios considered in the calculation of the solvency position makes the concept of replicable cash-flows almost impossible to use. Small differences should be allowed, as per QIS4.	Not agree
91.	CEA, ECO-SLV-09-436	4.22.	The requirements of this paragraph are too restrictive, small differences (as per QIS4) should be allowed To require the same performance, including the uncertainty in the timing and amounts for all risks and in all scenarios, may turn out to be impossible to fulfil. Especially when considering the long-term	Not agree

			nature of the liability cash flows possible particularly in life insurance products and the correlations between risks affecting them.	
92.	CRO Forum	4.22.	"In order 'to replicate reliably the future cash-flows associated with insurance or reinsurance obligations' the cash-flows of the financial instruments should provide the same performance, including the uncertainty in amount and timing of these payments, in relation to all risks underlying the cash-flows associated with the insurance and reinsurance obligations in all possible scenarios. …" We propose that the concept of proportionality is introduced in this advice which can be reflected in the advice as follows; ", including the uncertainty in amount and timing of these payments, in relation to all material risks underlying the cash-flows associated with the insurance and reinsurance"	Not agree
93.	German Insurance Association – Gesamtverband der D	4.22.	The requirements of this paragraph are too restrictive, small differences (as per QIS4) should be allowed To require the same performance, including the uncertainty in the timing and amounts for all risks and in all scenarios, may turn out to be impossible to fulfil. Especially when considering long-term nature of the liability cash flows in life assurance products and the correlations between risks affecting them.	
94.	Munich RE	4.22.	We propose that the concept of proportionality is introduced in this advice which can be reflected in the advice as follows; ", including the uncertainty in amount and timing of these payments, in relation to all material risks underlying the cash-flows associated with the insurance and reinsurance"	Not agree

95.	Pearl Group Limited	4.22.	To require that the cash-flows of the financial instruments need to perform as all risks underlying the cash-flows associated with the insurance obligations in the different scenarios considered in the calculation of the solvency position makes the concept of replicable cash-flows almost impossible to use. Small differences should be allowed, as per QIS4.	Not agree
96.	Pricewaterhouse Coopers LLP	4.22.	See comments under 4.8	Noted
97.	Association of British Insurers	4.23.	In order to avoid undue constraint and because we think that this will be very difficult to comply with, we would request the deletion of the third requirement: "The properties specified above are expected to be permanent." Difficulties may arise where previously "deep, liquid and transparent" markets cease to be "deep, liquid and transparent". In this case the valuation of technical provisions "as a whole" may not be appropriate and may be pro-cyclical. It may then be desirable to value technical provisions as the sum of a Best Estimate and Risk Margin. Further guidance may be needed. CEIOPS does state that the "deep, liquid and transparent" nature of a market should be permanent but it would seem impossible to reliably make this assessment of permanence in practice. The first bullet point is too narrow and it is also open to interpretation. In particular, "large-volume transactions" and "little impact on prices" would need to be defined more precisely. Instead, it would be preferable to use market values wherever available and adjusted for any risks not included within that asset price rather than a pure modelled approach which may or may not be consistent with market values.	Noted some degree of flexibility has been introduced

98.			Confidential comment deleted.	
99.	AVOE – Aktuarvereinigung Österreichs – Actuarial	4.23.	The requirement of deep, liquid and transparent markets is a necessary condition to deduce reliable price information. The requirement that these conditions "are expected to be permanent" (dot 3) could be stated more precisely and realistically by asking, that these "properties should be granted almost surely over the lifetime of the relevant cash flows".	Noted some degree of flexibility has been introduced
100.	CEA, ECO-SLV-09-436	4.23.	The requirements are very restrictive 2nd requirement - The requirement that prices should be readily available to the public could be very restrictive. We request that the "to the public" is deleted such that the requirement becomes "… prices is readily available." In practice what is needed is for this information to be readily available to companies. 3rd requirement - In order to avoid undue constraints and because we think that this will be very difficult to comply with, we would request the deletion of: "The properties specified above are expected to be permanent."	Noted some degree of flexibility has been introduced in several points of the advice
101.	CFO Forum	4.23.	The basis for identifying observable reliable market values in a "deep, liquid and transparent market" is too restrictive and the guidelines should be more applicable in practice. The CFO Forum believes that the IFRS Exposure Draft definition is more appropriate although note that the associated guidance would require revisiting. The CFO Forum considers that in many instances the best value for insurance liabilities is a market value adjusted for risks not	Noted some degree of flexibility has been introduced

			reflected in that market price, rather than a pure modelled approach with a tenuous link to financial market values. Possible amendments include: ☐ Aligning the definition with that of active markets used in the IFRS Exposure Draft for Fair Value Measurement: "A market in which transactions for the asset or liability take place with sufficient frequency and volume to provide pricing information on an ongoing basis." The CFO Forum highlights, however, that the guidance in this exposure draft in relation to inactive markets is circular and needs to be revisited. ☐ Change the first bullet point to require that market values are adjusted for variation in future cash flows not reflected in the replicating cash flows to achieve a reliable estimate. ☐ The third point, "The properties are expected to be permanent", should be deleted as the characteristics of markets do change and it is unclear how markets should be treated if they subsequently fail to meet the definition. The market for AAA government bonds may not meet the "deep, liquid and transparent" definition as large volume transactions may impact price. The first requirement that large volume transactions can be executed with little impact on the prices of instruments used in the replicating portfolio is not always achievable for large volumes of AAA government bonds yet this is the proposed basis for discount rates in CP40. Replicating portfolios can provide a good basis for determining the discounted value of future cash flows and associated financial risks.	

			Such approaches should be permitted whilst recognising the need to adjust for variability in those cash flows due to non-financial risks.	
102.	CRO Forum	4.23.	"CEIOPS considers that the expression 'financial instruments for which value is observable' should be understood as financial instruments quoted in 'deep, liquid and transparent markets', which requires to meet all the following requirements; ☐ Market participants can rapidly execute large-volume transactions with little impact on the prices of the financial instruments used in the replications; ☐ Current trade and quote information of those prices is readily available to the public; ☐ The properties specified above are expected to be permanent." Where we welcome CEIOPS attempt at developing advice on financial instruments for which reliable market values is observable we make note of the following shortfalls in relation to the advice in this paragraph. {1st bullet}; It is important to note that large is not an absolute value but should be considered in context of a market. For any given market, however deep, liquid or transparent, there will be a volume large enough that will impact the prices of the financial instrument when traded at those volumes. {2nd bullet}; The advice appears to be proposing that hedgable risks should be benchmarked against equity markets with a reference to information being readily available to the public. The advice ignores other markets, such as over-the-counted (OTC) or swaps markets which may have a deep, liquid and transparent market but information not readily available to the public.	Noted some degree of flexibility has been introduced

			Moreover, it is unclear what is defined as "public", our interpretation of public is market participants within a given market. {3rd bullet}; The advice introduces a concept of permanency however we have witnessed in the recent financial crisis that this does not hold true at all times, therefore it cannot be considered as a market consistent approach. It is also virtually impossible for any market participant to predict the future state of a market (i.e. permanent).We also believe that such an approach does not allow for future market developments, eg catastrophe risk. We propose that this should be removed from the advice because if the market is deep, liquid and transparent today, that should be sufficient to determine a market (consistent) value. We strongly recommend that the CEIOPS set advice that is tailored for all market conditions to comply with the principle of market consistency as outlined in the Solvency II directive. We believe the guidance in the IFRS is a good reflection of a what constitutes as an active, deep and liquid market.	
103.	German Insurance Association – Gesamtverband der D	4.23.	The requirements are very restrictive. In order to avoid undue constraints and because we think that this will be very difficult to comply with, we would request the deletion of the third requirement: "The properties specified above are expected to be permanent."	Noted some degree of flexibility has been introduced
104.	Groupe Consultatif	4.23.	CEIOPS demands deep, liquid, and transparent markets. We understand that these characteristics are desirable but do not think that they should be mandatory (or a "conditio sine qua non" as CEIOPS puts it in para. 4.19) in all circumstances. For example, let us assume a single premium contract and that the	Not agree

			benefit cash-flows of the insurance obligation consist in the payment of the market value of an illiquid equity portfolio. The equity portfolio is held by the insurance company but does not possess the aforementioned characteristics. We cannot see why the technical provision should not be calculated as a whole in this example and would propose to differentiate the requirements on assets accordingly. In addition, any calculation of a best estimate and a risk margin might not give a sounder technical provision in these circumstances due to the lack of data. The properties specified in the paragraph 4.11 are expected by the CEIOPS to be permanent. In links with the financial crisis, this expectation seems too high with the reality of the financial markets. Exceptional conditions of the market should be excluded in the proof of the respect of the observable values. Excluding trade that are not open to the public but only to professional investors or experts investors limits the field of the financial instruments without answering the "observable value" question. The first bullet arguably excludes any market from scope – it is difficult to think of any market where a large transaction has no impact on price. We would suggest removing this bullet. The second bullet potentially excludes OTC markets (e.g. swaps, reinsurance) which are entirely relevant and reliable for hedging purposes – this would be an undesirable restriction. We would suggest either removing the bullet or amplifying it to make clear that OTC markets can also be "deep and liquid". The third bullet is an impractical requirement. It is virtually	Noted some degree of flexibility has been introduced

			impossible for any market participant to predict the future state of a market. The events of 2008 which caused widespread illiquidity in fixed income markets that were hitherto regarded as deep and liquid illustrates the difficulty of satisfying this condition. The following list of markets could potentially be considered as deep and liquid for the purposes of calculating a risk margin: ☐ Stock exchanges (e.g. London, New York, Tokyo) ☐ Derivatives exchanges (e.g. LIFFE, Euronext, Chicago) ☐ OTC Eurobond market ☐ OTC swaps market ☐ OTC derivatives market ☐ OTC FX markets ☐ Reinsurance markets	
105.	Institut des actuaires (France)	4.23.	The properties specified in the paragraph 4.11 are expected by the CEIOPS to be permanent. In links with the financial crisis, this expectation seems too high with the reality of the financial markets. Exceptional conditions of the market should be excluded in the proof of the respect of the observable values. Excluding trade that are not open to the public but only to professional investors or experts investors limits the field of the financial instruments without answering the "observable value" question.	
106.	Investment & Life Assurance	4.23.	As per 4.11.	Noted some degree of flexibility has been introduced

	Group (ILAG)			
107.	Munich RE	4.23.	In principle the separation between hedgeable and non-hedgeable risks makes sense. However the requirements are too restrictive. We would recommend to delete the third requirement in order to avoid undue flexibility.	Noted some degree of flexibility has been introduced
108.	Pearl Group Limited	4.23.	In order to avoid undue constraint and because we think that this will be very difficult to comply with, we would request the deletion of the third requirement: "The properties specified above are expected to be permanent."	Noted some degree of flexibility has been introduced
109.	PricewaterhouseCoopers LLP	4.23.	See comments under 4.11	Noted
110.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	4.24.	We believe this could be a very onerous requirement in terms of time and cost spent with little added value. The unbundling of contracts should be made simpler	Noted some degree of flexibility has been introduced
111.	Association of British Insurers	4.24.	We believe this could be a very onerous requirement in terms of time and cost spent with little added value. The unbundling of contracts should be made simpler and kept optional. The approach taken by QIS 4, which allowed technical provisions to be calculated as a whole where entities are able to provide enough assurance that the difference between the result of the simplified method and the result of a more accurate method is immaterial, is more realistic in this respect.	Noted some degree of flexibility has been introduced
112.			Confidential comment deleted.	

113.	CEA, ECO-SLV-09-436	4.24.	Unbundling of cash flows should be optional and subject to proportionality Unbundling is complex - the principle of proportionality should be taken into account in order to avoid excessive administrative burdens. Where the cash flows that cannot be replicated are a very small proportion (and should also consider nature and complexity) of the total cash flows throughout the duration of the liability, then there should not be a requirement to unbundle these cash flows to calculate the best estimate and risk margin separately. Unbundling may not increase the transparency and understandability. See our comments to Para 4.15.	Noted some degree of flexibility has been introduced
114.	CFO Forum	4.24.	The CFO Forum considers unbundling to be inappropriate as the cash flows arising from financial and insurance components of the contracts are interdependent. The CP proposes that cash flows that can be replicated are unbundled from cash flows that cannot be replicated. For most insurance contracts, the CFO Forum considers unbundling to be inappropriate as the cash flows arising from financial and insurance components of the contracts are interdependent and this reduces the reliability of estimates. Solvency II guidelines on unbundling cash flows should be consistent with IFRS 4 paragraph 10 as follows: “Some insurance contracts contain both an insurance component and a deposit component. In some cases, an insurer is required or permitted to unbundle those components: a) unbundling is required if both the following conditions are met: i) the insurer can measure the deposit component (including	Noted some degree of flexibility has been introduced

			any embedded surrender options) separately (i.e. without considering the insurance component). ii) the insurer's accounting policies do not otherwise require it to recognise all obligations and rights arising from the deposit component. b) unbundling is permitted, but not required, if the insurer can measure the deposit component separately as in (a)(i) but its accounting policies require it to recognise all obligations and rights arising from the deposit component, regardless of the basis used to measure those rights and obligations. c) unbundling is prohibited if an insurer cannot measure the deposit component separately as in (a)(i)." Further information on unbundling with respect to unit-linked policies is requested. The CFO Forum believes that unbundling for unit-linked policies should be permitted but not required, as per the IFRS 4 definition. In the evaluation of insurance contracts it can be more appropriate and practical to model the distinct characteristics of a series of cash flows, rather than trying to unbundle the actual cash flows themselves, which are interdependent. The CFO Forum recommend that the last sentence of this paragraph is changed to say "If the proposed unbundling is not appropriate, for example due to the interdependence of replicable and non-replicable cash flows, the replicable characteristics of those cash flows may be assessed using replicating techniques and separate calculations of the best estimate and the risk margin shall be required for the characteristics of the contract not included in the replicating techniques used."	noted
115.	CRO Forum	4.24.	The paragraph overlooks the concept of proportionality and	Noted some degree of flexibility

			suggests that the hedgeable and non-hedgeable cash flows should be unbundled regardless the materiality of non-hedgeable cash flows ruling out practical benefit of adopting this approach. We propose that the advice is amended to incorporate the principle of proportionality, not requiring contracts that largely meet the conditions for calculation of technical provisions as a whole to unbundle immaterial non-hegeable cash flows. ` Additionally, it's unclear how "unbundling" would apply to index linked policies. Our interpretation is that the treatment of index linked policies should be consistent with other insurance products with a reasonable application of "materiality" when undertaking unbundling. We would welcome additional comments on this.	has been introduced
116.	FFSA	4.24.	See 4.15	Noted
117.			Confidential comment deleted.	
118.	German Insurance Association – Gesamtverb and der D	4.24.	Unbundling should be kept optional The example given (e.g. unit linked contract) in point 4.1.2 outlines that the technical provision must be unbundled. This could suggest that other contracts must be unbundled as well in other circumstances. In the example, we believe that the unbundling is motivated only by finding ways under which the calculation of the technical provisions 'as a whole' is admissible. Therefore, we would like to state that any unbundling should be kept optional. Unbundling can be complex and time-consuming to carry out and it can also lead to results that are less reliable than when all cash flows are modelled together (e.g. in the case when cash flows arising from financial and insurance risks components of the contract are interdependent). It may be not feasible to separate cash flows that are "hedgeable" from "non-hedgeable" as most of the cash flows of life assurance products dependent on insurance	Not agree The wording has been improved in this sense

			risks. Proportionality should be taken into account in the proposals to unbundle cashflows. The principle of proportionality should be taken into account in order not to suffer excessive administrative burdens. Where the cash-flows that cannot be replicated are a very small proportion (should also consider nature and complexity) of the total cash-flows throughout the duration of the liability, then there shouldn't be a requirement to unbundle these cash-flows to calculate the best estimate and risk margin separately. Unbundling may not increase the transparency and understandability.	See previous comments Noted
119.	Groupe Consultatif	4.24.	Further advice on "unbundling" is needed.	Noted
120.	Munich RE	4.24.	Please give more information on the definition of "unbundling" of unit linked policies.	
121.	Pearl Group Limited	4.24.	We believe this could be a very onerous requirement in terms of time and cost spent with little added value. The unbundling of contracts should be made simpler.	Noted
122.	PricewaterhouseCoopers LLP	4.24.	See comments under 4.15	Noted
123.	ACA – ASSOCIATION DES COMPAGNIES	4.25.	While we are not sure that the advice is the only possible way, we tend to agree with the second sentence.	Noted Paragraph has been deleted

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124.	Association of British Insurers	4.25.	The meaning of this paragraph is somewhat unclear. We are not sure how useful this is as a statement of advice from CEIOPS.	Noted Paragraph has been deleted
125.	AVOE – Aktuarverein igung Österreichs – Actuarial	4.25.	We can not believe that this approach is sufficient to prevent us from any further financial crisis at all. The paragraph should be dropped completely.	Noted Paragraph has been deleted
126.	CEA, ECO-SLV-09-436	4.25.	We propose the deletion of this paragraph of the advice We cannot believe that this approach is sufficient to prevent us from any further financial crisis. This does not appear to be a useful statement from Ceiops and we would request that it was dropped.	Noted Paragraph has been deleted
127.	CFO Forum	4.25.	The first sentence in this section, "CEIOPS considers that the proposals developed in this advice are the only possible in order to prevent in the future crisis like the current one", is too rigid and should be removed.	
128.	CRO Forum	4.25.	"CEIOPS considers that the proposals developed in this advice are the only possible in order to prevent in the future crisis like the current one." It is important to highlight that the purpose of this advice is not to prevent future crisis but to ensure that the capital structure and governance systems are robust in market crisis. It is our interpretation that level 2 text is to propose implementation advice to ensure that market consistent valuations are resilient and not just "fair-market" consistent valuations.	Noted Paragraph has been deleted

			Furthermore, it is arguably negative for supervisors to actively attempt to discourage the use of OTC contracts. Many common (and reliable) forms of risk transfer used in the insurance sector (e.g. reinsurance) are effectively "OTC". Inhibiting the use of OTC contracts will stifle innovation and discourage the development of new forms of risk transfer (e.g. longevity swaps) - this would not be beneficial for policyholders. We suggest the removal of this paragraph altogether.	
129.			Confidential comment deleted.	
130.	German Insurance Association – Gesamtverband der D	4.25.	We propose the deletion of this paragraph of the advice We cannot believe that this approach is sufficient to prevent us from any further financial crisis at all. The discussion on the financial crisis has been on asset valuation and not so much on the liability valuation, which is discussed here. The meaning of this paragraph is somewhat unclear. It does not appear to be a useful statement from CEIOPS and we would request that it was dropped.	Noted Paragraph has been deleted
131.	Munich RE	4.25.	We would recommend to delete this advice completely. In particular we do think that the first sentence is formulated too dogmatic.	Noted Paragraph has been deleted
132.	Pearl Group Limited	4.25.	The meaning of this paragraph is somewhat unclear. We are not sure how useful this is as a statement of advice from CEIOPS.	Noted Paragraph has been deleted
133.	CFO Forum	4.26.	The paragraph is ambiguous about whether the constituents of the portfolio or the portfolio itself need to be observable in the market. The paragraph should be updated to reflect the proposed treatment.	Noted
134.	Groupe	4.26.	In the French market, the main contracts which are concerned are	See previous answer

	Consultatif		- the unit-linked contracts with the unbundling of the expense cash-flows and specific contractual options - "contrats de capitalisation" with the unbundling of the expense cash-flows and specific contractual options. The two kind of contracts support nevertheless the lapse risk. If CEIOPS doesn't consider these two kinds of contracts, it should be preferable to say if a contract exists in the market that respects the conditions of article 76 (4) in the way materiality and proportionality are considered by CEIOPS. More examples should be given.	
135.	Institut des actuaires (France)	4.26.	In the French market, the main contracts which are concerned are - the unit-linked contracts with the unbundling of the expense cash-flows and specific contractual options - "contrats de capitalisation" with the unbundling of the expense cash-flows and specific contractual options. The two kind of contracts support nevertheless the lapse risk. If CEIOPS doesn't consider these two kind of contracts, it should be preferable to say if a contract exists in the market that respect the conditions of article 76 (4) in the way materiality and proportionality are considered by CEIOPS. More examples should be given.	See previous answer

136.	CFO Forum	4.27.	The CFO Forum requests additional practical examples to illustrate the scenario described in this paragraph.	Noted
137.	PricewaterhouseCoopers LLP	4.27.	It would helpful to have further practical examples as to where “valuation as a whole” would be permitted. This would help to ensure greater harmonisation.	Noted
138.	Association of British Insurers	4.28.	The application of the restrictions laid out in this paragraph would make almost all life insurance risks not hedgeable. This could also result in the duplication of market risk into the risk margin calculation, which would significantly affect some classes of business, especially with profit business. It would also be helpful to see sample calculations which illustrate what this complex proposal would look like in practice e.g. for unit linked business. The intention of the final bullet point is unclear and clarification on this would be helpful.	Noted it deals with cp 42
139.	CFO Forum	4.28.	In the current drafting of the consultation paper, the requirements under which cash flows can be replicated are too high a hurdle to be used in practice. The current conditions for using replicating methods are too onerous. We recommend that the requirements in relation to cash flows are relaxed and consideration is given to the valuation of different characteristics of those cash flows using replicating methods. In particular we note that: ☐ Under the second condition, factors such as discretionary policyholder participation should be added;	Not agree The wording of the Level 1 Directive is quite clear on that.

			☐ Under the third condition we note that there are very few cash flows that are not affected by biometric developments, and therefore not considered to be reliably replicable, under these proposals; ☐ The third conditions specified, "one or several features of the future cash flow depend on the development of factors external to the undertaking for which there are no financial instruments for which reliable market values are observable." The current conditions for using replicating methods are too onerous. We recommend that the requirements in relation to cash flows are relaxed and consideration is given to the valuation of different characteristics of those cash flows. Comments in 4.24 are also relevant here.	Not agree The valuation is accurate as far as the replication is reliable enough. The consistency with the valuation of the TP adding a RM on the BE, just in the case the replication is guaranteed in all possible scenarios.
140.	CRO Forum	4.28.	"'Future cash flows associated with insurance or reinsurance obligations' shall not be considered to reliably replicated where: (i) one or several features of the future cash flow … depend on biometric development, or on the behaviour of the policyholder;" The requirement to exclude any cashflows dependent on biometric	Not agree The wording has been amended to clarify the CEIOPS' view

			risks (bullet [i]) is too restrictive. Most life insurance liabilities depend on biometric parameters in some way, so this would effectively exclude most life insurance business. If in future reliable markets for hedging biometric risks were developed, this advice would unfairly exclude that from scope. We suggest the removal of bullet [i].	
141.	Groupe Consultatif	4.28.	Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks. The requirement to exclude any cashflows dependent on biometric risks (bullet [i]) is too restrictive. Most life insurance liabilities depend on biometric parameters in some way, so this would effectively exclude most life insurance business. If in future reliable markets for hedging biometric risks were developed, this advice would unfairly exclude that from scope. We suggest the removal of bullet [i].	Not agree
142.	Institut des actuaires (France)	4.28.	Enabling companies to take into account the principles of materiality and proportionality should be accepted, in links with the nature, the size and the complexity of the risks.	Noted
143.	Pearl Group Limited	4.28.	The application of the restrictions laid out in this paragraph would make almost all life insurance risks not hedgeable. This could also result in the inclusion of market risk into the risk margin calculation, which would significantly affect some classes of business, especially with profit business. It would also be helpful to see sample calculations which illustrate what this complex proposal would look like in practice e.g. for unit	Applicable to cp42

			linked business.	
144.	PricewaterhouseCoopers LLP	4.28.	See comments under 4.14	Noted