CEIOPS-SEC-116/09

Summary of Comments on CEIOPS-CP-53/09

Consultation Paper on the Draft L2 Advice on SCR Standard Formula - Operational risk

CEIOPS would like to thank AAS BALTA, AB Lietuvos draudimas, Aberdeen Asset Management PLC (and Aberdeen Asset , AMICE, Association of British Insurers, Association of Run-Off Companies, BAILLIE GIFFORD LIFE LIMITED, CEA,

ECO-SLV-09-448, Centre Technique des Institutions de Prévoyance (C, CRO Forum, DENMARK: Codan Forsikring A/S (10529638), DIMA (Dublin International Insurance & Management , EURIZON VITA – Viale Stelvio 55/57 – 20159 MILANO , European Union member firms of Deloitte Touche To, FFSA, German Insurance Association – Gesamtverband der D, GROUPAMA, Groupe Consultatif, Institut des actuaires (France), International Underwriting Association of London, Investment & Life Assurance Group (ILAG), Ireland\39s Solvency 2 Group

, Just Retirement Limited, Legal & General Group, Link4 Towarzystwo Ubezpieczeń SA, Lloyd\39s, Lucida plc, Munich RE, NORWAY: Codan Forsikring (Branch Norway) (991 502 , Pearl Group Limited, PricewaterhouseCoopers LLP V2, RBS Insurance, ROAM (Réunion des Organismes d\39Assurance Mutuell, RSA Insurance Group PLC, RSA Insurance Ireland Ltd, RSA\32\45\32Sun Insurance Office Ltd., SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799), The Association of Friendly Societies (AFS), UNESPA – Association of Spanish Insurers and Reins, Uniqa, and XL CAPITAL LTD

The numbering of the paragraphs refers to Consultation Paper No. 53 (CEIOPS-CP-53/09)

No.	Name	Reference	Comment	Resolution
1.	AAS BALTA	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted. Noted.
2.	AB Lietuvos draudimas	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted. Noted.

3.	Aberdeen Asset Management PLC (and Aberdeen Asset	General Comment	If the proposals are implemented as they stand they could result in a significant and wholly unnecessary increase in the level of capital required to cover operational risk in 'wholesale' unit-linked life companies such as Aberdeen Asset Management Life and Pensions Limited. As you know, these are particularly simple businesses which carry very limited risk in practice. This will increase the cost of operating such a company, and will ultimately have to be passed on to policyholders, who include trustees of defined contribution pension schemes - thereby adversely affecting the pensions savings of individual scheme members, for no evident benefit. Of concern to the wider Aberdeen Group is the risk that by doubling the factor used in one of the terms in the SCRop formula (applying to life companies) this creates an inconsistency with the approach taken under the Capital Adequacy Directive 93/6/EC for similar risks for non-Life institutions carrying out similar tasks. If the factor is doubled for insurers under Solvency II, we are concerned that this paves the way for an argument to increase the corresponding factor in the Capital Adequacy Directive thus having a significant impact on companies such as Aberdeen Asset Management PLC. We are already of the view that the CAD was drafted from the perspective of the banking industry and is unnecessarily onerous for "pure" asset management businesses such as ours which take very little risk on our own account; the prospect of that regime becoming even more onerous is therefore of considerable concern to us. The EU, and the UK in particular, is host to a world class asset management industry: it would be very disappointing to see that competitive position undermined.	Partially agreed. See revised text.
4.	ACA – ASSOCIATIO N DES COMPAGNIE	General Comment	We welcome the depth that CEIOPS has gone to in order to try and address the concerns with calculating operational risk. However we do not there seems to be a general doubling of the	Noted. Noted. This will make part of

	S D'ASSURAN CES DU		answer but the same calculation and no direct incentive to implement strong risk management. The addition of Invest(op-risk) is vastly disproportionate for companies with large FUM and may lead to non-planned actions in order to reduce capital requirement (e.g. use of a second fund manager)	Pillar II assessment. Agreed.
5.	AMICE	General Comment	These are AMICE´s view at the current stage of the project. As our work develops, these views may evolve depending in particular, on the other elements of the framework which are not yet fixed. The comments outlined below constitute AMICE´s primary areas of concern: The new calibration of the SCR standard formula regarding Operational risk shows a significant increase in the capital requirement for this category of risk for both non-life and life undertakings : AMICE members do not understand the reasons for strengthening the calibration of operational parameters.. Furthermore, we do not understand why CEIOPS suggests a cap of 60% on the BSCR when the Level 1 text defines the cap as 30%. Since no rationale is provided, we suggest keeping the calibration defined in the QIS 4 and the factor cap detailed in the Level 1 text. We are of the opinion that operational risk should be essentially dealt with as part of the Pillar II requirements. This new calibration must take into account the quality of the internal control procedures in order to prevent and manage the risk. Some examples of the more conservative calibration of operational risk compared to QIS4 results are as follows:	Partially agreed. See revised text.

			New calibration implies a sharp increase of 130% for a non life sample company and 270% for a life company. The factor-based approach for operational risk should allow the undertaking the possibility to have some capital relief linked to the soundness of their risk management and internal control practices. A better understanding, management and monitoring of business processes and of the sources of risk should lead to a reduction in the operational risks and therefore in the capital requirements.	Not agreed. The assessment of qualitative aspects of operational risk management will be dealt with under Pillar II.
6.	Association of British Insurers	General Comment	The proposed operational risk calibration appears highly conservative. The revised set of factors provided appears to be calibrated to a level in excess to the results of internal models provided to CRO forum. We agree that these results are a useful reference but are concerned that this is not necessarily a representative sample. Furthermore, where internal models have been provided it is still possible that conservative approximations have been made and therefore it is not necessary to add a further margin on these results. The paper seems to be confusing normal operational risk and tail events, which is not appropriate. We do not agree with the increase in the cap from 30% to 60% (paragraph 3.39). We strongly disagree with the introduction of an additional blanket charge for investments deposited or externally managed with a single third party of 0.5% (paragraph 3.41). If the proposals are implemented as they stand they could result in a significant increase in the level of capital required to cover operational risk in 'wholesale' unit-linked life companies. These business are particularly simple and carry very limited risk in practice. This will increase the cost of operating such a company,	Partially agreed. See revised text. Agreed. Agreed. Noted.

			and will ultimately have to be passed on to policyholders.	
7.	Association of Run-Off Companies	General Comment	This appears prudent for the run-off industry. It has been stated that the standard formula charge should be greater than a diversified model charge to encourage internal model development. However the internal model route development is in many cases a less realistic option for an entity in run-off. The revised factors are also based on QIS4 feedback, in which run-off entities were not overly represented. To what extent are the factors suggested applicable to the run-off industry?	Noted. As stated in the consultation paper, it is likely that the proposed structure and calibration will not provide optimal results for all undertakings (the same occurs in other areas of the standard formula). For these cases, the development of a partial internal model would be the only way forward.
8.			Confidential comment deleted	
9.	CEA, ECO-SLV-09-448	General Comment	The CEA welcomes the opportunity to comment on the Consultation Paper (CP) No. 53 on SCR Std Formula - Operational Risk. It should be noted that the comments in this document should be considered in the context of other publications by the CEA. Also, the comments in this document should be considered as a whole, i.e. they constitute a coherent package and as such, the rejection of elements of our positions may affect the remainder of our comments. These are CEA's views at the current stage of the project. As our work develops, these views may evolve depending in particular, on other elements of the framework which are not yet fixed. The CEA finds the proposed parameters of the operational risk module excessively high and is not convinced by the argumentation used by Ceiops in their derivation. The CEA, finds that the QIS4 parameters were more appropriate	Noted. Partially agreed. See revised text. Not agreed. CEIOPS considers

			especially since the formula disregards an economic recognition of the effects of diversification between operational risk and the other risks. The CEA would like Ceiops to continue to investigate the possibility of reflecting the qualitative aspects of the operational risk management in the design and calibration of standard formula for operational risk. The CEA stands ready to cooperate with Ceiops in this regard.	that the recognition of diversification effects between operational risk and the other risks is not in line with the Level 1 Directive. Not agreed. Please refer to the resolution of the previous comment.
10.			Confidential comment deleted	
11.	CRO Forum	General Comment	53.A The calibration to operational risk should be evidenced (priority: very high) The proposed form of the operational risk module indicates that the risk charge for operational risk was underestimated in the previous form of the operational risk module. This is also clearly set out in section 3.1.3 with reference e.g. to CRO Forum Internal Model (“QIS4 Benchmarking Study” of 30 October 2008) publication. Furthermore, a standard formula should be on the conservative side given that it will never be able to reflect accurately the risk profile of an individual company. As mentioned in CP53, it seems sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings and this would necessarily include those undertakings with a higher than average risk profile. However, the new calibration proposed has effectively doubled the capital requirement, and appears to be an arbitrary injection of	Partially agreed. See revised text.

			prudence without supporting evidence. This may have been justified if it had been coupled with a more realistic correlation between operational risk and base SCR of between 0% and 50% as reflecting the 2007 IFRI/CRO Forum joint study. The CRO Forum prefers more reasonable correlation assumptions between risks. This combination of a higher calibration of the base risk, with a lower inter risk correlation would more accurately reflect the overall nature of operational risks. Furthermore we see the necessity that the standard model requirement should be higher than the internal model requirement, as demonstrated within the CRO Forum QIS4 Benchmarking Study, but in our view it is not consistent to benchmark the factors against the stand-alone capital requirements from internal models and at the same time ignore the corresponding diversification benefits. Whilst we agree that each module - and consequently the operational risk module as well – should be calibrated to the 99.5% VaR we would like to draw attention to the fact that this principle should apply at every aggregation stage and in particular at the level of the overall SCR as well. In other words: Dependency assumptions used within the standard formula have to ensure that the aggregate of certain risk (sub-)modules is calibrated to the 99.5% VaR, too. This feedback should be taken into account when QIS5 is prepared. 53.B Proposed "Investoutsourc" is not fully justified (priority: very high) The CRO Forum strongly disagree with the introduction of an "Investoutsourc" risk element to the capital charge for Operational risk SCR. This is because this element has been introduced without: (a) a clear definition of scope; and (b) discussion on the prudential purpose and calibration of the charge. Refer to para 3.41 for	Agreed.

			detailed comments. In this case it would be much simpler to let the standard formula indeed be a standard formula and to ensure that the operational risk capital charge is conservative enough to reflect higher than average risk profiles and f.e. organisations in transition, as future management action could be also seen in relation to that.	
			53.C Diversification at group level should be recognised (priority: high) The CRO Forum strongly disagree with non recognition of diversification between local operational risks (i.e. diversification at group level), which is a deviation from principles based system. This is a major area of concern. For instance, it is clear that a major fraud from an agent in New-York is 100% de-correlated with the consequences of a major flood in Paris.	No agreed. Please refer to comment #8
			53.D - Good operational risk management should be encouraged (priority: high) The consultation paper has proposed rejecting in the standard formula the ladder mechanism for reducing the operational risk charge through demonstration of good operational risk management. The CRO Forum believes that good practice should be encouraged: the ladder should be retained as an incentive to adopt good risk management. Nonetheless appropriate measures have to be set that no subjective reductions/ interpretations by different regulators are set, that may lead to inconsistent risk calibration and application.	Not agreed. Please refer to comment #5
			53.E The proposed 60% cap is too high (priority: high) The new 60% cap (doubled from 30%) on operational risk as a percentage of risk capital appears to be an arbitrary upper limit.	Agreed.

12.	DENMARK: Codan Forsikring A/S (10529638)	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
13.	DENMARK: Codan Forsikring A/S (10529638)	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
14.	DENMARK: Codan Forsikring A/S (10529638)	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
15.	DIMA (Dublin International Insurance & Management	General Comment	DIMA welcomes the opportunity to comment on this paper. Comments on this paper may not necessarily have been made in conjunction with other consultation papers issued by CEIOPS. Publicly available feedback (CRO Forum) on the original factors would suggest that they were adequate, or at least that a doubling of the factors was far from necessary. This doubling in factors, coupled with the 10% premium increase provision, will have a disproportionate impact on smaller companies. Cap to 60% of BSCR is too high.	Partially agreed. See revised text. Agreed.

16.	European Union member firms of Deloitte Touche To	General Comment	We appreciate the difficulties in defining a standard formula on operational risk which is risk-sensitive to the specific entity. We believe that the advice surrounding the SCRop risk calculation from CEIOPS addresses the correct issues. For example: we share the view that the BCR might not be the appropriate basis in many circumstances; we concur that the SCRop calculation under the standard formula underestimates the risk compared to the results from internal models. However we note that most of the factors in the new approach have limited evidence and a number of decisions have been taken by CEIOPS which will penalize (re)insurance undertaking not developing internal models. We acknowledge that the higher charge derived from the standard formula forms an incentive for insurers to invest time and money in developing an internal model. In particular, we note that a number of updated coefficients have been used with limited explanation by CEIOPS. Examples are: a. the new factors are based on the 60 percentile of the charge of the internal models b. a 10% floor is set for the change in technical provisions and earned premiums from year t-1 to t c. life technical-provision factor has been increased from 0,9% to 1% in case management actions are taken into consideration d. the new factors for Unit Linked contracts e. the new factors for external services on financial investments As these factors point to an increase in the operational risk capital charge, we suggest more detail is provided to ensure transparency of the calibration.	Noted. Agreed. See revised text with further details on calibration.

17.	FFSA	General Comment	FFSA stresses that CEIOPS recognizes results provided by QIS4 lead to the conclusion that QIS4 parameters gave the same results as internal model studied As a result, FFSA does not understand the rationale to increase the cap limit of the Operational Risk SCR to 60% of the BSCR and to at least double all other factors. Moreover, FFSA would like to stress that the proposed cap of 60% is inconsistent with the Directive, which considers a cap of 30% In particular the new factor applied to technical provisions (0,9% of TP) will lead to Operational SCR amounts up to 50% of SCR.In addition, FFSA does not understand the rationale to increase the factor applied to Life Technical Provisions as a consequence of the future management actions. FFSA does not understand the rationale for introducing a new factor related to operational risks linked to external services on financial investments as the proposed formula will encourage the undertaking to diversify at the maximum the third parties where investment are deposited or managed. Due to the complexity of managing lot of third parties, this factor will generate a highest operational risk. In addition, FFSA would like to mention that these activities are already highly regulated. FFSA does not understand the rationale to proportionate the operational risk to the change of technical provisions as this change can result from other components than only the increase of the business. FFSA suggests that a ladder factor has to be introduced in order to reflect the degree of progress of each undertaking in the management of its operational risk. This would be fully consistent with the spirit of the Directive, which aims at fostering best	Noted. Agreed. Partially agreed. See revised text. Agreed. Agreed. Not agreed. Please refer to comment #5.

			practices in risk management within the undertakings. Last but not least, FFSA suggests confirming that the geographical diversification effects should be recognised when calculating the Group Operational Risk SCR.	Not agreed. Please refer to comment #8.
18.	German Insurance Association – Gesamtverb and der D	General Comment	GDV appreciates CEIOPS' 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. The GDV finds the proposed parameters of the operational risk module excessively high and is not convinced by the argumentation used by CEIOPS in their derivation. The GDV, finds that the QIS4 parameters were more appropriate especially since the formula disregards an economic recognition of the effects of diversification between operational risk and the other risks. The GDV would like CEIOPS to continue to investigate the possibility of reflecting the qualitative aspects of the operational risk management in the design and calibration of standard formula for operational risk.	Noted. Partially agreed. See revised text. Not agreed. Please refer to comment #9. Not agreed. Please refer to comment #5.
19.	GROUPAMA	General Comment	Groupama questions the strengthening of SCR op parameters. We have some doubts regarding those new parameters, based on a CRO Forum which leads to the conclusion that operational risk was well calibrated in the QIS4. We question the fact that CEIOPS has a partial view of this study as internal models results should be	Partially agreed. See revised text.

			analysed as a whole. If CEIOPS wants to prove the accuracy of those new parameters, it could not use a study stating the former ones were well-calibrated. (3.39)	
			Furthermore, we do not understand why CEIOPS suggests a cap at 60% of the BSCR whereas the text of the Directive states that this cap is 30%.	Partially agreed. See revised text.
			We suggest keeping the QIS 4 factor and the 30% cap stated by the Level 1 text. We think that operational risk should principally be a Pillar II issue. (3.29)	
			Groupama questions the introduction a new factor related to operational risks linked to external services on financial investments (even if it parts of the same group). It should be a Pillar 2 issue, dealing with the relation between the undertaking and its assets managers and all controls and reporting settled. Furthermore, these activities are already highly regulated, the 0,5% factor seems over-calibrated. We recommend removing this new factor, or at least not consider assets managed by an other entity of the same group. (3.40)	Agreed.
			Finally, we suggest taking into account geographical diversification at the group level for the operational risk.	Not agreed. Please refer to comment #8.
20.	Groupe Consultatif	General Comment	Groupe Consultatif was disappointed with the superficial analysis underlying this paper. Although we take the view that the principal purpose of an operational risk capital requirement is not so much to finance losses as to create incentives for better management, it is not clear to us that this has been sufficiently considered. We would acknowledge that the QIS 4 approach may, having regard to the lessons from the performance of other sectors during the crisis, have been marginally under-calibrated, but more thorough analysis and consultation with users of internal models	Partially agreed. See revised text.

			surely is required to assess how this would best be corrected. Why for example should management actions adjustment apply to all TPs when the actions themselves may only apply to a small amount of them. Changes in technical provisions are not a good proxy for changes in business activity. At a minimum the effect of market factors such as a variation in interest rate levels would have to be excluded from such changes. I. We note that with this CP CEIOPS makes some key suggestions, as compared to QIS 4 methodology: a. To charge explicitly for operational risks linked to external services on financial investments. b. To take into account feedback suggesting that the QIS4 calibration of operational risk resulted in charges that were too low, as compared to internal models. c. Not to add complexity to the standard formula by using 'ladder factors' as a means of treating improving risk management – to leave this issue un-addressed. d. To make an explicit charge for risks associated with rapid growth II In CP 53 there are comments encouraging firms to use partial internal models if the Standard Formula is believed to be inappropriate. We believe that this will increase the pressure on them to apply for either partial or full internal model approval. III We note that the presentation of revised calibration of parameters by CEIOPS later on could influence the results and therefore the need for a final re-evaluation of the standard formula of the Operational Risk. The revised parameters, taken together	

			with lack of recognition of any diversifications between operational and other risks, might well result in an operational risk charge that is too high. IV We note that new formula and terms are given in this CP (and others). There is not always enough detailed guidance included to insure that they are applied consistently throughout the industry. V The comments on this CP are drawn up in isolation from the other CP's, but we have flagged some issues in the time available. We recommend reference to the other CP's. VI We are unable to offer a view upon whether the suggested formula and parameterisation for Operational Risk results in a resulting charge that is reasonable. To assist calibration, we suggest that consideration is given to defining some operational risk scenarios that (re)insurance companies should consider within their ORSA process or within QIS5. We believe that there is no evidence to back up an increase in the factor for unit linked business at all. The QIS results backed the 25% as being roughly right compared with internal models. The external fund management charge does not allow for the legal basis of the agreement. We believe that external fund management is generally a good thing. It allows firms to concentrate on their core skills and avoids substandard investment management being used. We would also suggest that if there is no credit risk (using an OEIC or with the assets still in the ownership and administration of the firm) there is no material risk to the firm. Credit risk should be handled by the credit risk module. We would suggest that 0.5% factor has no logic behind it. 4. We would suggest that the risk of fraud due to outsourcing to external fund managers should be considered within the outsourcing controls within corporate governance (CP33). Firms should get accounts of	

			the funds in which they invest, they should carry out due diligence on the funds and check that adequate controls are in place to prevent fraud by key individuals in the fund management company.	
21.	Institut des actuaires (France)	General Comment	Institut des actuaires, the third European actuarial local association, representing 2300 actuaries from France, regrets the way the factors are determined, only in increasing way without flexibility for the future. The new "operational risks linked to external services on financial investments" is counter-productive with the prudence principle, sometimes dangerous, and is also too highly weighted.	Noted.
22.	International Underwriting Association of London	General Comment	We are concerned that organisational risk management is not recognised in the operational risk module. The standard formula, and Solvency II as a whole, (and in line with a risk based approach) should be encouraging, through the use of incentives, to have sound operational risk management processes in place. Although we recognise that firms might be able to use a partial internal model to recognise this, arguably operational risk is one of the more difficult areas to model (and the area where there is least experience - at least to model comprehensively). The costs of doing so are likely to outweigh the benefits. We believe a risk based regime should provide the requisite positive incentives at all levels of regulation.	Noted.
23.	Investment & Life Assurance Group (ILAG)	General Comment	1. We have concerns that the operational risk standard formulae is being increased in an arbitrary way to encourage firms to use internal models. We would remind CEIOPS that the standard formulae needs to be set to be sufficient at the 99.5% level and not at a higher level. 2. We believe that there is no evidence to back up an increase in the factor for unit linked business at all. The QIS results backed the 25% as being roughly right compared with internal models. 3. The external fund management charge does not allow for the	Noted. Agreed. Agreed.

			legal basis of the agreement. We believe that external fund management is generally a good thing. It allows firms to concentrate on their core skills and avoids substandard investment management being used. We would also suggest that if there is no credit risk (using an OEIC or with the assets still in the ownership and administration of the firm) there is no material risk to the firm. Credit risk should be handled by the credit risk module. We would suggest that 0.5% factor has no logic behind it. 4. We would suggest that the risk of fraud due to outsourcing to external fund managers should be considered within the outsourcing controls within corporate governance (CP33). Firms should get accounts of the funds in which they invest, they should carry out due diligence on the funds and check that adequate controls are in place to prevent fraud by key individuals in the fund management company.	Noted.
24.	Just Retirement Limited	General Comment	(1) We support a capital requirement for the TP - life test that aligns required operational risk capital more accurately with firms' internal models – this is the majority of firms. (2) However we have significant concerns about the proposed strengthening of practically all elements of the calculation, relative to QIS4. We do not believe that this strengthening is justified either by the outcome of (or feedback from) QIS4, or from the other evidence provided in the paper. The proposals need to be fundamentally reviewed, in our view. (3) Increasing the Prem - life factor from 3% (in QIS4) to 7.6% for life firms will increase the required operational risk capital significantly for growing firms/SMEs – considerably in excess of internal model capital requirements. SMEs will therefore be required to hold more capital than more established firms – reducing the viability of new start-ups, thereby resulting in	Noted. Partially agreed. See revised text. Partially agreed. See revised text.

			decreased competition. This outcome would be to the detriment of consumers and be contrary to stated EU policy objectives. (4) We therefore believe the Prem - life factor is too high and should be lower to reflect, amongst other things, the lack of legacy risks associated with those firms for which this test bites. We would like to see further work undertaken on the calibration of the Prem - life factor. We believe that the calibration should be derived only from firms where the Prem - life test 'bites' – the revised Prem - life factor is distorted by also including the Prem-life results from firms where the TP - life test bites. We would be more than happy to contribute to this debate. (5) In addition, greater emphasis on Pillar II (i.e. the ORSA and potential capital add-ons) subject to supervisory assessment would provide a sounder approach and hence much of the improvement in risk management seen in recent years would not be lost.	Partially agreed. See revised text. Noted.
25.	Legal & General Group	General Comment	The revised set of factors provided appear to be calibrated to a level in excess of the results of internal models provided to CRO forum. We disagree with this approach and implied level of calibration. We favour an approach that considers an explicit 1 in 200 year events rather than basing the calibration on a relatively small sample of internal models. The issue is particularly acute for unit linked firms where the operational risk represents the main quantifiable risk. The other material risk is the high impact, low probability reputational risk typically arising out of an operational risk failure leading to litigation. This is an extremely rare event. Further, a simplistic formula will tend to lead to small and/or newer firms holding too little capital and larger firms paying too much. Surely the process must be one that rewards strong risk controls and protects policyholders.	Noted.

26.	Link4 Towarzystwo Ubezpieczeń SA	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
27.	Lloyd’s	General Comment	We acknowledge that the formula aims to reflect an average profile for operational risk. However, we are concerned that the current standard formula is not sufficiently risk based. We are also of the view that the latest calibration is too high (see comments below). Although not explicitly stated in CP 53, we assume that the percentages applied for operational risk for premiums and technical provisions, as well as the BSCR cap within the standard formula, will be re-assessed on an annual basis, following a review of operational risk capital amounts provided by undertakings under full internal model approaches.	Noted.
28.	Lucida plc	General Comment	Lucida is a specialist UK insurance company focused on annuity and longevity risk business. We currently insure annuitants in the UK and the Republic of Ireland (the latter through reinsurance). W have a general concern that by considering proposals on a paper by paper basis, the overall impact of proposals may be overlooked. Whilst taken in isolation any one paper might have a small impact on capital, when considered together the proposals layer prudence on prudence and hence the impact is significant. Although we understand the difficulty of calibrating the standard formula in a way which suits all insurers, we are concerned that this paper will again increase the capital required to be held. Like	Noted.

			many life insurers, we had concerns about the original calibration and are therefore concerned by the recommendation that all the new life factors should increase. Use of the new factors would lead to a significantly higher pre-diversification operational risk capital provision for us than we are currently using under the ICAS regime and the use of 50% correlation rather than the much lower percentage that we believe to be appropriate will exacerbate this problem. We are not convinced that all non-unit linked life business is homogeneous. For example, annuity business tends to have much larger premiums and technical provisions than other life insurance contracts. It might therefore make sense to distinguish between different product classes in calibrating the formula.	
29.	Munich RE	General Comment	We fully support all of the GDV statements and would like to add the following points: In CP 53 a new calibration of the operational risk module is provided. We note that the new calibration for the operational risk charge seems to be benchmarked against results from internal models. However, within the standard formula (still) no diversification between operational and other risk categories is allowed in contrast to most internal models. In our view it is not consistent to benchmark the factors against the stand-alone capital requirements from internal models and at the same time ignore the corresponding diversification benefits. Whilst we agree that each module - and consequently the operational risk module as well – should be calibrated to the 99.5% VaR we would like to draw attention to the fact that this principle should apply at every aggregation stage and in particular at the level of the overall SCR as well. In other words: Dependency assumptions used within the standard formula have to ensure that the aggregate of certain risk (sub-)modules is calibrated to the 99.5% VaR, too.	Noted. Not agreed. Please refer to comment #9.

			As no structural changes have been made since QIS4 to the formula the main deficiencies of the QIS4 approach remain, e.g. the formula is no sufficiently risk sensitive, does not consider the quality of the operational risk management of the undertaking and does not take operational risk arising from investments into account (only if managed by a third party). We strongly disagree with non recognition of diversification between local operational risks (i.e. diversification at group level), which is a deviation from principles based system. It is a major area of concern as already mentioned in our response to CP60. For instance, it is clear that a major fraud from an agent in New-York is 100% de-correlated with the consequences of a major flood in Paris. The consultation paper has proposed rejecting the ladder mechanism for reducing the operational risk charge through demonstration of good operational risk management. We believe that good practice should be encouraged and the ladder should be retained as an incentive to adopt good risk management. The new 60% cap (doubled from 30%) on operational risk as a percentage of risk capital appears to be an arbitrary upper limit. We note that the 30% cap is specified in the Directive and proposes it be retained. In summary we would urge CEIOPS to provide evidence with respect to the calibration of the operational risk module.	Not agreed. Please refer to comment #5. No agreed. Please refer to comment #8. Not agreed. Please refer to comment #5. Agreed. Agreed. See revised text.
30.	NORWAY: Codan Forsikring (Branch Norway)	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks	Noted.

	(991 502		sensitivity to anything other than size of entity.	
31.	Pearl Group Limited	General Comment	We welcome this paper which outlines CEIOPS vision for the SCR standard formula for operational risk The proposed operational risk calibration appears highly conservative. There are significant increases to the factors, which along with other changes to the calculation and the lack of diversification benefits make the standard SCR very, infact overly, prudent. This will force companies, ourselves included, to develop this in our internal model sooner than originally envisaged. Was this CEIOPS intention? If not then CEIOPS should review the appropriateness of the factors proposed. We do not agree with the increase in the cap from 30% to 60% (paragraph 3.39). We do not agree with the introduction of an additional blanket charge for outsourcing of 0.5% (paragraph 3.41).	Noted. Agreed. Agreed.
32.	Pricewaterho useCoopers LLP	General Comment	**[EMPTY]**	
33.	RBS Insurance	General Comment	We believe the underlying approach to promote the use of internal models for operational risk is appropriate. However we are disappointed that no change has been made to the formula in terms of its nature to incentivise the development of appropriate risk management. The revised calibration looks high.	Noted.
34.	ROAM (Réunion des Organismes	General Comment	The new calibration results from a comparison between data which are not comparable. On one side, the QIS4's results regarding the standard formula are based on technical provisions and earned premiums and, on the other side, the internal models results are	Noted.

	d'Assurance Mutuell		based on "sophisticated techniques to quantify capital requirements for operational risk". The gaps noticed between these 2 approaches simply prove that the use of technical provisions and earned premiums in the calculation is unfounded to cover the operational risk. Furthermore, we do not understand why CEIOPS suggests a cap of 60% on the BSCR when the Level 1 text defines the cap as 30%. Since no rationale is provided, we suggest keeping the calibration defined in the QIS 4 factor and the factor cap detailed in the Level 1 text. We are of the opinion that operational risk should be essentially dealt with as part of the Pillar II requirements. We deem it necessary that this new calibration takes into account the quality of the internal control procedures in order to prevent and manage the risk. Some examples of the more conservative calibration of operational risk compared to QIS4 results are as follows: For some ROAM members, the SCR for the operational risk would represent with this new calibration a quarter of turnover and 80 % of the Solvency 1 margin or could represent 50 % of the gross claims payments and administrative costs. This has no sense. Once more, ROAM underlines that the technical provisions are not relevant to represent the operational risk. The operational risk should depend on factors such as : Number of policies, products, claims, etc. Number of employees, back-office sites, front-office sites, outsourced activities, etc. By relying on technical provisions, the standard formula penalizes again heavily the long tail insurers (double punishment:	Agreed. Not agreed. Please refer to comment #5. Noted. Noted. CEIOPS has adopted a relatively simple formula, while acknowledging it is not perfect.

			underwriting risk + operational risk).	
35.	RSA Insurance Group PLC	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
36.	RSA Insurance Ireland Ltd	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
37.	RSA - Sun Insurance Office Ltd.	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
38.			Confidential comment deleted	
39.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	General Comment	We do not agree that the increase in the factors has been based on calibrations where no diversification with other risk types was envisaged. We therefore believe that operational risk charges will become too high. We remain disappointed that the formula for operational risk lacks sensitivity to anything other than size of entity.	Noted.
40.	The	General	The Association of Friendly Societies represents the friendly society	Noted.

	Association of Friendly Societies (AFS)	Comment	sector in the UK. We have 46 friendly society members, who are all member-owned mutual organisations. Typically they offer long term savings and protection policies, with generally low minimum premiums. Friendly societies are typically small, though well-capitalised, and have a distinctly different business model to shareholder-owned insurers. We would like to thank CEIOPS for the chance to comment on this paper. We have the following general comments: 1. We have concerns that the operational risk standard formulae are being increased in an arbitrary way to encourage firms to use internal models. We would remind CEIOPS that the standard formulae need to be set to be sufficient at the 99.5% level and not at a higher level. 2. We believe that there is no evidence to back up an increase in the factor for unit linked business at all. The QIS results backed the 25% as being roughly right compared with internal models. 3. The external fund management charge does not allow for the legal basis of the agreement. We believe that external fund management is generally a good thing. It allows firms to concentrate on their core skills and avoids substandard investment management being used. We would also suggest that if there is no credit risk (using an OEIC or with the assets still in the ownership and administration of the firm) there is no material risk to the firm. Credit risk should be handled by the credit risk module. We would suggest that 0.5% factor has no logic behind it. 4. We would suggest that the risk of fraud due to outsourcing to external fund managers should be considered within the outsourcing controls within corporate governance (CP33). Firms	 Noted. Agreed. Agreed. Noted.

			should get accounts of the funds in which they invest, they should carry out due diligence on the funds and check that adequate controls are in place to prevent fraud by key individuals in the fund management company.	
41.	UNESPA – Association of Spanish Insurers and Reins	General Comment	UNESPA (Association of Spanish Insurers and Reinsurers) appreciates the opportunity to analyze and comment on Consultation Paper 53 about SCR Standard Formula – Operational risk UNESPA is the representative body of more than 250 private insurers and reinsurers that stand for approximately the 96% of Spanish insurance market. Spanish Insurers and reinsurers generate premium income of more than € 55 bn, directly employ 60.000 people and invest more than € 400 bn in the economy. The comments expresed in this response represent the UNESPA´s views at this stage of the project. As our develops, these views may evolve depending in particular, on other elements of the framework which are not yet fixed. In order to encourage best practices in operational risk management and to avoid comparison grievances with the banking sector (BCBS June 2006, International Convergence of Capital Measurement and Capital Standards A Revised Framework, 665. (ii) Qualitative standards), we suggest a modification in the calculation of the standard formula capital charge (Pillar I) by including a factor, that depends on the adequacy and quality of undertaking's operational risk management procedures, in order to reduce the capital burden. Moreover, currently, correlation that might exist between operational risk and other risks in the SCR calculation is not considered, avoiding diversification benefits that may exist in each case.	Noted. Not agreed. Please refer to comment #5. Not agreed. Please refer to comment #9.

			Finally, the CEIOPS proposal to raise the SCR capital charge quantification limits for operational risk has been based on an insufficiently representative analysis, to justify the increase.	Partially agreed. See revised text.
42.	Uniqa	General Comment	The data basis on which the parameters were increased is very small and maybe not appropriate.	Noted.
43.	XL CAPITAL LTD	General Comment	We do not believe that CEIOPS recalibration of the operational risk factors in paragraph 3.39 is appropriate. This has effectively doubled each factor as compared to QIS 4. The additional loading for companies whose premiums or technical provisions are expected to increase by over 10% (paragraph 3.41) assumes that the increase is due to the volume of risk being taken by the company. However there are other factors (economic inflation or market movements) that could cause this increase and would be penalised under the suggested formula. We do not believe that there should be an additional blanket charge for outsourcing of 0.5% (paragraph 3.41).	Noted. Agreed. Agreed.
44.	PricewaterhouseCoopers LLP	1.	**[EMPTY]**	
45.	PricewaterhouseCoopers LLP	2.	**[EMPTY]**	
46.	AMICE	2.2.	The reputational risk should be included in the current CEIOPS definition of operational risk. A definition of operational risk that includes risks related to operations carried out by or on behalf of the insurer would have the advantage of covering outsourcing risks, which otherwise are not covered anywhere.	Not agreed. This would not be in line with the Level 1 text. This is also in line with the Basel definition of operational risk, in which reputational risk is excluded.

47.			Confidential comment deleted	
48.	AMICE	2.5.	Outsourcing should be included in the operational risk in order to have a better overview of the insurer's activity, even if this leads to further obligations being imposed upon the insurer, such as insuring the outsourcing company, relevant contractual clauses, SAS 70 type 2 report, etc.	Noted.
49.	PricewaterhouseCoopers LLP	3.	**[EMPTY]**	
50.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.1.	We agree the formula in QIS4 did not fully recognise nature of operational risks	Noted.
51.	AMICE	3.2.	AMICE members are in favor of tackling the operational risk through Pillar 2 measures as pointed out by some respondents to QIS4. We also agree that the operational risk charge has a wide range of qualitative measures which cannot be taken into account in a reliable manner in the standard formula. We advocate a more qualitative approach towards the operational risk which aims at quantifying appropriate capital requirements based on internal and external information on operational losses. The supervisor may collect and maintain this "Loss database" which provides information on losses due to people, processes, systems or external events.	Noted. Not agreed. Please refer to comment #5.

52.	Association of British Insurers	3.2.	We recognise that it is necessary for the formula for operational risk to achieve a balance between simplicity and accuracy and that for most standard operational risks there is no standard, auditable volume measure. As an option, we would query whether CEIOPS have tested using the level of expenses as a proxy for operational activity as we believe this could be a useful volume measure (Article 106 refers only to the need to take account of earned premiums and technical provisions rather than limiting the assessment to these factors).	Noted Operational risk is difficult to quantify in a standard formula
53.	CEA, ECO-SLV-09-448	3.2.	We recognise that it is necessary for the formula for operational risk to achieve a balance between simplicity and accuracy and that for most standard operational risks there is no standard, auditable volume measure. As an option, we would query whether Ceiops have tested using the level of expenses as a proxy for operational activity as we believe this could be a useful volume measure (Article 106 refers only to the need to take account of earned premiums and technical provisions rather than limiting the assessment to these factors).	Noted. Please refer to comment #52.
54.	CRO Forum	3.2.	Correlation – Operational risk should not be added to the other risk categories assuming no diversification. Op. risk covers only risks which are not already captured in other risk categories in order to avoid any double counting (Article 106(1) and Article 104(1)). This implicitly leads to a certain degree of independence between op. risk and the remaining risk categories so that a simple sum of the charges might be misleading. The correlation assumption between OpRisk and other risks should be revisited as already mentioned in the CRO Forum documents on Calibration principles and Op. risk management (May 2009) for the following reasons: 1) A bottom-up approach (integrating operational risks with an	Not agreed. Please refer to comment #9.

			explicit allowance for diversification with the other risk types) which can be linked to specific events is superior to the marginal approach chosen in the current standard formula which make the aggregation/allocation in partial internal models rather difficult. 2) The study "Insights from the joint IFRI/CRO Forum survey on Economic Capital practice and applications" (IFRI/CRO Forum, 2007) states that Operational Risk is a risk type that can be assumed to diversify with other risk types. The correlation factors are typically assessed in a range between 0% and 50%.	
55.	Groupe Consultatif	3.2.	We note the main issues mentioned by the respondents.	Noted.
56.	International Underwriting Association of London	3.2.	In QIS 4 we had concerns relating to the 100% correlation between operational risk and all other risks. We do however recognise that this is now set in the level 1 directive. However, although undoubtedly there will be some correlation between operational risk and other risks, we believe that a 100% correlation is excessively prudent. Also applicable to Paragraph 3.8: We agree that there is a need to strike a balance between simplicity and accuracy, however we remain unconvinced as to whether the correct balance has been found in the advice set out in this paper. Although this approach is relatively straightforward to implement (as partly evidenced by the QIS 4 report stating that 99% of non-life insurers were able to calculate the operational risk SCR) we do not feel it is significantly risk sensitive. A risk-based economic approach should reward good operational risk management, and we do not believe the current proposal does this. We think a workable 'ladder factor' could be included, and would help make the operational risk module more risk sensitive. Furthermore, whilst we acknowledge that a partial internal model could be adopted, arguably the modelling of	Not agreed. Please refer to comment #5. Not agreed. Please refer to comment #9.

			operational risk might be one of the more challenging aspects of internal models and so might not be an option available to all undertakings.	
57.	Just Retirement Limited	3.2.	The main issues in the QIS4 report also included the following: “The average per country of the percentage of the operational risk capital charge to the total SCR ranged from 5% to 10%” – this is not mentioned in CP53. This indicates that, on this measure, the operational risk capital charge in QIS4 is broadly appropriate. In the UK, the FSA published its finding of ICAS capital charges (FSA Insurance Sector Briefing: ICAS and looking ahead to Solvency II, published November 2007)- the average operational risk capital charge was 9% of the total capital requirement – commensurate with the QIS4 results. These results therefore do not imply a need to revise the level of operational risk required capital.	Noted.
58.	Munich RE	3.2.	Diversification benefits should recognised in aggregating operational risk with the other risk categories. As mentioned in the recent CRO Forum Calibration paper (May 2009) the correlation assumption between operational and other risks should be revisited.	Not agreed. Please refer to comment #9.
59.	Pearl Group Limited	3.2.	We recognise that it is necessary for the formula for operational risk to achieve a balance between simplicity and accuracy and that for most standard operational risks there is no standard, auditable volume measure. As an option, we would query whether CEIOPS have tested using the level of expenses as a proxy for operational activity as we believe this could be a useful volume measure (Article 106 refers only to the need to take account of earned premiums and technical provisions rather than limiting the assessment to these factors).	Noted. Please refer to comment #52.

60.	RBS Insurance	3.2.	We agree with these main issues as raised by previous consultations. In addition we believe that the standard formula gives no incentive for firms to improve their operational risk functions.	Noted.
61.	AAS BALTA	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
62.	AB Lietuvos draudimas	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted
63.	ACA – ASSOCIATIO N DES COMPAGNIE S D'ASSURAN CES DU	3.3.	We agree with the short fallings of formula – this is likely to be applicable to all Luxembourg companies	Noted.
64.	DENMARK: Codan Forsikring A/S (10529638)	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
65.	DENMARK: Codan Forsikring A/S (10529638)	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
66.	DENMARK: Codan Forsikring A/S	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.

	(10529638)			
67.	Just Retirement Limited	3.3.	In relation to the formula, the CEIOPS' QIS4 report stated (page 228): The standard formula is too simplistic 100% correlation with other risks is not appropriate No account taken for risk management processes Max. 30% of BSCR is too high Formula does not cover wide spectrum of operational risks CP53 does very little to address these findings from the QIS4 exercise. In fact, it has directly contradicted these results (e.g. increasing the cap from 30% to 60%). We believe a fundamental review of the approach set out in CP53 is required.	Noted.
68.	Link4 Towarzystwo Ubezpieczeń SA	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
69.	NORWAY: Codan Forsikring (Branch Norway) (991 502	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
70.	RSA Insurance Group PLC	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
71.	RSA	3.3.	We do NOT agree risk mitigation techniques have been adequately	Noted.

	Insurance Ireland Ltd		considered in the Consultation Paper.	
72.	RSA - Sun Insurance Office Ltd.	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
73.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	3.3.	We do NOT agree risk mitigation techniques have been adequately considered in the Consultation Paper.	Noted.
74.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.4.	Recalibration is based on internal models. Are these models representative of all range of companies, in particular are they representatives of small and medium size companies? It is expensive to develop internal models for small and medium size companies. QIS4 show that this kinds of models reduce the BSCR for most of companies who use it. The assumption made in this paragraph seems to go against the proportionality principle because small and medium size companies could not have the benefit of an internal model for their BSCR but they will pay for the high level of operational risk existing in big structures.	Not agreed. Calibration was performed using available information. Furthermore, there is no evidence that smaller undertakings are exposed to less operational risk (on a relative basis) when compared to large undertakings.
75.	CEA, ECO-SLV-09-448	3.4.	We disagree with this statement. There is a lack of proper analysis. The results of internal model cannot be extrapolated to cover the whole market.	Partially agreed. See revised text with additional calibration information.
76.			Confidential comment deleted	
77.	Groupe Consultatif	3.4.	We note that the median ratio of internal model operational risk capital charge to standard formula operational risk capital charge	Noted.

			was 133%, with an inter-quartile range of 100% to 233%.	
78.	European Union member firms of Deloitte Touche To	3.5.	We would welcome more foundations to support CEIOPS choice to use earned premiums and technical provisions as a measure of business activity instead of for instance gross income as in Basel II. (also applied to para. 3.7)	Noted. We deem premiums and technical provisions to be good proxies of the volume of business underwritten by insurers
79.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.6.	The Formula is quite simple so perhaps not unsurprising most offices could calculate	Noted.
80.	CEA, ECO-SLV-09-448	3.7.	We agree that the BSCR is not a sufficiently reliable measure of volume for operational risk purposes.	Noted.
81.	CRO Forum	3.7.	**[EMPTY]**	
82.	European Union member firms of Deloitte Touche To	3.7.	See comment on 3.5	Noted.
83.	Just Retirement Limited	3.7.	The proposals must, of course, comply with the Framework Directive which requires the operational risk capital requirement to take into account earned premiums and technical provisions,	Noted.

			subject to a cap. Therefore, in any event, the Basic SCR cannot be used in isolation as a measure of operational risk.	
84.	Association of British Insurers	3.8.	Given the significant amount of operational risk information provided in the ORSA it should be possible to derive a simple ladder system to give firms a capital incentive to use better risk management practices. The change in business volumes approach should be symmetrical. A rapidly decreasing book of business will also place pressures on transaction and payment processing systems and potentially lead to operational risks. We agree that considering the strength of the risk management system could be explored further for inclusion in the standard formula. However, how would the first calculation of the SCR be proceed until the ORSA is reviewed and the rating agreed.	Not agreed. Please refer to comment #5. Agreed. The capital charge regarding changes in business volumes has been removed. Not agreed. Please refer to comment #5.
85.			Confidential comment deleted	
86.	CEA, ECO-SLV-09-448	3.8.	First bullet point The CEA questions the justification for using a small and not representative sample of undertakings in the calibration of this risk module. Though some judgment can be based on the results of some internal models, a better calibration of this module is needed. Second bullet point The reference to 3.32 is not clear ("explanation" and link between 0.1% mentioned and numbers in 3.32.). As to the increase of calibration, see our comment on para 3.28. Fourth bullet point The higher risk sensitivity mentioned is one-sided as only "increased risk in operational risk as a result of increased business	Noted. Noted. Not Agreed. Operational risks do not

			activity" is considered. By the same token, decreased risk in operational as a result of decreased business activity should be considered as well. In other words: The adjustment due to change in business volume should be symmetrical. Sixth bullet point More guidance is required what is meant by "relevant part of the undertaking's financial investments" Eighth bullet point: We acknowledge that the connection between management and measurement of operational risk is difficult. But by not including an allowance for the risk controls in place within a company the proposed formulae does not reward and encourage sound risk management and is not consistent with the framework of other financial industries as banks, for which the CRD (ANNEX 10) allows a reduction in the standard factors depending on the internal control environment. We think that the development of a more risk sensitive approach would be possible even for the standard formula and ask Ceiops to consider working on the issue of including the qualitative aspects of operational risk mgmt in the standard design of the operational risk.	necessarily increase in a symmetric way when business increases very fast, or decrease very fast: a thorough analysis is needed Agreed. The capital charge regarding external management of investments has been removed. Not agreed. Please refer to comment #5.
87.	CRO Forum	3.8.	Fourth bullet: The higher risk sensitivity mentioned is one-sided as only "increased risk in operational risk as a result of increased business activity" is considered. By the same token, decreased risk in operational as a result of decreased business activity should be considered as well. In other words: The adjustment due to change in business volume should be symmetrical (cf. comments to section 3.35).	Agreed. The capital charge regarding changes in business volumes has been removed.

			Eighth bullet: The consultation paper has proposed rejecting the ladder mechanism for reducing the operational risk charge through demonstration of good operational risk management. The CRO Forum believes that good practice should be encouraged and that the Standard Model be made more risk sensitive. However such mechanism (whether it be the ladder mechanism, or an alternative such as differentiated risk factors) should be kept prudent, practical and objective. Companies wishing to achieve further recognition of good operational risk management beyond this always have the option of adopting a (partial) internal model We acknowledge that the connection between management and measurement of operational risk difficult. However, we think that development of a "ladder approach" would be possible even for the standard formula. Such an approach might proceed along the following lines: Within the ORSA the undertaking also specifies its approach towards operational risks, i.e. its measurement and management methods as well as its systems and processes in place. Within the supervisory process the supervisory authority will form an opinion on the overall governance of the undertaking and on the extent to which the ORSA is an adequate representation of the situation of the undertaking (here: w.r.t. operational risk). Based on this assessment the operational risk management of the undertaking is classified according to a pre-defined set of categories, e.g. strong, adequate, weak. Those categories are then used within the standard formula to adjust the base SCRop. Undertakings classified as "weak" will receive an add-on, those classified as "strong" will receive a deduction from the base SCRop. For companies classified as "adequate" no adjustment will be made.	Not agreed. Please refer to comment #5.

			In sum: A connection of the operational risk management and capital requirements within the standard formula is possible via the ORSA.	
88.	DIMA (Dublin International Insurance & Management	3.8.	The additional capital requirements resulting from the change to the standard formula if a company increases its premium volumes or technical provisions by 10% or more could affect smaller companies (such as captives) disproportionately, as adding a new policy to a captive portfolio could potentially increase premium volumes by 100%. The formula presented in CP 53 could result in a small company having to double the operational risk element of its SCR, when in fact the addition of one extra contract hardly justifies such an increase. It is also worth noting that the 10% barrier could result in some very strange behaviour in terms of portfolio growth and companies potentially ceasing to write business purely to avoid the additional capital requirements. The doubling of the factors and the cap are also disproportionately harsh on smaller companies, as such companies do not have the resources to move to an internal model to avoid them. In the case of captives in particular, the companies are often managed by professional captive managers who go to great lengths to ensure that the company is run under the best possible operational risk guidelines, but no credit appears to be available for such arrangements. These comments also apply to section 3.35, as this is the section in which the formula is set out.	Partially Agreed: the standard formula is calibrated for an average undertaking in view: specific cases might require a specific modelling. Partially agreed. The cap has been revised.
89.	European Union member	3.8.	In an attempt to make the formula more risk sensitive to changes in the size of the undertaking, CEIOPS has proposed an additional charge on the growth of earned premiums. This may lead to	Agreed.

	firms of Deloitte Touche To		unjustified extra charges in case the increase of premiums is the result of higher premiums rates rather than higher business volumes. The new standard formula will attempt to capture the increased risk as a result of increased business activity. We encourage the use of more than 2 years of observations and also the use of (exponential) weighted moving average. With regard to the revised BSCR (second bullet), reference is made to paragraph 3.33. This must be paragraph 3.29.	Noted.
90.	FFSA	3.8.	FFSA welcomes in principle CEIOPS' desire to align the calibration of the standard formula to the assessment obtained from internal models. In order to achieve the EU Commission's objective to have a solvency assessment system that is as economic as possible, the FFSA would like nonetheless to highlight that such convergence should be established both when internal models result in lower capital charges than the standard formula and when they result in higher charges. For instance, we understand many companies found risk charges for Non-Life underwriting that were much lower in their internal model than in the standard formula. Keeping with the logic of CEIOPS, we think the risk charges in the standard formula should be revised downwards in such cases	Noted.
91.	German Insurance Association – Gesamtverb and der D	3.8.	First bullet point The GDV questions the justification for using a small and not representative sample of undertakings in the calibration of this risk module. Though some judgment can be based on the results of some internal models, a better calibration of this module is needed. Second bullet point The reference to 3.32 is not clear ("explanation" and link between	Partially agreed. See revised text with further details on calibration. Noted.

			0.1% mentioned and numbers in 3.32.). As to the increase of calibration, see our comment on para 3.28. Fourth bullet point The higher risk sensitivity mentioned is one-sided as only "increased risk in operational risk as a result of increased business activity" is considered. By the same token, decreased risk in operational as a result of decreased business activity should be considered as well. In other words: The adjustment due to change in business volume should be symmetrical. Sixth bullet point More guidance is required what is meant by "relevant part of the undertaking's financial investments" Eighth bullet: We acknowledge that the connection between management and measurement of operational risk is difficult. But by not including an allowance for the risk controls in place within a company the proposed formulae does not reward and encourage sound risk management and is not consistent with the framework of other financial industries as banks, for which the CRD (ANNEX 10) allows a reduction in the standard factors depending on the internal control environment. We think that the development of a more risk sensitive approach would be possible even for the standard formula and ask CEIOPS to consider working on the issue of including the qualitative aspects of operational risk management in the standard design of the operational risk.	Agreed. The capital charge regarding changes in business volumes has been removed. Agreed. The capital charge regarding external management of investments has been removed. Not agreed. Please refer to comment #5.
92.	Groupe Consultatif	3.8.	The reference to an external financial investment manager or depositary is very general and needs much deeper consideration.	Agreed. The capital charge regarding external management

			For example, there are distinctions to be drawn depending on whether the manager is part of the same group, on whether the manager is regulated in the conduct of its own business, on any risk mitigants built into the agreement between the parties and so on, We appreciate the intent to modify the Op risk formula to recognise some of the perceived short-comings in the QIS4 approach. In particular: • The change in calibration leading to an increase in the results from applying the formula • The idea of charging for the operational risks associated with the future implementation of management actions • The formula responding to increased company activity and growth • Considering the failure or unfair behaviour of a financial investment manager We note that the use of a 'ladder factor' has been rejected and that companies are encouraged to use partial internal models in the case that the Standard formula is judged to be inappropriate.	of investments has been removed. Noted.
93.	International Underwriting Association of London	3.8.	It is not clear to us from the consultation paper as to why the 'ladder factor' was dismissed. We would be very keen for the standard formula to reflect greater risk sensitivity, and encourage good operational risk management practices. The ladder-factor or an alternative approach might be one way to achieve this.	Not agreed. Please refer to comment #5.
94.	Just Retirement Limited	3.8.	First bullet The calibration of the standard formula has been based on only 32 firms. This is not a large enough sample from which to derive robust calibrations.	Partially agreed. See revised text with further details on calibration.

			As mentioned above, we would like to see further work undertaken on the calibration of the Prem - life factor. We believe that the calibration should be derived only from firms where the Prem - life test 'bites' – the revised Prem - life factor is distorted by also including the Prem-life results from firms where the TP - life test bites. Increasing the Prem - life factor from 3% to 7.6% for life firms will increase the required operational risk capital significantly, particularly for growing firms/SMEs – considerably in excess of internal model capital requirements. Second bullet It is unclear how the 0.1% has been derived. It feels very arbitrary and does not take into account the type and number of management actions. In addition, "management actions" is a very broad term and could be interpreted differently in different jurisdictions/entities. Third bullet Article 106(3) of the Framework Directive states: "the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations". CP53 incorrectly refers to Article 109(g) – it should refer to Art. 109(f) which sets out that the percentage in para 3 of Article 106 may be amended. The fact that the implementing measure contradicts the Framework Directive should be legally reviewed before amending this factor. In any event, increasing the cap to 60% results in this requirement becoming virtually redundant – the number of firms with an operational risk capital requirement greater than 60% of the BSCR	Agreed. Partially agreed. There was no contradiction of the Level 1 text, as the implementing measures were supposed to address this issue. In spite of this, CEIOPS has decided to leave this cap at 30%.

			will be extremely low. A cap of 30% seems reasonable, and even if it legally can be increased from the figure given in Article 106, more robust reasoning for this proposed variation, away from the figure which is explicitly set out in the Directive, should be provided. Final (eighth) bullet The proposals in CP53 do not pay regard to the quality of a company's own risk management process and hence do not provide an incentive to develop good risk management. Introducing a ladder approach which takes into account qualitative criteria would be a significant improvement. Although harmonisation may be difficult to achieve, it would enable well managed firms to have a lower capital requirement than other firms – hence providing an appropriate incentive to improve risk management. In addition, greater emphasis on Pillar II (i.e. the ORSA and potential capital add-ons), subject to supervisory assessment, would provide a sounder basis to increase or decrease the operational risk capital requirement depending on the quality of risk management and hence much of the improvement in risk management seen in recent years would not be lost.	Not agreed. Please refer to comment #5.
95.	Legal & General Group	3.8.	Eigth bullet: Given the significant amount of operational risk information provided in the ORSA it should be possible to derive a simple ladder system to give firms a capital incentive to use better risk management practices.	Not agreed. Please refer to comment #5.
96.	Lloyd's	3.8.	We do not agree that the formula should be revised to reflect the risk of failure or unfair behaviour (i.e. conflicts of interest) of a financial investment manager when a relevant part of the undertaking's financial investments are externally managed. This	Agreed.

			assumes an automatic level of increased operational risk even where undertakings' adopt strict investment guidelines to within which investment managers must operate. The extent to which undertakings' outsource the management of investments and related decisions will vary as will the related controls over these activities. It is therefore not appropriate to apply a standard formula for this specific area which is irrespective of the control environment that is in place. (see also 3.33)	
97.	Munich RE	3.8.	Fourth bullet: The higher risk sensitivity mentioned is one-sided as only "increased risk in operational risk as a result of increased business activity" is considered. By the same token, decreased risk in operational as a result of decreased business activity should be considered as well. In other words: The adjustment due to change in business volume should be symmetrical (cf. comments to section 3.35). Eighth bullet: We acknowledge that the connection between management and measurement of operational risk difficult. However, we think that development of a "ladder approach" would be possible even for the standard formula. Such an approach might proceed along the following lines: Within the ORSA the undertaking also specifies its approach towards operational risks, i.e. its measurement and management methods as well as its systems and processes in place. Within the supervisory process the supervisory authority will form an opinion on the overall governance of the undertaking and on the extent to which the ORSA is an adequate representation of the situation of	Not Agreed. Operational risks do not necessarily increase in a symmetric way when business increases very fast, or decrease very fast: a thorough analysis is needed No agreed. Please refer to comment #5.

			the undertaking (here: w.r.t. operational risk). Based on this assessment the operational risk management of the undertaking is classified according to a pre-defined set of categories, e.g. strong, adequate, weak. Those categories are then used within the standard formula to adjust the base SCRop. Undertakings classified as "weak" will receive an add-on, those classified as "strong" will receive a deduction from the base SCRop. For companies classified as "adequate" no adjustment will be made. In sum: A connection of the operational risk management and capital requirements within the standard formula is possible via the ORSA.	
98.	RBS Insurance	3.8.	First bullet point We query the assessment behind the calibration of the operational risk module as we believe the data it is based on is not an adequate sample. We would welcome an improvement on the calibration of this module. Fourth bullet point We question whether an increase in business activity would result in such a direct increase in operational risk. In addition, no account is taken for a decrease in business activity which by this argument would decrease operational risk. Eighth bullet: We are concerned that the standard formula gives no incentives for effective or improved operational controls within firms. We do not believe that this is the right approach, or the right message to be sending out to the industry and beyond.	Partially agreed. See revised text with further details on calibration. Not Agreed. Operational risks do not necessarily increase in a symmetric way when business increases very fast, or decrease very fast: a thorough analysis is needed Not agreed. Please refer to comment #5.
99.	The Association	3.8.	CEIOPS has agreed that the "ladder factor" method should not be used for operational risk and that firms wishing to take this further	Not agreed. Please refer to comment #5.

	of Friendly Societies (AFS)		use a partial internal model. This seems to move away from the proportionality principle which focuses on the nature, scale and complexity of the firms' risks. Since many friendly societies have simple operations, they are unlikely to be attracted to developing internal models.	
100.	International Underwriting Association of London	3.9.	Whilst we agree that the complexity and nature of operational risk can present difficulties, when compared to the complexity of other aspects of the standard formula, the operational risk calculation appears rather simplistic. Furthermore, the complexity and nature of operational risk will meant that partial internal models might prove particularly challenging to develop - particularly for smaller entities. We believe it is essential for greater risk-sensitivity to be included in the operational factor. If CEIOPS considered that any alternative approach is still too complex, a simplified approach along the lines of that proposed in this Consultation could be offered. We feel the current approach takes no account of the actual risk. In reality, operational risk will depend upon the class, and type of business written; small amounts of high value business, versus large amounts of low value business will have different operational risks with the former likely to have a lower risk than the latter.	Noted.
101.	Just Retirement Limited	3.10.	As stated above, these results generally reflect the operational risk capital requirements for firms where the TP - life test 'bites' – the majority of firms. These results therefore do not reflect the actual circumstances of those firms where the Prem - life test 'bites' – a significant minority.	Noted.
102.	CEA, ECO-SLV-09-448	3.11.	In our opinion the operational risk charge has to be in line with the level 1 text, which states a 1 in 200 event and not by reference to internal models. By default, internal models are based on the specific characteristics of the specific insurer and cannot act as full benchmark for the standard model.	Noted.

103.	CRO Forum	3.11.	We do not agree with this statement as it completely disregards diversification as one central corner stone of internal risk capital models. The calibration should be based on the effective risk charge within internal models which depends on both the undiversified operational risk and the diversification effect. This charge should then be adjusted for the lower degree of diversification which can be expected for "average" companies compared to CRO Forum members and the effect of the "ladder factor" (please refer to 3.8 for details).	Not agreed. Please refer to comment #9.
104.	Groupe Consultatif	3.11.	Whilst this sounds like a good principle, we believe that it is more important that the final diversified capital charge for operational risk is appropriate and sufficient. See general comment VI above. In our view, the assumed correlation of 100% between operational risks and other risks is inappropriate. The internal models used by companies generally allow for diversification. CEIOPS appears to have used internal model results out of context.	Not agreed. Please refer to comment #9.
105.	Pearl Group Limited	3.11.	The new factors have been derived without any allowances for diversification between operational and other risks. Pearl believes that the standard formula should include basic allowances for risk diversification and that the shape and form of these should be discussed further.	Not agreed. Please refer to comment #9.
106.	RBS Insurance	3.11.	As diversification benefits should be fully allowed for within the internal model, we welcome this as a major incentive for firms to use the internal model rather than the standard formula.	Not agreed. Please refer to comment #9.
107.	Association of British Insurers	3.12.	Where internal models have been provided it is still possible that conservative approximations have been made and it is therefore not necessary to add a further margin on these results.	Noted.

108.	Legal & General Group	3.12.	Where internal models have been provided it is still possible that conservative approximations have been made and therefore, we feel it is not necessary to add a further margin on these results.	Noted.
109.	AAS BALTA	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
110.	AB Lietuvos draudimas	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
111.	DENMARK: Codan Forsikring A/S (10529638)	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
112.	DENMARK: Codan Forsikring A/S (10529638)	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
113.	DENMARK: Codan Forsikring A/S (10529638)	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
114.	Just	3.13.	We believe that the current Prem – life factor will result in an	Partially agreed. See revised text.

	Retirement Limited		operational risk capital requirement considerably in excess of a 99.5% VaR criterion for firms where this test 'bites' (see 3.25).	
115.	Link4 Towarzystwo Ubezpieczeń SA	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
116.	NORWAY: Codan Forsikring (Branch Norway) (991 502	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
117.	RSA Insurance Group PLC	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
118.	RSA Insurance Ireland Ltd	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
119.	RSA - Sun Insurance Office Ltd.	3.13.	We agree it is sensible to have an operational risk charge in the standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	Noted.
120.	SWEDEN:	3.13.	We agree it is sensible to have an operational risk charge in the	Noted.

	Trygg-Hansa Försäkrings AB (516401-7799)		standard formula that is likely to meet the 99.5% VaR criterion for most undertakings, and to allow those undertakings for whom the standard formula is not appropriate to apply for a partial internal model.	
121.	AAS BALTA	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
122.	AB Lietuvos draudimas	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
123.	CEA, ECO-SLV-09-448	3.14.	Under the circumstances that data is mostly incomplete, great care is needed in concluding that operational risk should be based on the calibration of internal models.	Noted.
124.	DENMARK: Codan Forsikring A/S (10529638)	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
125.	DENMARK: Codan Forsikring A/S (10529638)	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
126.	DENMARK: Codan Forsikring A/S	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.

	(10529638)			
127.	Link4 Towarzystwo Ubezpieczeń SA	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
128.	NORWAY: Codan Forsikring (Branch Norway) (991 502	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
129.	RSA Insurance Group PLC	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
130.	RSA Insurance Ireland Ltd	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
131.	RSA - Sun Insurance Office Ltd.	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.
132.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	3.14.	We agree internal loss event data is a limited and a potentially biased sample may result in undertakings underestimating the risk in their models. The combination of internal loss events and 'scaled' external losses provides a much better fit.	Noted.

133.	Uniqa	3.14.	It seems very vague to (more or less) double the capital charge for OpRisk based on the data of Internal Models when only 25% of respondents believed that their data was sufficiently accurate, complete and appropriate.	Noted.
134.	Association of British Insurers	3.15.	We believe that the results from the CRO Forum are a helpful reference but not necessarily a representative sample for companies covered by Solvency 2 and should therefore not be used for benchmarking.	Noted.
135.	Legal & General Group	3.15.	The CRO forum results are a helpful reference but are not necessarily a representative sample of companies covered by Solvency II and so should not be used for benchmarking.	Noted.
136.	AAS BALTA	3.16.	It is very unclear to us how these assertions are justified.	Noted.
137.	AB Lietuvos draudimas	3.16.	It is very unclear to us how these assertions are justified.	Noted.
138.	CEA, ECO-SLV-09-448	3.16.	We note that the results mentioned from the CRO Forum QIS4 Benchmarking Study and, in particular, the size of the operational risk capital charge, mentioned therein, is restricted to the participating CRO Forum companies. Those results cannot simply be used as a benchmark for the entire industry.	Noted.
139.	CRO Forum	3.16.	We note that the results mentioned from the CRO Forum QIS4 Benchmarking Study and in particular the size of the operational risk capital charge mentioned therein are restricted to the participating CRO Forum companies. Those results cannot simply be used as a benchmark for the entire industry.	Noted.
140.	DENMARK: Codan Forsikring	3.16.	It is very unclear to us how these assertions are justified.	Noted.

	A/S (10529638)			
141.	DENMARK: Codan Forsikring A/S (10529638)	3.16.	It is very unclear to us how these assertions are justified.	Noted.
142.	DENMARK: Codan Forsikring A/S (10529638)	3.16.	It is very unclear to us how these assertions are justified.	Noted.
143.	Just Retirement Limited	3.16.	This paragraph states that the QIS4 results are broadly similar to firms' internal models. This indicates that, on this measure, the operational risk capital charge is broadly appropriate.	Not agreed. A comparison is being performed between diversified and non-diversified charges, which should not be similar.
144.	Link4 Towarzystw o Ubezpieczeń SA	3.16.	It is very unclear to us how these assertions are justified.	Noted.
145.	Munich RE	3.16.	We note that the results mentioned from the CRO Forum QIS4 Benchmarking Study and in particular the size of the operational risk capital charge mentioned therein are restricted to the participating CRO Forum companies. Those results cannot simply be used as a benchmark for the entire industry.	Noted.
146.	NORWAY: Codan	3.16.	It is very unclear to us how these assertions are justified.	Noted.

	Forsikring (Branch Norway) (991 502			
147.	RSA Insurance Group PLC	3.16.	It is very unclear to us how these assertions are justified.	Noted.
148.	RSA Insurance Ireland Ltd	3.16.	It is very unclear to us how these assertions are justified.	Noted.
149.	RSA - Sun Insurance Office Ltd.	3.16.	It is very unclear to us how these assertions are justified.	Noted.
150.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	3.16.	It is very unclear to us how these assertions are justified.	Noted.
151.	Association of British Insurers	3.17.	See comments to 3.8.	Noted.
152.	CEA, ECO-SLV-09-448	3.17.	The fact that the internal models are probably calibrated too low is highly speculative. The implications stated in this paragraph are also highly unsatisfactory. It seems that the incentive mentioned to pursue and internal model for ORM has been the main goal to double the capital charge. It is unclear to us how a higher capital charge for the standard formula, which is not linked to the internal control framework and the quality of processes, can provide an incentive for better management of	Noted.

			operational risk. In order to provide such an incentive management and measurement of operational risk would have to be connected. However, this option has explicitly been disregarded. This incentive reduces the ambition of the Solvency II guidelines to a cost-benefit exercise for management.	
153.	CRO Forum	3.17.	It is true that the CRO Forum results have not been subject to supervisory challenge, however, this does not mean that a conservative assumption of no allowance for diversification benefits is appropriate. In addition, we do not buy into the argument that in order to “address the issue of the standard formula not providing incentives to manage operational risk, the undiversified standard formula charge should be higher than the diversified internal model charge and not the same”. It is unclear to us how a higher capital charge for the standard formula which is not linked to the internal control framework and the quality of processes can provide an incentive for better management of operational risk. In order to provide such an incentive management and measurement of operational risk would have to be connected. However, this option has explicitly been disregarded (section 3.8, last bullet and our comments thereto).	Noted.
154.	Groupe Consultatif	3.17.	We would take issue with the need to encourage the use of internal models, particularly for operational risk. The firms using the standard formula will tend to be smaller firms. The FSA has carried out an exercise in 2008 on smaller friendly societies within the UK. This found that there were no material differences in the quality of governance, risk control or treating customers fairly between these smaller firms and larger insurer. Smaller firms will be placed at a disadvantage to larger firms by requiring them to hold more capital than the larger insurers who will be using an internal model. The standard formulae should not be designed to encourage firms to	Noted.

			move to internal models. The purpose of the standard formulae is to provide sufficient capital at the 99.5% level.	
155.	Investment & Life Assurance Group (ILAG)	3.17.	We would take issue with the need to encourage the use of internal models. The firms using the standard formula will tend to be smaller firms. The FSA has carried out an exercise in 2008 on smaller friendly societies within the UK. This found that there were no material differences in the quality of governance, risk control or treating customers fairly between these smaller firms and larger insurer. Smaller firms will be placed at a disadvantage to larger firms by requiring them to hold more capital than the larger insurers who will be using an internal model. The standard formulae should not be designed to encourage firms to move to internal models. The purpose of the standard formulae is to provide sufficient capital at the 99.5% level.	Noted.
156.	Just Retirement Limited	3.17.	As stated in our response to the previous paragraph – as the QIS4 results are broadly similar to resuts produced by internal models, this indicates that the QIS4 operational capital charge is broadly appropriate. Therefore, CP53's proposal to significantly increase the operational risk capital requirement does not seem well founded. Para 17 states that the standard formula should be higher for two reasons: in order to encourage firms to adopt an internal model – firms should be encouraged to adopt an internal model primarily in order to improve their risk and controls environment (capital is no substitute for good risk management); increasing the operational risk capital requirement by a factor of c.200% seems a very crude method – why is this approach not adopted to the same degree for other risks (e.g. market risk)? The standard formula does not provide incentives to manage operational risk – other than applying for an internal model (an	Not agreed. A comparison is being performed between diversified and non-diversified charges, which should not be similar. Regarding the inclusion of qualitative criteria, please refer to comment #5.

			option not available to all firms), it is unclear how an increased operational risk capital requirement, which is not related to the quality of a firms' risk management or the internal control framework, can provide a capital incentive to improve the management of operational risk.	
157.	Legal & General Group	3.17.	We do not believe that the assumption internal models are inappropriately calibrated is true. It is an assertion and hard data across all countries and firms should be gathered to support/deny this. Making the standard formula lead to a high level of capital in order to give incentives to setup internal models is not appropriate – the SCR should provide a sensible risk sensitive level of capital (see para 3.8 comment)	Noted.
158.	Munich RE	3.17.	We do not buy into the argument that in order to "address the issue of the standard formula not providing incentives to manage operational risk, the undiversified standard formula charge should be higher than the diversified internal model charge and not the same". It is unclear to us how a higher capital charge for the standard formula which is not linked to the internal control framework and the quality of processes can provide an incentive for better management of operational risk. In order to provide such an incentive management and measurement of operational risk would have to be connected. However, this option has explicitly been disregarded (section 3.8, last bullet and our comments thereto).	Noted.
159.	Pearl Group Limited	3.17.	The fact that the internal models are probably calibrated too low is highly speculative. The implications stated in this paragraph are also highly unsatisfactory. It seems that the incentive mentioned to pursue and internal model for ORM has been the main goal to double the capital charge. It is unclear to us how a higher capital charge for the standard formula, which is not linked to the internal control framework and the quality	Noted.

			of processes, can provide an incentive for better management of operational risk.. This incentive reduces the ambition of the Solvency II guidelines to a cost-benefit exercise for management.	
160.	RBS Insurance	3.17.	We agree that the undiversified standard formula charge should not be lower than the diversified internal model charge. Again we are also concerned that doubling the capital charge for operational risk but failing to link it with any effective or improved operational controls within firms provides no incentive to invest in or improve operational risk functions and frameworks. We do not believe that the current formula will promote better operational risk management within firms, and indeed this does not appear to be an objective for CEIOPS here which we find surprising and disappointing.	Noted.
161.	The Association of Friendly Societies (AFS)	3.17.	We would take issue with the need to encourage the use of internal models. The firms using the standard formula will tend to be smaller firms. The FSA has carried out an exercise in 2008 on smaller friendly societies within the UK. This found that there were no material differences in the quality of governance, risk control or treating customers fairly between these smaller firms and larger insurer. Smaller firms will be placed at a disadvantage to larger firms by requiring them to hold more capital than the larger insurers who will be using an internal model. The standard formulae should not be designed to encourage firms to move to internal models. The purpose of the standard formulae is to provide sufficient capital at the 99.5% level.	Noted.
162.	CEA, ECO-SLV-09-448	3.18.	This statement should not be generalised so easily to the whole market. The calibration of the standard formula to the 99.5th VaR criterion, with an appropriate view to the results of the CRO forum, should be made transparent.	Partially agreed. See revised text with further details on calibration.

163.	CRO Forum	3.18.	We do not think that the CRO Forum results help judge directly on the calibration of the standard formula compared to the 99.5% VaR criterion as the calibration of the standard formula is not fully transparent.	Noted.
164.	Just Retirement Limited	3.18.	The CRO Forum's QIS4 benchmark study states: "The QIS4 requirements for standalone operational risk are significantly lower than in internal models. In contrast to many internal models, QIS4 does not allow for diversification between the operational risk capital requirements and the remaining capital requirements implying high conservatism. However, both difference currently offset each other." Therefore the statement in para 3.18 that "the CRO Forum results support the view that the standard formula operational risk parameters have not been set high enough" cannot be supported, since this ignores completely the related point regarding the lack of allowance for diversification with other risks.	Noted.
165.	Just Retirement Limited	3.19.	As set out in Para 3.25 we believe that the Prem-life factors results in a operational risk capital charge which is far higher than that required at a level of 99.5% VaR.	Partially agreed. See revised text.
166.	European Union member firms of Deloitte Touche To	3.21.	In addition to CRO study, CEIOPS used information from the current UK regime for their re-calibration analysis based on the assumption that the UK figures and models are a good proxy for calibrating a formula for an EU wide use. We would welcome more details on the countries and type of entities covered by the studies, to back up the assumptions made in the paper.	Agreed. See revised text with further details on calibration.
167.	AAS BALTA	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.

168.	AB Lietuvos draudimas	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
169.	ACA – ASSOCIATIO N DES COMPAGNIE S D'ASSURAN CES DU	3.22.	Not sure how representative a sample this is. Feels quite low	Noted.
170.	CEA, ECO-SLV-09-448	3.22.	The statistical base (5 countries and 32 companies in total) is rather low and may lead to significantly biased results. We would encourage Ceiops to develop a broader statistical base for calibrating the factors.	Noted.
171.	CRO Forum	3.22.	The statistical base (5 countries) and 32 companies in total is rather low and may lead to significantly biased results. We would encourage CEIOPS to develop a broader statistical base for calibrating the factors.	Noted.
172.	DENMARK: Codan Forsikring A/S (10529638)	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
173.	DENMARK: Codan Forsikring A/S (10529638)	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
174.	DENMARK: Codan	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.

	Forsikring A/S (10529638)			
175.	Just Retirement Limited	3.22.	The calibration of the standard formula has been based on only 32 firms. This is not a large enough sample from which to derive robust calibrations. As mentioned in Para 3.25, we would like to see further work undertaken on the calibration of the Prem - life factor. We believe that the calibration should be derived only from firms where the Prem - life test 'bites' – the revised Prem - life factor is distorted by also including the Prem-life results from firms where the TP - life test bites. Increasing the Prem - life factor from 3% to 7.6% for life firms will increase the required operational risk capital significantly, particularly for growing firms/SMEs – considerably in excess of internal model capital requirements.	Partially agreed. See revised text.
176.	Link4 Towarzystwo Ubezpieczeń SA	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
177.	Munich RE	3.22.	The statistical base (5 countries) and 32 companies in total is rather low and may lead to significantly biased results. We would encourage CEIOPS to develop a broader statistical base for calibrating the factors.	Noted.
178.	NORWAY: Codan Forsikring (Branch Norway) (991 502	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.

179.	PricewaterhouseCoopers LLP	3.22.	Is this a sufficient representation of the insurance market, no information is provided regarding the diversity that exists amongst the chosen entities.	Noted.
180.	RSA Insurance Group PLC	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
181.	RSA Insurance Ireland Ltd	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
182.	RSA - Sun Insurance Office Ltd.	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
183.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	3.22.	The sample size for this exercise is small and therefore extrapolation of the results should be used with extreme caution	Noted.
184.	UNESPA – Association of Spanish Insurers and Reins	3.22.	See 3.38	Noted.
185.	PricewaterhouseCoopers LLP	3.23.	Lack of detail around the data collected leads to questions about reliability/quality of the data, and the potential biases that exist.	Noted.
186.	UNESPA – Association of Spanish	3.23.	See 3.38	Noted.

	Insurers and Reins			
187.	AMICE	3.24.	CEIOPS underlines that a charge was selected based on the 60 percentile of the pre-diversification charge of the internal models. More justification is needed on the rationale for choosing such a percentile.	Agreed. 50th percentile was chosen instead.
188.	Association of British Insurers	3.24.	We would like to understand why CEIOPS recommends taking the 60th percentile of the pre-diversification charge of the internal models, as this choice seems to introduce additional elements of conservatism to an approach that already introduce very significant additional charges to QIS4 (see paragraph 3.26).	Agreed. 50th percentile was chosen instead.
189.	CEA, ECO-SLV-09-448	3.24.	The CEA would like to understand why Ceiops recommends taking the 60th percentile of the pre-diversification charge of the internal models. This choice seems arbitrary and introduces additional elements of conservatism to an approach that already introduced very significant additional charges to QIS4.	Agreed. 50th percentile was chosen instead.
190.	CRO Forum	3.24.	The choice of the 60% percentile seems to be arbitrary and might be conservative when basing the calibration on the internal models' undiversified figures. In the tables shown the name "Pearson coefficient" should be replaced by "Coefficient of variation" in our opinion.	Agreed. 50th percentile was chosen instead. Noted.
191.	European Union member firms of Deloitte Touche To	3.24.	We concur with CEIOPS that: according to Level 1 text the standard formula operational risk charge is a post-diversification charge QIS4 standard formula results are in line with post diversification operational risk charges of internal models internal models have not been challenged by supervisors yet, in particular assumed diversification might be too high	Noted.

			the standard formula should meet the 99.5% VaR criterion for most undertakings and should provide incentives to develop internal models that capture appropriately the operational risks According to these arguments we share the view that the standard formula capital charge should be higher than the post diversification internal model charge (Par. 3.17), allowing for a margin of prudence / uncertainty. However in the analysis carried out CEIOPS has used the pre-diversification results and has taken the 60 percentile of the distribution to calibrate the factors. This seems to be an arbitrary decision with a material impact on the results.	Agreed. 50th percentile was chosen instead.
192.	FFSA	3.24.	FFSA would like to understand why CEIOPS recommends taking the 60th percentile of the pre-diversification charge of the internal models, as this choice seems to introduce additional elements of conservatism to an approach that already introduce very significant additional charges to QIS4	Agreed. 50th percentile was chosen instead.
193.	Groupe Consultatif	3.24.	Groupe Consultatif suggests that having regard to the discussion in earlier paragraphs, the 50th percentile would be most appropriate as a basis for calibration. Given that certain of the curves (particularly in respect of life assurance) appear implausibly steep, this would avoid distorting the final calibration. We suggest that more work is required to explain the variation in the life assurance output from internal models.	Agreed. 50th percentile was chosen instead.
194.	Just Retirement Limited	3.24.	This para states that “a charge was selected based on the 60 percentile…”. Please can CEIOPS provide details as to why 60% is appropriate – no supporting text is provided. The factor is highly dependent on the choice of percentile (e.g. Table 4: 50% = 5.44%, 60% = 7.51%, 70% = 9.68% - the factor almost doubles at the 70% level compared to 50%) therefore the	Agreed. 50th percentile was chosen instead.

			percentile chosen is critically important.	
195.	Munich RE	3.24.	Justification for the choice of 60 percentile should be given. In our view the factors are far too high and should be calibrated against post-diversification charges rather than pre-diversification charges from internal models.	Agreed. 50th percentile was chosen instead.
196.	PricewaterhouseCoopers LLP	3.24.	See 3.25	Noted.
197.	RBS Insurance	3.24.	We believe calibrating against QIS4 internal model results in isolation may not produce a good measure for operational risk; it was based on only 32 entities across life and non-life, across the whole of Europe using an internal model, they may not have formed a representative cross-section, and the exercise was done on a best efforts basis so may not be credible. We believe the calibration from this methodology looks high, and that it instead should be based on market-wide data.	Noted.
198.			Confidential comment deleted	
199.	UNESPA – Association of Spanish Insurers and Reins	3.24.	UNESPA would like to understand why CEIOPS recommends taking the 60th percentile of the pre-diversification charge of the internal models. This choice seems arbitrary and introduces additional elements of conservatism to an approach that already introduced very significant additional charges to QIS4. See also 3.38	Agreed. 50th percentile was chosen instead.
200.	Groupe Consultatif	3.25.	We agree with this conclusion.	Noted.
201.	Just Retirement Limited	3.25.	We would like to see further work undertaken on the calibration of the Prem - life factor in Table 4. We believe that the calibration should be derived only from firms where the Prem - life test 'bites'	Partially agreed. See revised text.

			– the revised Prem - life factor is distorted by also including the Prem-life results in the calibration from firms where the TP - life test bites. For example: (a) Suppose there are 90 very well established life firms in the EU, all of which have been in existence for many years, which have very large technical provisions and relatively low levels of new business – these firms calculate their operational risk capital requirements via the standard formula – for these firms the TP – life factor will 'bite' (the Prem-life factor is irrelevant for capital requirement purposes). (b) Suppose 10 new life firms are separately established in 2009 throughout the EU. These are fast growing companies; as new firms they have very low technical provisions and relatively high levels of new business – these firms calculate their operational risk capital requirements via the standard formula – for these firms the Prem – life factor will 'bite' (the TP-life factor is irrelevant for capital requirement purposes). (c) To calibrate the Prem-life factor using all 100 firms (even though it 'bites' for only 10) will result in a very different factor than if the same calibration was undertaken only including the 10 new life firms. The first calibration would take into account the low levels of new business undertaken by the 90 well established firms, implying a higher factor. The second calculation will take into account only the 10 fast growing firms, implying a lower factor – this latter factor will be better calibrated to a 99.5% VaR for these fast growing firms (i.e. those firms for which the Prem-life test 'bites'). It appears that the calibrations undertaken in Table 4 have been derived from all 32 firms' results regardless of whether the Prem or	

			TP test 'bites' - this will have the effect of distorting the results for firms where the Prem-life test bites (usually SMEs) – ie there is a fundamental mismatch between the data underlying the calibration and the way in which the resulting factors are applied. The nature of this proposal is important for all small new entrants or SMEs seeking to enhance consumer choice and could be seen as a barrier in favour of larger firms: initially the Prem-life factor test will 'bite'; as firms grow the capital required under the technical reserves test will increase until a cross-over point is reached – where the firm has grown its book to a level where TP-life test now 'bites'. Increasing the Prem - life factor from 3% to 7.6% for life firms will increase the required operational risk capital significantly, particularly for growing firms/SMEs – considerably in excess of internal model capital requirements. For smaller, growing firms the Prem-life test will unreasonably 'bite' harder and faster than larger firms with significant legacy risks e.g. past mis-selling, complex systems or poor data quality. We believe these proposals do not reflect the intentions originally set out and could be regarded as anti-competitive for small and medium sized enterprises (SMEs) which are new entrants into the market place – there will therefore not be a level playing field. As "competitiveness" is one of the EU's top priorities (anti-competitiveness was enshrined in one of the earliest EU directives) we feel we should work together to explore a more reasonable basis.	
202.	Lloyd's	3.25.	The operational risk factors have almost doubled under the revised formula. Lloyd's view is that the revised calibration is too high, as it is likely to lead to an increase in the nominal amount of operational risk, which we do not believe is necessary.	Noted. See revised text with further details on calibration.

			CEIOPS view is based on the assumption that the internal models used as a comparator here have not been validated. This is inappropriate as all UK internal models under the ICAS regime have been validated by supervisory authorities and the diversified operational risk amount deemed appropriate where the ICA has been approved. We therefore do not agree that the standard formula operational risk charge should broadly be in line with the undiversified operational risk from a firm's internal model. The UK ICAS results provide a good benchmark (which has been validated by supervisory authorities) for a diversified operational risk result and we believe that the standard formula should reflect this. (see also 3.26, 3.32, 3.38 and 3.39)	
203.	PricewaterhouseCoopers LLP	3.25.	Based on the biases/questionable sample data collected (see 3.22,3.23), this conclusion is not a certainty	Noted.
204.	UNESPA – Association of Spanish Insurers and Reins	3.25.	See 3.38	Noted.
205.	Association of British Insurers	3.26.	The revised factors appear to be too high. To reflect no diversification is overly prudent.	Noted.
206.	CEA, ECO-SLV-09-448	3.26.	In our view the factors are too high.	Noted.

207.	CRO Forum	3.26.	In our view the factors are too high.	Noted.
208.	Just Retirement Limited	3.26.	[Please also refer to response to Para 3.25]. Like many commonly-used statistics, the Pearson co-efficient may not be a robust indicator – its value can be misleading if a significant number of outliers are present. The fact that the standard deviation in Table 4 is 15.29% (significantly in excess of the standard deviations in Tables 1, 2 and 3) would indicate that a number of outliers are present, distorting the results. The calibration of the standard formula has been based on only 32 firms - this is not a large enough sample from which to derive robust calibrations. In addition, as set out in Para 3.25, we suggest that the calibration for Prem-life should only include those firms for which this test 'bites' (e.g. by reviewing all those firms that submitted QIS3/4 data). Presumably Table 4 includes those firms where the TP-life test 'bites' which distorts the results.	Noted.
209.	Legal & General Group	3.26.	The method used to derive these factors needs to be based on an explicit 1 in 200 year event – it is not appropriate to derive them from results of a sample of internal models. We feel these factors materially overstate the level of operational risk,	Noted.
210.	Lloyd's	3.26.	See comment under 3.25	Noted.
211.	Lucida plc	3.26.	We are not convinced that all non-unit linked life business is homogeneous. For example, annuity business tends to have much larger premiums and technical provisions than other life insurance contracts and hence lower operational risk as a percentage of either premiums or technical provisions. It might therefore make sense to distinguish between different product classes in calibrating the formula. The significant increase in the factors compared with the QIS4	

			factors represents an excessively prudent approach to operational risk, particularly when considered in conjunction with the correlation assumption. This comment also applies to 3.30 and 3.39.	
212.	Munich RE	3.26.	In our view the factors are too high.	Noted.
213.	Pearl Group Limited	3.26.	We believe that the factors are too high. Please suggest alternative calibrations.	Noted.
214.	PricewaterhouseCoopers LLP	3.26.	See 3.38	Noted.
215.	UNESPA – Association of Spanish Insurers and Reins	3.26.	See 3.38	Noted.
216.	CEA, ECO-SLV-09-448	3.27.	Ceiops assumes that the characteristics of unit-linked business are similar to those of other life products. However, the asset administration for a UL-product is complex and operational risk is significantly higher than for traditional life products.	Noted.
217.	Groupe Consultatif	3.27.	We are surprised that CEIOPS is increasing the operational risk factors for unit linked business without any further work. The allowance is currently the same as the capital requirements of Independent Financial Advisers and Investment Firms in the UK at 25% of the expenses in one year (or 13 weeks of expenses). This has been found to be sufficient in the UK. Also, firms found that their operational risk internal models were close to the 25% of expenses for unit linked firms within QIS4. We believe that the	Agreed.

			25% is sufficient and would urge CEIOPS to reduce the 50% back to 25%.	
218.	Investment & Life Assurance Group (ILAG)	3.27.	We are surprised that CEIOPS is increasing the operational risk factors for unit linked business without any further work. The allowance is currently the same as the capital requirements of Independent Financial Advisers and Investment Firms in the UK at 25% of the expenses in one year (or 13 weeks of expenses). This has been found to be sufficient in the UK. Also, firms found that their operational risk internal models were close to the 25% of expenses for unit linked firms within QIS4. We believe that the 25% is sufficient and would urge CEIOPS to reduce the 50% back to 25%.	Agreed.
219.	PricewaterhouseCoopers LLP	3.27.	See 3.38	Noted.
220.	The Association of Friendly Societies (AFS)	3.27.	We are surprised that CEIOPS is increasing the operational risk factors for unit linked business without any further work. The allowance is currently the same as the capital requirements of Independent Financial Advisers and Investment Firms in the UK at 25% of the expenses in one year (or 13 weeks of expenses). This has been found to be sufficient in the UK. Also, firms found that their operational risk internal models were close to the 25% of expenses for unit linked firms within QIS4. We believe that the 25% is sufficient and would urge CEIOPS to reduce the 50% back to 25%.	Agreed.
221.	UNESPA – Association of Spanish Insurers and Reins	3.27.	See 3.38	Noted.

222.	Association of British Insurers	3.28.	Prescribing a higher factor to be applied to life technical provisions where management actions are assumed is an over calibration of a relatively crude formula. While it is recognised that there may be some risks associated with the management actions assumed to be implemented in calculating the technical provisions for some lines of life business, there is a requirement to realistically assess and reflect these difficulties in calculating the technical provisions and so prescribing a higher factor for these lines of business may represent double counting. Furthermore, in many countries the application of further management actions may be able to absorb some or all of any operational risk losses. If an additional factor is deemed necessary it is unclear why this factor is applied to the whole of the life technical provisions rather than just the component relating to the future discretionary benefits. If this mechanism is recognised, it should be performed consistently over all business lines.	Noted.
223.			Confidential comment deleted	
224.	CEA, ECO-SLV-09-448	3.28.	Management actions normally have a positive effect which is not reflected in automatically higher op risk. The variety of these actions (risk mgmt actions but also re/investment policies and so on) and of their impacts makes it difficult to have a one way interpretation in terms of op risk capital requirements.	Noted.
225.	CRO Forum	3.28.	We welcome that future management actions are taken into account in technical provisions and SCR, but one should also consider that these management actions normally have a positive steering impact, which is not reflected in automatically higher op. risk capital requirements. We propose to clarify how management actions are related to risk mitigation actions. In addition	Agreed. This requirement has been removed.

			management actions like rebalancing of investment portfolios (which might be required to address reasonable policyholder expectations) might lead to an increase of technical provisions which would not be inline with the statement in 3.8 (second bullet). As a consequence additional scenarios would have to be run to identify which proportion of technical provisions is actually being reduced and which is increased by the management actions. We would only expect operational risk from management actions on a narrow set of life insurance products. We suggest that CEIOPS considers restricting any charge to product lines where there is a very material reduction in TP due to management charges. CROF also notes that allowance for management actions is subject to specific governance and quantification requirements which strongly mitigate any operational risk. There is a potential risk of double counting especially if the management actions are reflected in the model in a prudent way.	
226.	European Union member firms of Deloitte Touche To	3.28.	Different factors are used when management actions are taken that leads to a decrease in the technical provisions. This appears to be a very generic definition; examples and reconciliation to modelling assumptions in the valuation of liabilities would support convergence of interpretation.	Noted.
227.	German Insurance Association – Gesamtverb and der D	3.28.	Management actions normally have a positive effect which is not reflected in automatically higher op risk. The variety of these actions (risk mgmt actions but also re/investment policies and so on) and of their impacts makes it difficult to have a one way interpretation in terms of op risk capital requirements.	Noted.
228.	Groupe	3.28.	While we can understand the rationale for drawing a distinction,	Noted.

	Consultatif		this should not translate into a straight addition to the factor otherwise calibrated. It would have been at least as reasonable to reduce the factor by 0,05% in the first case and to increase it by 0.05% in the second.	
229.	Just Retirement Limited	3.28.	It is unclear how the 0.1% has been derived. It feels very arbitrary and does not take into account the type and number of management actions. In addition, "management actions" is a very broad term and could be interpreted differently in different jurisdictions/entities.	Agreed.
230.	PricewaterhouseCoopers LLP	3.28.	See 3.38	Noted.
231.	RBS Insurance	3.28.	We would appreciate further clarification of the reasoning behind the calibration of the increase for life technical provisions where management actions are taken into consideration.	Noted.
232.			Confidential comment deleted	
233.	UNESPA – Association of Spanish Insurers and Reins	3.28.	See 3.38	Noted.
234.	AAS BALTA	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
235.	AB Lietuvos draudimas	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
236.	Association	3.29.	According to article 106 (1) of the Level 1 text the capital	Partially agreed. See revised text.

	of British Insurers		requirement for operational risk shall be calibrated in accordance with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and without any exceptions. For certain industries, especially basic health, this increase will have serious effects, which are not reflective of the operational risks faced by the industry. CEIOPS is requiring implicitly that these entities are to develop very costly internal models. Further, a 60% cap might lead to unexplainable differences to other financial services; e.g. when comparing the op risk figures with those typically seen at banks. Op. risk charges under Basel II appear to be close to 10-15% of the total capital charge and insurance should not be subject to higher requirements in our opinion (for details please refer to p. 33 of the CRO Forum document on Calibration Principles).	
237.			Confidential comment deleted	
238.	CEA, ECO-SLV-09-448	3.29.	According to article 106 (1) of the Level 1 text the capital requirement for operational risk shall be calibrated in accordance with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not	Partially agreed. See revised text.

			exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and without any exceptions. For certain industries, especially basic health, this increase will have serious effects which are not reflective of the operational risks faced by the industry. Ceiops is requiring implicitly that these entities are to develop very costly internal models. Further, a 60% cap might lead to unexplainable differences to other financial services; e.g. when comparing the op risk figures with those typically seen at banks. Op. risk charges under Basel II appear to be close to 10-15% of the total capital charge and insurance should not be subject to higher requirements in our opinion (for details please refer to p. 33 of the CRO Forum document on Calibration Principles).	
239.	CRO Forum	3.29.	We do not agree to increase the cap for operational risk up to 60% of the basic SCR deviating from the Solvency II directive. The argumentation line that risk mitigating factors like reinsurance and other hedging measures may lead to a biased SCR is in our opinion not sufficient to set the cap at 60%. Especially the potential failure of reinsurance is already covered in the volume measures which are based on gross figures. In addition a 60% cap might lead to extreme risk profiles which cannot easily explained e.g. when comparing the op. risk figures with those typically seen at banks. Op. risk charges under Basel II appear to be close to 10-15% of the total capital charge and insurance should not be higher in our opinion (for details please refer to p. 33 of the CRO Forum	Agreed.

			document on Calibration Principles).	
240.	DENMARK: Codan Forsikring A/S (10529638)	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
241.	DENMARK: Codan Forsikring A/S (10529638)	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
242.	DENMARK: Codan Forsikring A/S (10529638)	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
243.	European Union member firms of Deloitte Touche To	3.29.	We believe that the increase of BSCR cap – life and non-life should be further substantiated with regards to the size of the increase (increasing the cap from 30% to 60%)	Noted.
244.	GROUPAMA	3.29.	Furthermore, we do not understand why CEIOPS suggests a cap at 60% of the BSCR whereas the text of the Directive states that this cap is 30%. We suggest keeping the QIS 4 factor and the 30% cap stated by the Level 1 text. We think that operational risk should principally be a Pillar II issue.	Agreed.
245.	Groupe	3.29.	We note the unusual flexibility of legal interpretation introduced	Partially agreed. See revised text.

	Consultatif		here, in contrast with most CEIOPS consultative papers.	
246.	International Underwriting Association of London	3.29.	We note that Article 106 of the directive caps the operational risk at 30 per cent of the BSCR. We also note that Article 109 allows for implementing measures regarding the methods and parameters to calculate the percentage. We are also unclear why the 60 per cent of Basic SCR operational risk cap was chosen as being more appropriate, and do not believe that the level 2 measures should directly contradict Level 1 directive without good reason. The selection of the 60 per cent cap appears arbitrary and set so high as to be excessively prudent. We would also question whether it is right not to have some allowance for reinsurance to reduce operational risk.	
247.	Just Retirement Limited	3.29.	Article 106(3) of the Framework Directive states: "the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations". CP53 incorrectly refers to Article 109(g) – it should refer to Art. 109(f) which sets out that the percentage in para 3 of Article 106 may be amended. The fact that the implementing measure contradicts the Framework Directive should be legally reviewed before amending this factor. In any event, increasing the cap to 60% results in this requirement becoming virtually redundant – the number of firms with an operational risk capital requirement greater than 60% of the BSCR must be extremely low. A cap of 30% seems reasonable. We agree that the BSCR is not a good indicator of operational risk. However, CEIOPS' argument that reinsurance does not necessarily reduce operational risk seems strange considering that the capital requirements are calculated gross of reinsurance.	Partially agreed. See revised text. Not agreed. Reinsurance is not seen as a mitigating of operational risk

248.	Link4 Towarzystwo Ubezpieczeń SA	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
249.	Lucida plc	3.29.	The argument for increasing the cap on the Basic SCR does not seem particularly compelling particularly when consideration is given to the risks which it is difficult to eliminate through risk mitigation techniques. This comment also applies to 3.30 and 3.39.	Noted.
250.	Munich RE	3.29.	We do not think that convincing arguments have been given for simply doubling the cap from 30% to 60%. The statement that the cap should be "sufficiently high" gives no indication of the height of the cap. In our view the 60% cap is too high.	Agreed.
251.	NORWAY: Codan Forsikring (Branch Norway) (991 502	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
252.	Pearl Group Limited	3.29.	According to article 106 (1) of the Level 1 text the capital requirement for operational risk shall be calibrated in accordance with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the	Partially agreed. See revised text.

			cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and without any exceptions.	
253.	PricewaterhouseCoopers LLP	3.29.	See 3.38	Noted.
254.	RBS Insurance	3.29.	We believe that the doubling of the cap to 60% is inappropriate and overly prudent.	Noted.
255.	RSA Insurance Group PLC	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
256.	RSA Insurance Ireland Ltd	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
257.	RSA - Sun Insurance Office Ltd.	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
258.	SWEDEN: Trygg-Hansa Försäkrings AB (516401-7799)	3.29.	We agree the BSCR is not a good indicator of operational risk and undertakings should be incentivised to adopt an internal model approach.	Noted.
259.	UNESPA – Association of Spanish Insurers and Reins	3.29.	See 3.38	Noted.

260.	Uniqa	3.29.	Article 106 (3) of the Level 1 text states that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement. The upper limit expressed in the text is clear and without any exceptions.	Partially agreed. See revised text.
261.	XL CAPITAL LTD	3.29.	See comments at 3.39 below	Noted.
262.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.30.	The Factors now feel too high!	Noted.
263.	Association of British Insurers	3.30.	The factors selected, particularly for life insurance business, appear to be too high, based on rounded up versions of the 60th percentiles set out in 3.24.	Noted.
264.			Confidential comment deleted	
265.	CEA, ECO-SLV-09-448	3.30.	The factors selected, particularly for life insurance business, seem high. The factors set out are rounded up versions of the 60th percentiles set out in 3.24. This may introduce an element of prudence – the Solvency II framework gives the relevant supervisory authority to require an undertaking with an unusually high operational risk profile to develop a partial internal model or to specify a capital add on, which will help address the skewness of the distribution of results and reduce the need to penalise all companies to better reflect a few extreme cases. This prudence in the calibration may have been compounded significantly if, as seems likely, the tables set out in 3.24 have been derived by one way analyses (ie	Partially agreed. See revised text.

			operational risk capital divided by technical provisions or premiums across all companies). This is because the operational risk capital charge formula takes the higher of the charge based on technical provisions and the charge based on premiums. Furthermore the analysis in 3.32 provides further support to the possible conclusion that the proposed factors are too high for life insurance business. Also Ceiops has not fully explained how the results have been transferred e.g. for UL business. Consequently, the CEA asks Ceiops to stick to the QIS4 factors.	
266.	CRO Forum	3.30.	In general we do not see the need to double the factors just to get closer to undiversified internal model results. Especially as there is no diversification within the standard formula allowed for. Please refer to the comments on 3.8 and 3.11 for the details on the calibration. Still CEIOPS has not fully explained how the results have been transferred e.g. for UL business.	Noted.
267.	German Insurance Association – Gesamtverband der D	3.30.	The factors selected, particularly for life insurance business, seem high. The factors set out are rounded up versions of the 60th percentiles set out in 3.24. This may introduce an element of prudence – the Solvency II framework gives the relevant supervisory authority to require an undertaking with an unusually high operational risk profile to develop a partial internal model or to specify a capital add on, which will help address the skewness of the distribution of results and reduce the need to penalise all companies to better reflect a few extreme cases. This prudence in the calibration may have been compounded significantly if, as seems likely, the tables set out in 3.24 have been derived by one way analyses (ie operational risk capital divided by technical provisions or premiums	Partially agreed. See revised text.

			across all companies). This is because the operational risk capital charge formula takes the higher of the charge based on technical provisions and the charge based on premiums. Furthermore the analysis in 3.32 provides further support to the possible conclusion that the proposed factors are too high for life insurance business. GDV asks CEIOPS to stick to the QIS4 factors.	
268.	Groupe Consultatif	3.30.	Respecting the level 1 text seems a better way to apply this level 1 text: there are no reason to change the 30% cap. We believe that this approach to calibrating the factors within the Operational risk charge formula would fall short of the documentation / statistical quality standards required by Solvency II. We believe that this set of factors, all at least 200% of the factors used in QIS4, will result in an increased charge for operational risk as compared to the QIS4 factors. However, we question whether this level of loading is 'correct' given the median ratio of 133% (internal model to QIS4) quoted previously discussed in 3.3. We would also remind CEIOPS that for firms using internal models there is a probability of calculating an appropriate operational risk charge that is less than the standard formula amount. We believe that use of appropriate Operational risk scenarios could help firms demonstrate the reasonableness of their own views of an Operational risk charge. Moreover we note that the article 106 of the Directive states that the "capital requirement for operational risks shall not exceed 30% of the Basic solvency Capital Requirement". It seems therefore not possible to define it at 60%.	Partially agreed. See revised text.
269.	Institut des actuaires	3.30.	Respecting the level 1 text seems a better way to apply this level 1 text: there are no reason to change the 30% cap.	Noted.

	(France)			
270.	Legal & General Group	3.30.	The method used to derive these factors needs to be based on an explicit 1 in 200 year event – it is not appropriate to derive them from results of a sample of internal models. We feel these factors materially overstate the level of operational risk. This requires a considerable reworking with justifications.	Partially agreed. See revised text with further details on calibration.
271.	Lloyd's	3.30.	See comment under 3.25	Noted.
272.	Munich RE	3.30.	In our view the factors are too high.	Noted.
273.	Pearl Group Limited	3.30.	The factors selected, particularly for life insurance business, seem high. The factors set out are rounded up versions of the 60th percentiles set out in 3.24. We suggest that CEIOPS considers further analyses and the potential reduction of the capital charge factors.	Partially agreed. See revised text.
274.	PricewaterhouseCoopers LLP	3.30.	See 3.38	Noted.
275.	UNESPA – Association of Spanish Insurers and Reins	3.30.	See 3.38	Noted.
276.	European Union member firms of Deloitte Touche To	3.31.	According to the argument in Par. 3.17, the capital charge resulting from the standard formula should be higher than the post diversification charge of the internal models (allowing for a margin). The validation carried out in 3.31 and 3.32 implies that the margin might be equivalent to the diversification effect assumed in the current internal models and is consistent with a	Noted.

			50% diversification effect on QIS4 factors (which are in line with post diversification results according to CRO Forum analysis). We believe this margin appears too large.	
277.	Groupe Consultatif	3.31.	We have not been able to reconcile this analysis with the statement quoted in 3.10 that the median charge from internal models was 133% of the standard formula.	Noted.
278.	Just Retirement Limited	3.31.	For firms where the TP – life test bites (i.e. the vast majority of firms), doubling their operational risk required capital may potentially be consistent with their internal model. However, for other firms, doubling the Prem-life factor could increase the required operational risk capital significantly – in our case many times greater than our internal model operational risk capital requirements. Therefore this validation is of little benefit.	Noted.
279.	PricewaterhouseCoopers LLP	3.31.	See 3.38	Noted.
280.	UNESPA – Association of Spanish Insurers and Reins	3.31.	See 3.38	Noted.
281.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.32.	We don't understand why the diversification effect reduces the factor for TP life from 0.9 to 0.6 and for the TP non life from 4.4 to 4.0. There seems to be no diversification effect in UL business.	Noted.

282.	Association of British Insurers	3.32.	See comments to 3.30.	Noted.
283.	CEA, ECO-SLV-09-448	3.32.	It is not clear why the factors in paragraph 3.32 are consistent with those in 3.30.	Noted.
284.	CRO Forum	3.32.	We doubt that the figures shown in the table are fully comparable as pre–diversification results were sometimes hard to calculate and the results might be partly rather proxies.	Noted.
285.			Confidential comment deleted	
286.	German Insurance Association – Gesamtverband der D	3.32.	It is not clear why the factors in paragraph 3.32 are consistent with those in 3.30.	Noted.
287.	Legal & General Group	3.32.	The method used to derive these factors needs to be based on an explicit 1 in 200 year event – it is not appropriate to derive them from results of a sample of internal models. We feel these factors materially overstate the level of operational risk.	Noted.
288.	Lloyd's	3.32.	See comment under 3.25	Noted.
289.	PricewaterhouseCoopers LLP	3.32.	See 3.38	Noted.
290.	ACA – ASSOCIATION DES	3.33.	We would welcome a clearer definition on "Externally managed" Does it exclude investments where the policyholder bears the full investment decision and risk.	Noted. This capital charge has been removed.

	COMPAGNIES D'ASSURANCES DU			
291.	AMICE	3.33.	The introduction of an element linked to external services on financial investments heavily penalizes life undertakings since its calibration does not take into account the quality of the financial management (i.e asset management company; depositary).	Noted.
292.	Association of British Insurers	3.33.	Investment operational risk will already be included in the internal model results considered and therefore adding this extra term may lead to double counting if benchmarking is the preferred approach.	Agreed.
293.	European Union member firms of Deloitte Touche To	3.33.	We believe the additional charge linked to external services on financial investments represents an undue cost to most insurers. Justification for this statement includes: - The risk of a failure of a financial services provider should already be include in the "basic" operational risk charge, as is the case for all other risks arising from outsourcing. - The additional charge ignores the fact that many insurers work with asset managers belonging to the same group, hence submitted to the same risk management standards within the group. This would possibly lead to double counting of operational risk at group level.	Agreed.
294.	Groupe Consultatif	3.33.	See our comment under 3.8 – this is a quite simplistic approach to consideration of the variety of management and custody arrangements which exists in practice and offers no incentive to seek to mitigate risk. The principle and the calibration are not appropriate and can be dangerous.	Partially agreed. See revised text.

			It is better to rely on an external depositary to prove the reality of the investments of the insurance undertaking. Having only one depositary is also better than having plenty of depositaries with the difficulty of reconciliation of the total investments. The risks of the depositary or of the asset manager if they are well regulated in Europe are only a problem of continuity of serving the undertakings. CEIOPS should also take into account the fact that theses providers are protected by insurance contracts which cover the financial consequences of the interruption of the services. The proposed calibration implies that it is better to have several depositaries than only one. We would like to note that this is in reality more complex. Indeed, regarding operational risk, it is better to have only one depositary with regards to the difficulties of reconciliation of the total investments. Moreover, regarding the calibration, we suggest to cap the level of this new component of the operational risk. We also think that it would be better to test this new proposal (e.g. in the QIS 5) before setting it as a level 2 measure. CEIOPS seem to be ignoring the legal structure of most external fund management services here. Most services are provided with no counter party risk to the firm (the assets are held in an OEIC or are still owned and administered by the firm). The loss of the fund manager would therefore be inconvenient but would not be serious. New fund managers can be appointed within one week from start to finish. In the meantime, fund management could return to the firm. We strongly believe that external fund management is a good thing especially if the firm does not have the depth of experience or technical expertise to carry out the work. We strongly suggest that	

			this operational risk charge should be restricted to arrangements where there is a counter party credit risk for the external fund management. The obvious external risk will come from deposits with banking institutions. The risk here should be picked up in the credit risk module. We understand the concerns that CEIOPS has over the risk of fraud from fund managers. We would suggest that proper corporate governance structures including due diligence being applied to all outsourcing arrangements as in CP33 would remove any extra risk over and above fraud that could occur internally within an organisation.	
295.	Institut des actuaires (France)	3.33.	The principle and the calibration are not appropriate and can be dangerous. It is better to rely on an external depositary to prove the reality of the investments of the insurance undertaking. Having only one depositary is also better than having plenty of depositaries with the difficulty of reconciliation of the total investments. With an absurd proof, the French market has around 1 000 Md€ of assets. If there is only one depositary in the French market, the need of SCR is 5 Md€ which is very high. With 5Md€, it is largely possible to build a new depositary. The risks of the depositary or of the asset manager if they are well regulated in Europe are only a problem of continuity of serving the undertakings. CEIOPS should also take into account the fact that theses providers are protected by insurance contracts which cover the financial consequences of the interruption of the services. This SCR should have a cap representing the maximum costs of changing the depositary or the asset manager, 50 M€ for example,	Partially agreed. See revised text.

			before taking into account the depositary or the asset manager insurance protections.	
296.	International Underwriting Association of London	3.33.	We disagree with the addition of the operational risk linked to external services on financial investments. Whilst we can see why a single large external financial investment provider may provide a degree of operational risk, as a result of interruption to a firms' business in the event of failure of the external entity, but we would also question whether firms who have to manage a large number of external financial investment providers might equally present a greater degree of operational risk, as a result of having to manage many relationships with a number of different providers. We would suggest that as this approach incentivises towards diversifying the number of external providers, it might not reduce the operational risk from external providers, and in some cases might incentivise conduct which could actually increase operational risk.	Agreed.
297.	Investment & Life Assurance Group (ILAG)	3.33.	CEIOPS seem to be ignoring the legal structure of most external fund management services here. Most services are provided with no counter party risk to the firm (the assets are held in an OEIC or are still owned and administered by the firm). The loss of the fund manager would therefore be inconvenient but would not be serious. New fund managers can be appointed within one week from start to finish. In the meantime, fund management could return to the firm. We strongly believe that external fund management is a good thing especially if the firm does not have the depth of experience or technical expertise to carry out the work. We strongly suggest that this operational risk charge should be restricted to arrangements where there is a counter party credit risk for the external fund management. The obvious external risk will come from deposits with banking institutions. The risk here should be picked up in the credit risk module. We understand the concerns that CEIOPS has over the risk of fraud	Noted.

			from fund managers. We would suggest that proper corporate governance structures including due diligence being applied to all outsourcing arrangements as in CP33 would remove any extra risk over and above fraud that could occur internally within an organisation.	
298.	Just Retirement Limited	3.33.	The introduction of a separate addition for external fund managers is not clearly justified, and its application is unclear. This penalises firms which seek the best returns via an external fund manager compared to those which keep investment management in-house. This appears to be a knee jerk reaction to recent events. In addition, it is counter-intuitive – outsourcing fund management to a specialist should reduce risk relative to in-house operation, which, for most entities, would lack the scale required to ensure risk controls as robust as those used by professional fund managers. Only taking into account the largest external fund manager the calculation lacks any justification; in addition we had hitherto assumed that risks associated with external fund management were included in the overall TP-life and Prem-life calculations, therefore to now propose a separate calculation would appear to represent double counting. Overall, therefore, we strongly believe that outsourcing of fund management should not be specifically penalised via a separate capital charge.	Partially agreed. See revised text.
299.	Legal & General Group	3.33.	Investment operational risk will already be included in the internal model results considered and therefore adding this extra term may lead to double counting if benchmarking is the preferred approach. The definition of "depositary of financial investments" needs to be clarified so that it does not cover asset custodians. Failure to make such a clarification could result in the majority of life offices' assets	Agreed. This capital charge has been removed.

			being captured since most assets are held by independent trustees. We believe that this is not the intention of the additional part of the formula.	
300.	Lloyd's	3.33.	See comment under 3.8.	Noted.
301.	Lucida plc	3.33.	We are unclear as to what this risk is intended to represent and whether it would be better covered under Market risk (since it is effectively a risk of counterparty exposure). By including an arbitrary addition to the capital required against operational risk, CEIOPS is introducing an unhelpful disincentive to outsourcing financial investment related services and is further increasing the operational risk requirement. The requirement also appears to ignore any mitigating action taken.	Noted.
302.	PricewaterhouseCoopers LLP	3.33.	See 3.38	Noted.
303.			Confidential comment deleted	
304.	The Association of Friendly Societies (AFS)	3.33.	CEIOPS seem to be ignoring the legal structure of most external fund management services here. Most services are provided with no counter party risk to the firm (the assets are held in an OEIC or are still owned and administered by the firm). The loss of the fund manager would therefore be inconvenient but would not be serious. New fund managers can be appointed within one week from start to finish. In the meantime, fund management could return to the firm. We strongly believe that external fund management is a good thing especially if the firm does not have the depth of experience or technical expertise to carry out the work. We strongly suggest that this operational risk charge should be restricted to arrangements where there is a counter party credit risk for the external fund management. The obvious external risk will come from deposits with banking institutions. The risk here should be picked up in the	Noted.

			credit risk module. We understand the concerns that CEIOPS has over the risk of fraud from fund managers. We would suggest that proper corporate governance structures including due diligence being applied to all outsourcing arrangements as in CP33 would remove any extra risk over and above fraud that could occur internally within an organisation.	
305.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.34.	We question whether annual expenses are sufficiently well defined to ensure consistency across companies.	Noted.
306.	AMICE	3.34.	Imposing a new capital charge of up to 0.5% of the maximum amount of financial investments deposited or externally managed with a third party, combined with the lack of distinction in CEIOPS' paper between outsourcing within the group or to an external provider, is very unfavourable for groups centralizing the management of their assets in an entity within the group. This is also not in line with the Level 1 text of the Directive which does not allow the outsourcing of critical activities.	Noted.
307.	Association of British Insurers	3.34.	The current wording, which just considers gross reinsurance premiums and gross technical provisions will overstate the capital requirements for insurance groups which have internal reinsurance arrangements in place and does not reflect this transfer of risk.	Noted.
308.			Confidential comment deleted	
309.	CEA,	3.34.	The use of gross of reinsurance premiums and technical provisions	Not agreed. The link between

	ECO-SLV-09-448		as risk exposure measures may lead to excessive operational risk capital charges for some organisations when taken together with the counterparty default risk capital charge. Some reinsurance contracts transfer significant operational activities and risks to the reinsurer and this is not reflected in the operational risk capital formula. Making no allowance for this increases the frictional cost of reinsurance. The CEA recommends that Ceiops considers whether net of reinsurance premiums and technical provisions or a combination of gross and net of reinsurance figures might better reflect the risk exposures. Investop_risk in 3.34 is called InvestOutsourc in 3.35.	reinsurance contracts and the transfer of operational risk is not clear. Noted. This capital charge has been removed.
310.	EURIZON VITA – Viale Stelvio 55/57 – 20159 MILANO	3.34.	The input Investop_risk should be = Amount of financial investments deposited or externally managed with the third party presenting the highest exposure.	Noted. This capital charge has been removed.
311.	German Insurance Association – Gesamtverband der D	3.34.	The use of gross of reinsurance premiums and technical provisions as risk exposure measures may lead to excessive operational risk capital charges for some organisations when taken together with the counterparty default risk capital charge. Some reinsurance contracts transfer significant operational activities and risks to the reinsurer and this is not reflected in the	Not agreed. Please refer to comment #309.

			operational risk capital formula. Making no allowance for this increases the frictional cost of reinsurance. There seems to be a double counting of op. risk charge to the amount of recoverables because this first of all part of the risk bearer of the primary insurer and secondly will be agein the basis for the reinsurer. The GDV recommends that CEIOPS considers whether net of reinsurance premiums and technical provisions or a combination of gross and net of reinsurance figures might better reflect the risk exposures. Investop_risk in 3.34 is called InvestOutsourc in 3.35.	Noted. This capital charge has been removed.
312.	Groupe Consultatif	3.34.	We refer to general point IV above.	Noted.
313.	Legal & General Group	3.34.	The definition of Investop_risk needs to be clarified so that it does not cover asset custodians. Failure to make such a clarification could result in the majority of life offices' assets being captured since most assets are held by independent trustees. We believe that this is not the intention of the additional part of the formula.	Noted.
314.	Munich RE	3.34.	Investop_risk in 3.34 is called InvestOutsourc in 3.35. Premiums and technical provisions used for the Operational Risk calculations are gross of reinsurance. A consequence of this proposal is that both insurer and reinsurer hold operational risk capital for the same business, leading to less capital efficiency for the insurance industry. This issue would be addressed if the BSCR is used as the volume measure.	Noted. This capital charge has been removed. Not agreed. Please refer to comment #309.
315.	Pearl Group Limited	3.34.	The use of gross of reinsurance premiums and technical provisions as risk exposure measures may lead to excessive operational risk	Not agreed. Please refer to comment #309.

			capital charges for some organisations when taken together with the counterparty default risk capital charge. Some reinsurance contracts transfer significant operational activities and risks to the reinsurer and this is not reflected in the operational risk capital formula. Making no allowance for this increases the frictional cost of reinsurance.	
316.	PricewaterhouseCoopers LLP	3.34.	See 3.38	Noted.
317.	RBS Insurance	3.34.	There needs to be a materiality on treating the life-like obligations of non-life contracts as life risks.	Noted. This issue is out of the scope of this paper.
318.	ROAM (Réunion des Organismes d'Assurance Mutuell	3.34.	Once more, ROAM underlines that the technical provisions are not relevant to represent the operational risk. The operational risk should depend on factors such as : Number of policies, products, claims, etc. Number of employees, back-office sites, front-office sites, outsourced activities, etc. By relying on technical provisions, the standard formula penalizes again heavily the long tail insurers (double punishment: underwriting risk + operational risk).	Noted. Please refer to comment #34
319.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.35.	Depending on the definition of outsourced, where each policyholder is able to choose their own investment manager, there can be 1000's of investment managers and therefore it is not practical to determined the aggregate and hence largest exposure.	Noted.
320.	AMICE	3.35.	The 10% increase in premiums or technical provisions in life	Noted.

			undertakings does not necessarily reflect an increase of activity; indeed technical provisions can mechanically increase by 10% due to either the annual revaluation of the provisions, an increase in the stock markets or inflation.	
321.	Association of British Insurers	3.35.	The definitions are also unclear.	Partially agreed. See revised text.
322.	CEA, ECO-SLV-09-448	3.35.	The calibration of the factors has not been made transparent. We ask Ceiops to justify their choice. For example, some companies may have included an allowance for risks relating to external asset management in their internal models. Since Ceiops recommended factors for the bulk operational risk are taken directly from these internal models there is potentially some double counting in the analysis performed. The additional loading for companies whose premiums or technical provisions are expected to increase by over 10% assumes that the increase is due to the volume of risk being taken by the company. However there are other factors (economic inflation or market movements) that could cause this increase and would be penalised under the suggested formula. Does the factor of 0.5% for outsourced investments allow for the security of the third party or potential mitigants in place such as letters of credit or offsetting balances? For health insurers in the Netherlands the capital charge for operational risk is unjustifiably higher due to the new parameters used, because the premiums and technical provisions are corrected for the Dutch health system. The new cap gives even worse results for the capital charge of operational risk, when these effects are not removed at other places in the standard SCR-formula.	Partially agreed. See revised text.

			Perhaps typos: In SCRop formula, Oplnul should be changed for Opall_non_unit_linked? What does "Opall_non_unit_linked(Opall_non_unit_linked)" mean?	
323.	CRO Forum	3.35.	The calibration of the factors for expenses in respect of unit-linked business as well as the charge for outsourced investments has not been made transparent. We would encourage CEIOPS to justify their choice. The (asymmetric) adjustment for growth in business volume is linear in business volume. In our view operational risk does not increase linearly with business volume but rather sub-linear. Thus, the formula should be adjusted accordingly by applying lower parameters for the Δ terms. As mentioned in our comments to section 3.8. the adjustment due to changed business volume should be symmetrical. Formulas are wrong: a) SCRop should contain Opall_non_unit_linked and maybe more. b) Opall_non_unit_linked (Opall_non_unit_linked) is possibly simply Opall_non_unit_linked	Partially agreed. See revised text.
324.	DIMA (Dublin International Insurance & Management	3.35.	See comments in section 3.8.	Noted.
325.	Groupe Consultatif	3.35.	We refer to general point IV above. We assume that the Opln ul term in the SCRop equation should actually be Opall_non_unit_linked It appears that this formula might be trying to impose a charge in	Noted.

			the event that either the premiums or technical provisions grow by more than 10% on one year. However, the formula is open to mis-interpretation. Whilst we agree that rapid growth is associated with increased risks, this formula could encourage behaviour that uses a 10% growth rate as a particular target. We wonder whether it would be better to think in terms of increases over an inflation adjusted base (eg based on officially published CPI or similar) to allow for periods in future when inflation my be materially higher than at present (as has been the case in the past). The formula is aiming to recognise greater volumes of business being processed, not just increases in monetary amounts. We note also that, ideally, such a threshold would target increased exposure rather than premium. In the event of a hardening insurance market (prices increasing in general over general inflationary levels) this formula could penalise those insurers that achieve rate increases over those that continue to charge premiums that are too Additionally, in the case of developing or growing markets, as seen in certain member states, the 10% growth rate might be considered low. We are unable to offer a view upon whether the suggested formula and parameterisation for Operational Risk results in a resulting charge that is reasonable. See general point VI above. We do not understand the 0.005 applied to external funds. The factor should be the VAR expected at the 99.5% level which would be the whole of the funds open to the risk. However, please see	Not agreed Calibration has taken into account current inflation expectations. A more sophisticated factor would be overly complicated in the standard formula

			our comment on 3.33 where we state that this amount should be removed where the external arrangement has no counter party risk.	Partially agreed. This capital charge has been removed.
326.	Investment & Life Assurance Group (ILAG)	3.35.	We do not understand the 0.005 applied to external funds. The factor should be the VAR expected at the 99.5% level which would be the whole of the funds open to the risk. However, please see our comment on 3.33 where we state that this amount should be removed where the external arrangement has no counter party risk.	Partially agreed. This capital charge has been removed.
327.	Ireland's Solvency 2 Group	3.35.	The addition of 0.5% of InvestOutsourc to the SCRop formula (a change from the technical specification for QIS4) will have a sizeable impact for some unit-linked companies. For one specific company which sells unit linked business only, the charge has gone from €3m under QIS4 to €40m under the new formula. The largest part of this increase (about €35m) is attributable to the 0.5% charge for externally managed funds. In particular: - It is unclear at present what exactly constitutes "externally managed with a single third party". For example, does this go down to the multi-manager level or does the amount stay at the investment manager level? - If a company has a large book of assets with an external manager that are not actively managed (e.g. tracker assets), how does this additional amount represent operational risk? - At an overall level, how does this new measure reflect operational risk?	Partially agreed. This capital charge has been removed.

			A suggested approach would be to include the external fund management element within the cap of 60% of the BSCR. The current calibration does not apply any cap to this element.	
328.	Just Retirement Limited	3.35.	There are conflicting labels in the formulae and explanatory text, eg: Investop_risk and InvestOutsourc Opln ul and Opall_non_unit_linked The meaning of the expression Opall_non_unit_linked(Opall_non_unit_linked) is unclear.	Agreed. This capital charge has been removed.
329.	Legal & General Group	3.35.	The definition of Opall_non_unit_linked based on Opall_non_unit_linked(Opall_non_unit_linked) is not clear. InvestOutsourc is not defined – we assume this is the same as Investop_risk	Agreed. This capital charge has been removed.
330.	Munich RE	3.35.	The calibration of the factors for expenses in respect of unit-linked business as well as the charge for outsourced investments has not been made transparent. We would encourage CEIOPS to justify their choice. The (asymmetric) adjustment for growth in business volume is linear in business volume. In our view operational risk does not increase linearly with business volume but rather sub-linear. Thus, the formula should be adjusted accordingly by applying lower parameters for the Δ terms. As mentioned in our comments to section 3.8. the adjustment due to changed business volume should be symmetrical. Formulas are wrong: a) SCRop should contain Opall_non_unit_linked and maybe more.	Partially agreed. See revised text.

			b) Opall_non_unit_linked (Opall_non_unit_linked) is possibly simply Opall_non_unit_linked	
331.	Pearl Group Limited	3.35.	The 0.5% charge on investments goes further than the Level 1 text intended and CEIOPS aren't meant to "gold plate" the Level 1 text. It isn't clear why CEIOPS feels that this is an appropriate charge. Pearl is of the view that this charge is an extra degree of prudence that isn't appropriate. Regardless of the above the 0.5% charge on third party investment managers should not apply to managers who are members of the same group. The CP should be updated to make it clear that outsourced means outwith the Group.	Partially agreed. See revised text.
332.	PricewaterhouseCoopers LLP	3.35.	See 3.38	Noted.
333.	RBS Insurance	3.35.	We agree with the principle of an increased operational risk with rapid growth. We do not agree that the additional loading for companies whose premiums or technical provisions are expected to increase in proportion to the rate of growth. The factor to be applied to the additional volume looks too high. We also believe that the 0.5% factor for outsourced investments seems to be random – we would appreciate some clarification of the basis for this. (For example there are other outsourced activities eg- claims handling which have not attracted an operational risk load in this way. Also the factor does not vary according to the investment outsourced, so cash attracts the same charge as other investments)	Partially agreed. These capital charges have been removed.
334.	The Association of Friendly	3.35.	We do not understand the 0.005 applied to external funds. The factor should be the VAR expected at the 99.5% level which would be the whole of the funds open to the risk. However, please see	Partially agreed. This capital charge has been removed.

	Societies (AFS)		our comment on 3.33 where we state that this amount should be removed where the external arrangement has no counter party risk.	
335.	XL CAPITAL LTD	3.35.	See comments at 3.41 below	Noted.
336.	ACA – ASSOCIATIO N DES COMPAGNIE S D'ASSURAN CES DU	3.36.	How is "Strategic decision" defined?	Noted. This paragraph is simply quoting the level 1 text.
337.	CEA, ECO-SLV-09-448	3.36.	The CEA asks for the definition of "strategic decision" term, since if it is not done, a lack of harmonisation could result among countries, thanks to differences of interpretation and supervisory authorities' risk appetite.	Noted. This paragraph just is quoting the level 1 text.
338.	FFSA	3.36.	CEIOPS makes a reference to Article 101(4f) of the Level 1 text, saying that operational risk shall include legal risks, and exclude risks arising from strategic decisions, as well as reputation risks. FFSA thinks that the definition of "strategic decision" term has to be defined, since if it is not done, inequalities among countries could appear thanks to differences of interpretation and supervisory authorities' risk appetite.	Noted. Please refer to comment #337
339.	German Insurance Association – Gesamtverb and der D	3.36.	The GDV asks for the definition of "strategic decision" term, since if it is not done, a lack of harmonisation could result among countries, thanks to differences of interpretation and supervisory authorities' risk appetite.	Noted. Please refer to comment #337

340.	Groupe Consultatif	3.36.	The links between the operational risks and the life and non-life underwriting risk SCR (expenses provision) are not developed in CEIOPS' advice. The scope of the risks covered respectively by the expense risk and the operational risk should be clarified in order to avoid any double counting. From the wording used in the second sentence, it is unclear whether reputation risks are included or excluded from scope.	Noted. As operational risk is difficult to quantify in a standard formula, it is difficult to assess the extent of any double counting. Noted. The Level 1 text is clear concerning the exclusion of reputation risks.
341.	Institut des actuaires (France)	3.36.	The links between the operational risks and the life and non-life underwriting risk SCR (expenses provision) are not developed in CEIOPS' advice. The scope of the risks covered respectively by the expense risk and the operational risk should be clarified in order to avoid any double counting.	Noted. Please refer to comment #340.
342.	International Underwriting Association of London	3.36.	In respect of the statement "Operational risk shall include legal risks, and exclude risks arising from strategic decisions", we presume that there will be guidance on what CEIOPS deems "strategic decisions"; such a term could mean different things within a company, particularly at different levels such as branch, company or group level. It could relate to the overall direction a business is taking, or it could take on a more specific meaning; it might also have different interpretations within different regulatory environments.	Noted. Please refer to comment #337
343.	PricewaterhouseCoopers LLP	3.36.	See 3.38	Noted.
344.	PricewaterhouseCoopers LLP	3.37.	See 3.38	Noted.

345.	ACA – ASSOCIATION DES COMPAGNIES D'ASSURANCES DU	3.38.	It now potential feels over-calibrated	Noted.
346.	CEA, ECO-SLV-09-448	3.38.	The increases in all variables are based on reference to internal models. This approach is onerous and should not be the basis for increasing the charge. The internal models analysed are only reflective of a small number of insurers, small number of countries and are not a representation of the full insurance market in Europe. Following on the article 106(1), which states that this module shall reflect operational risks to the extent that they are not already reflected in the risk modules referred to in Article 104, the CEA asks Ceiops to consider a proper aggregation of the Operational risk module and the BSCR. The practice shows none or negative correlations of many operational risk drivers to the risk drivers reflected under the BSCR.	Noted. Not agreed. Please refer to comment #9.
347.	Centre Technique des Institutions de Prévoyance (C	3.38.	For SCR operational risk, CEIOPS proposes parameters as least double of those set for QIS4, by reference to existing internal models. However, these internal models could still need to be amended and yield higher SCR to get supervisory approval. As final result, SCR operational risk derived from the standard formula as well as from internal models would be more severe than the current level. The QIS5 will help to conclude whether the increased parameters of operational risk, combined with increases of other risk parameters, will not lead to an excessive SCR.	Noted.

			For now, considering the lack of data about operational risk, and the way the parameters were set, we consider that the formula should not add another 0.1% surcharge on TP Life where management actions are taken into consideration. Likewise, at this stage we do not find sufficient evidence for adding any surcharge when premium or technical provisions grow more than 10% from previous year; these surcharges should be removed.	Agreed. Agreed.
348.	FFSA	3.38.	CEIOPS says that the overall conclusion of QIS4 analysis is that operational risk in the standard formula	Noted.
349.	German Insurance Association – Gesamtverb and der D	3.38.	The increases in all variables are based on reference to internal models. This approach is onerous and should not be the basis for increasing the charge. The internal models analysed are only reflective of a small number of insurers, small number of countries and are not a representation of the full insurance market in Europe. Following on the article 106(1), which states that this module shall reflect operational risks to the extent that they are not already reflected in the risk modules referred to in Article 104, the GDV asks CEIOPS to consider a proper aggregation of the Operational risk module and the BSCR. The practice shows none or negative correlations of many operational risk drivers to the risk drivers reflected under the BSCR.	Noted. Not agreed. Please refer to comment #9.
350.	Lloyd's	3.38.	We disagree (See 3.39)	Noted.
351.	PricewaterhouseCoopers LLP	3.38.	We encourage the inclusion of the diversification benefits within the standard formula and we encourage the use of a discount factor linked to the effectiveness of a firm's controls, to promote best practices. Controls should be assessed by an independent entity to reduce bias and ensure consistency.	Not agreed. Please refer to comment #9. Not agreed. Please refer to comment #5.

352.	ROAM (Réunion des Organismes d'Assurance Mutuell	3.38.	ROAM strongly disagrees with CEIOPS conclusion. This conclusion that operational risk in the standard formula was under-calibrated is false. CEIOPS justifies this statement with QIS4 internal model figures. These figures are not representative for the market. ROAM wishes the standard formula to include: (Some simple qualitative criteria. ROAM suggests 3 levels of criteria. Each positive criterion (yes) engenders a percentage of reduction of the operational risks' allocation : Description of the procedures and formalization of the risks mapping (yes/no) Collection of operational incidents and risk management improvement plan (yes/no) Existence of a contingency plan (yes/no) ROAM suggests applying the principle of proportionality in order to evaluate these criteria. (Risk transfer instruments, particularly the insurance.	Noted. Not agreed. Please refer to comment #5.
353.	UNESPA – Association of Spanish Insurers and Reins	3.38.	We promote the inclusion of the diversification benefits and mitigation between operational risk and other risks and the use of an operational risk management qualitatively measure factor, in order to promote best practices and to reduce the total capital charge required. In this section, CEIOPS concluded based on the analysis performed in 32 undertakings in 5 EU countries, that the operational risk standard formula was under-calibrated (see 3.22-3.31). However, to agree with that statement, we need more details about the adequate representative of these undertakings and the reliability of their data.	Not agreed. Please refer to comment #9.

			Additionally, for calibration purposes the following should be considered: Operational risk is considered by CEIOPS as a final level component of the SCR, which is simply added to the calculation of BSCR, along with the adjustments made for loss-absorption capacity of technical provisions and deferred taxes, which in practice excludes any benefit from risk diversification in its calculation, due to its correlation with other risks. We understand that this exclusion should be justified with a greater detailed analysis, and we promote the inclusion of the diversification benefits and mitigation among operational risk and other risks, mentioned by the CEIOPS in reference 3.31 of this CP as well as in reference 3.241 CP 60, when considering operational risk at a group level. In fact, we also disagree with CEIOPS in 3.255 CP 60, when establish that "at group level the operational risk capital are summed", instead of consider likewise, the possible existing diversifications benefits among the different undertakings of the group. Moreover, in order to promote best practices in operational risk management, the operational risk capital charge should depend also on the adequacy and quality of the undertakings operational risk management procedures. This approach is consistent with the banking sector approach, where in most cases the compliance with qualitative requirements, such as an operational risk management and control framework, allows the banks to reduce their capital charge for operational risk. In this regard, we suggest the use of a factor to reduce the total capital requirements; the factor could be qualitatively measured and based on a scoring included within the standard formula (Pillar I). The scoring would numerically represent the level	Not agreed. Please refer to comment #5.

			of adequacy and quality of the management and control framework, and will define the potential capital savings. The main aspects covered in the scoring, would be similar to those considered in the banking qualitative requirements for operational risk, such as, organizational structure, documental framework, methodologies and procedures for its management and control.	
354.	Aberdeen Asset Management PLC (and Aberdeen Asset	3.39.	The "UL factor" is proposed to be doubled from 0.25 to 0.50. The rationale given for this in paragraphs 3.10 to 3.32 is based on analysing the results of the internal models of mostly large multi-line insurers by reference to their level of premiums and technical provisions. Paragraph 3.27 assumes that as this analysis leads to a doubling of factors based on these measures, then the factors for unit linked business should also be doubled. This seems inappropriate for two reasons: It is far from clear that the characteristics of unit linked business is similar to that of the insurers whose internal models in paragraph 3.20 are being used to calibrate the other factors. The third factor being introduced into the operational risk charge, 0.005 * Investop-risk, will be likely to substantially increase the operational risk charge for unit linked business, depending on exactly how it is implemented. As a result, the total increase in the operational risk charge for unit linked business would then be far more than that implied by the analysis given in paragraphs 3.10 to 3.32.	Agreed. Agreed.
355.	Association of British Insurers	3.39.	Doubling the factor as used in one of the terms in the SCRop formula (applying to life companies), would create an inconsistency with the approach taken under the Capital Adequacy Directive 93/6/EC for similar risks for non-life institutions carrying out similar tasks. If the factor is doubled for insurers under Solvency II, we are concerned that this paves the way for an argument to increase	Partially agreed. See revised text.

			the corresponding factor in the Capital Adequacy Directive thus having a significant impact on asset management companies. We are already of the view that the CAD was drafted from the perspective of the banking industry and is unnecessarily onerous for "pure" asset management businesses such as ours which take very little risk on our own account; the prospect of that regime becoming even more onerous is therefore of considerable concern to us. The calibration at the 60th percentile is inappropriate and too high. When combined with the separate charges for growth and outsourced investment management, this will result in a very significant increase for a large proportion of general insurers - for many it is more than double current levels. We understand that a charge based on a standard formula will generally be higher but it should not be deliberately punitive. The "UL factor" is proposed to be doubled from 0.25 to 0.50. The rationale given for this in paragraphs 3.10 to 3.32 is based on analysing the results of the internal models of mostly large multi-line insurers by reference to their level of premiums and technical provisions. Paragraph 3.27 assumes that as this analysis leads to a doubling of factors based on these measures, then the factors for unit linked business should also be doubled. This seems inappropriate for two reasons: It is far from clear that the characteristics of unit linked business is similar to that of the insurers whose internal models in paragraph 3.20 are being used to calibrate the other factors. The third factor being introduced into the operational risk charge, 0.005 * Investop-risk, will be likely to substantially increase the operational risk charge for unit linked business, depending on exactly how it is implemented. As a result, the total increase in the	Agreed. Agreed. Agreed.

			operational risk charge for unit-linked business would then be far more than that implied by the analysis given in paragraphs 3.10 to 3.32.	
356.	BAILLIE GIFFORD LIFE LIMITED	3.39.	The "UL factor" is proposed to be doubled from 0.25 to 0.50. The rationale given for this in paragraphs 3.10 to 3.32 is based on analysing the results of the internal models of mostly large multi-line insurers by reference to their level of premiums and technical provisions. Paragraph 3.27 assumes that as this analysis leads to a doubling of factors based on these measures, then the factors for unit linked business should also be doubled. This seems inappropriate for two reasons: It is far from clear that the characteristics of unit linked business is similar to that of the insurers whose internal models in paragraph 3.20 are being used to calibrate the other factors. The third factor being introduced into the operational risk charge, 0.005 * Investop-risk, will be likely to substantially increase the operational risk charge for unit linked business, depending on exactly how it is implemented. As a result, the total increase in the operational risk charge for unit linked business would then be far more than that implied by the analysis given in paragraphs 3.10 to 3.32.	Agreed. Agreed.
357.	CEA, ECO-SLV-09-448	3.39.	The doubling of factors. The CEA asks Ceiops to explain the consistency between the results stated under 3.10 and the fact that the factors proposed in 3.39 have been doubled from QIS4. In particular the new factor applied to technical provisions (0,9% of TP) may lead to Operational SCR amounts up to 50% of SCR. Increase of the cap from 30% to 60% According to article 106 (1) of the Level 1 text the capital requirement for operational risk shall be calibrated in accordance	Partially agreed. See revised text. Partially agreed. See revised text.

			with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and without any exceptions. Finally, CEA does not understand the rationale to increase the factor applied to Life Technical Provisions as a consequence of the future management actions.	Agreed.
358.	Centre Technique des Institutions de Prévoyance (C	3.39.	**[EMPTY]**	
359.			Confidential comment deleted	
360.	CRO Forum	3.39.	We propose to leave the QIS4 factors as long as diversification benefits and a ladder factor are no allowed for in the standard formula (please refer to 3.8 and 3.11 for detailed comments).	Not agreed. See revised text, as well as comments #9 and #5.
361.	European Union member firms of	3.39.	We agree that from the QIS4 results the standard formula under-estimates the SCRop. However we would like to see more detail in the way CEIOPS have calculated the results as well as how they calculated the Pearson Coefficients reported in para. 3.24.	Noted. See revised text with further details on calibration.

	Deloitte Touche To			
362.	FFSA	3.39.	FFSA stresses that CEIOPS recognizes results provided by QIS4 conducts to the conclusion that QIS4 parameters gave the same results as internal model studied. As a result, FFSA does not understand the rationale to increase the cap limit of the Operational Risk SCR to 60% of the BSCR and to at least double all other factors. Moreover, FFSA would like to stress that the proposed cap of 60% is inconsistent with the Directive, which considers a cap of 30% In particular the new factor applied to technical provisions (0,9% of TP) will lead to Operational SCR amounts up to 50% of SCR.In addition, FFSA does not understand the rationale to increase the factor applied to Life Technical Provisions as a consequence of the future management actions. As an example, one company tested the new calibration: the SCR for the operational risk would represent : - one fourth of their turnover - 80 % of the Solvency 1 margin - 50 % of the gross payments of claims and running costs	Not agreed. Although results were the same, they shouldn't be, as different approaches were followed (diversified vs. undiversified). Partially agreed. See revised text. Partially agreed. See revised text.
363.	German Insurance Association – Gesamtverb and der D	3.39.	The doubling of factors. The GDV asks CEIOPS to explain the consistency between the results stated under 3.10 and the fact that the factors proposed in 3.39 have been doubled from QIS4. In particular the new factor applied to technical provisions (0,9% of TP) may lead to Operational SCR amounts up to 50% of SCR. Increase of the cap from 30% to 60% According to article 106 (1) of the Level 1 text the capital	Partially agreed. See revised text. Partially agreed. See revised text.

			requirement for operational risk shall be calibrated in accordance with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and without any exceptions. Finally, GDV does not understand the rationale to increase the factor applied to Life Technical Provisions as a consequence of the future management actions.	Agreed.
364.	GROUPAMA	3.39.	Groupama questions the strengthening of SCR op parameters. We have some doubts regarding those new parameters, based on a CRO Forum which leads to the conclusion that operational risk was well calibrated in the QIS4. We question the fact that CEIOPS has a partial view of this study as internal models results should be analysed as a whole. If CEIOPS wants to prove the accuracy of those new parameters, it could not use a study stating the former ones were well-calibrated.	Partially agreed. See revised text.
365.	Groupe Consultatif	3.39.	See 3.30 CEIOPS doesn't give advice on the way the factors should evolve in the future : is it possible to leave to a non level 1 and non level 2 text the definition of the percentages and keep only in the level 2 text the existence of the factors ? We would prefer that the exact factors are set by an external	Noted. This is out of scope of the paper

			European centre of expertise in a level 3 text and the structure of the factors is build in the level 2 text. However, the way the factors may evolve in links with the evolution of the insurance market is not drawn in this advice. The new TP life factor represents 25% of the solvency 1 margin which seems too high for the life operational risks. : We believe these factors should be reduced to take account of diversification and the 50% seems purely arbitrary. There has been no evidence within QIS results to back any increase in the standard formulae for unit linked policies. We would also suggest that the standard formula should average the provisions and the premiums amount. The two factors found by CEIOPS were the average of each and it would be consistent to apply the average of both rather than take the maximum. If a maximum is used, then the factors should be reduced to allow for this. To apply the maximum of two average amounts adds an arbitrary safety margin to the operational risk module.	Noted. There is no evidence that the suggestion would give more accurate results.
366.	Institut des actuaires (France)	3.39.	See 3.30 CEIOPS doesn't give advice on the way the factors should evolve in the future : is it possible to leave to a non level 1 and non level 2 text the definition of the percentages and keep only in the level 2 text the existence of the factors ? We would prefer that the exact factors are set by an external European board in a level 3 text and the structure of the factors is build in the level 2 text. However, the way the factors may evolve in links with the evolution of the insurance market is not drawn in this advice. The new TP life factor represents 25% of the solvency 1 margin	Noted. Please refer to comment #365.

			which seems too high for the life operational risks : around 10 Md€ for the French market.	Noted.
367.	Investment & Life Assurance Group (ILAG)	3.39.	We believe these factors should be reduced to take account of diversification and the 50% seems purely arbitrary. There has been no evidence within QIS results to back any increase in the standard formulae for unit linked policies. We would also suggest that the standard formula should average the provisions and the premiums amount. The two factors found by CEIOPS were the average of each and it would be consistent to apply the average of both rather than take the maximum. If a maximum is used, then the factors should be reduced to allow for this. To apply the maximum of two average amounts adds an arbitrary safety margin to the operational risk module.	Noted Please refer to comment #365.
368.	Legal & General Group	3.39.	The method used to derive these factors needs to be based on an explicit 1 in 200 year event – it is not appropriate to derive them from results of a sample of internal models. The arbitrary more than doubling of these, as compared to QIS4 is inappropriate. We feel these factors materially overstate the level of operational risk and fails the 1:200 framework, This has a very material impact on unit linked business and will produce inappropriate capital especially when compared to that required under UCITS rules for similar products.	Noted.
369.	Lloyd's	3.39.	The operational risk factors have almost doubled under the revised formula. Lloyd's view is that the revised calibration is too high, as it is likely to lead to an increase in the nominal amount of operational risk, which we do not believe is necessary. CEIOPS view is based on the assumption that the internal models used as a comparator here have not been validated. This is inappropriate as all UK internal models under the ICAS regime have been validated by supervisory authorities and the diversified	Noted. See revised text with further details on calibration.

			operational risk amount deemed appropriate where the ICA has been approved. We therefore do not agree that the standard formula operational risk charge should broadly be in line with the undiversified operational risk from a firm's internal model. The UK ICAS results provide a good benchmark (which has been validated by supervisory authorities) for a diversified operational risk result and we believe that the standard formula should reflect this.	
370.			Confidential comment deleted	
371.	Pearl Group Limited	3.39.	This seems to go beyond the Level 1 text. CEIOPS isn't meant to be „gold plating" the Level 1 requirements. The doubling of factors We ask CEIOPS to explain the consistency between the results stated under 3.10 and the fact that the factors proposed in 3.39 have been doubled from QIS4. Increase of the cap from 30% to 60% According to article 106 (1) of the Level 1 text the capital requirement for operational risk shall be calibrated in accordance with Article 101(3) (VaR 99,5 % in one year horizon). As for operations other than those where the investment risk is borne by the policyholders, article 106 (3) of the Level 1 text states in addition that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement relating to those insurance and reinsurance operations. The Level 1 Text cannot be interpreted as a possibility to raise the cap on the operational risk capital requirement (for insurance operations other than life policies where the policyholders bear the investment risk). The upper limit expressed in the text is clear and	Noted. Partially agreed. See revised text.

			without any exceptions	
372.	PricewaterhouseCoopers LLP	3.39.	CEIOPS should give a detailed explanation of the reasons and the base analysis for proposing the increase in calibration factors (in particular for BSCR), especially addressing the fact that the increase is not consistent with the Level 1 text and that the analysis for the increase is based on uncertain, unreliable and unrepresentative results from internal models (see above)	Noted. See revised text.
373.	ROAM (Réunion des Organismes d'Assurance Mutuell	3.39.	For some ROAM members, the SCR for the operational risk would represent with this new calibration a quarter of turnover and 80 % of the Solvency 1 margin or could represent 50 % of the gross claims payments and administrative costs. This has no sense. We do not understand why CEIOPS suggests a cap of 60% on the BSCR when the Level 1 text defines the cap as 30%. Since no rationale is provided, we suggest keeping the calibration defined in the QIS 4 factor and the factor cap detailed in the Level 1 text. We are of the opinion that operational risk should be essentially dealt with as part of the Pillar II requirements. We deem it necessary that this new calibration takes into account the quality of the internal control procedures in order to prevent and manage the risk.	Noted. Partially agreed. See revised text. Not agreed. Please refer to comment #5.
374.			Confidential comment deleted	
375.	The Association of Friendly Societies (AFS)	3.39.	We believe these factors should be reduced to take account of diversification and the 50% seems purely arbitrary. There has been no evidence within QIS results to back any increase in the standard formulae for unit linked policies. We would also suggest that the standard formula should average the provisions and the premiums amount. The two factors found by CEIOPS were the average of each and it would be consistent to apply the average of both rather than take the maximum. If a maximum is used, then	Noted Please refer to comment #365.

			the factors should be reduced to allow for this. To apply the maximum of two average amounts adds an arbitrary safety margin to the operational risk module. The new operational risk factors are twice as high as those under QIS4. These, combined with a 100% correlation with other risks, represent a significant strengthening in the calibration. We believe that these proposals are too aggressive, and we suspect that many other participants will have a similar view.	Noted.
376.	UNESPA – Association of Spanish Insurers and Reins	3.39.	CEIOPS should reconsider the increase of the BSCR limit to 60%, and give a detailed explanation of the reasons and the base analysis for this proposal, regarding the facts that the increase is not coherent with the Level 1 text and that the analysis for the increase is based on uncertain reliable and representative results from internal models. The proposed calibration for operational risk is not well justified. Considering that the Level 1 text states that the capital requirement for operational risk should not exceed 30% (same upper limit established in QIS4) and that even this limit appear to be very high and unadjusted to risk reality, CEIOPS should justify its proposal to raise this limit to 60%, with more details about the representative and reliability of the results and the data. Additionally, considering that the analysis was conducted based on the QIS 4 results of undertakings that have internal models, and that these undertakings had similar or lower amounts than those obtained by the standard formula (see 3.13), but which only 25% of the undertakings believe that the data used are not sufficiently accurate, complete and appropriate (see 3.14), CEIOPS should reconsider the operational risk quantification increase on the standard formula, regarding the fact that the increase is based on uncertain reliable and representative results from internal models.	Noted. See revised text.

			Additionally, it would be desirable a better detailed explanation of how the analysis has being accomplished (in which 5 countries of the EU, to what 32 undertakings) in order to justify the 60% of BSCR, and also to know the sample's representative.	
377.	XL CAPITAL LTD	3.39.	We do not believe that CEIOPS recalibration of these operational risk factors is appropriate. This has effectively doubled each factor as compared to QIS 4 The technical provisions non-life factor has increased from 2% to 4.4% The premium non-life factor has increased from 2% to 4.1% and the The BSCR cap for non-life has increased from 30% to 60%. We find it difficult to understand how, when Article 106 (1) of the Directive specifically states that the capital requirement for operational risks shall not exceed 30% of the Basic Solvency Capital Requirement, the Level 2 advice reflects 60%. We ask CIEOPS to reassess and better explain their justification for requiring these increases. These comments also apply to paragraph 3.29 above	Noted. See revised text.
378.	Aberdeen Asset Management PLC (and Aberdeen Asset	3.40.	Investop-risk is defined as the "amount of the highest amount of financial investments deposited or externally managed with a single third party". We would suggest that: This is an ambiguous definition that requires clarification. If the factor 0.005 * Investop-risk (assuming that the use of Investoutsourc in paragraph 3.41 is a typographical error) is to be included within the operational risk charge, then the definition of	Agreed. This capital charge has been removed.

			Investop-risk should make clear that it is only intended to refer to a counterparty exposure. The counterparty exposure should be measured as that which would give rise to a loss should the relevant "third party" fail to meet its obligations. Clarification is given that "third party" should refer only to organisations that are not in the same group as the insurer. It should not include organisations under common control with the insurer. Some reasons for these suggestions are given below. We would emphasize that if significant modification is not made in this direction: The increase in the operational risk charge may increase the total SCR by a factor of 5 or even more for some wholesale unit-linked insurers. There is no evidence from CP53 that this sort of increase is justified. The resulting SCR would also be a similar multiple of the capital requirements of institutions currently regulated under the Capital Adequacy Directive 93/6/EC carrying out economically similar business and this would risk distorting the market for such services. There will be motivation for insurers to carry out inappropriate actions to reduce the operational risk charge component of the SCR that will increase the actual operational risk. Some detail is given below. The phrase "deposited" in paragraph 3.40 (and "depositary" in 3.33) risks being interpreted to cover the relationships that insurers have with custodians. Note, for example, that "depositary" is used in this context within the UCITS Directive 85/611/EC. It would seem inappropriate for custodian type relationships to be covered as in most significant jurisdictions they are established on a	

			bankruptcy remote basis so that the insurer would not be directly exposed to the failure of the custodian bank (in broad terms, the assets held in custody are not available to meet the creditors of the custodian). If custodian type relationships were to be covered, it should be noted that an insurer may typically only use one of the main global custodian networks and this may involve the vast majority of the assets of the insurer. Hence the SCR would be increased by 0.5% of the total assets of the insurer – a very significant amount. An insurer might move to reduce this by: The use of internal, rather than external custodial relationships. The issue here is that insurers have tended to move towards the use of outsourced external custodians because of the intensive IT systems and expertise required to operate custodian services effectively. Sophisticated customers of insurers tend to perceive the use of external global custodians by insurers as reducing the risk of the insurer. The use of multiple custodians. However, the issue here is that the services provided by the custodian assist in the insurer in centralising the control and monitoring of credit exposures, currency exposures, stock lending and often aspects of the operation of fund accounting and administration. Diversification of custodial relationships would be likely to increase operational risks arising from these functions. For both of these reasons, including custodial relationships within the coverage may risk inappropriate behaviour arising. The phrase “externally” in paragraph 3.40 (and “external” in 3.33) does not make it clear whether it is intended to be external to the insurer or external to the group of which the insurer is a member. Commonly, insurance groups establish separate investment management companies that, inter alia, manage the assets of the	

			various insurers within the group. Part of the reason why this occurs is because under the existing EU Life Directive (and in Article 18 of the Solvency II Directive), an insurer is prohibited from performing any commercial business other than insurance business. As a result, it is not unusual for an insurer to have a large proportion of its assets managed by such an "in-house" investment management company. It would therefore give rise to a disproportionate operational risk capital charge if it were to be considered as "external".	
379.	AMICE	3.40.	See comments to paragraph 3.34	Noted.
380.			Confidential comment deleted	
381.	BAILLIE GIFFORD LIFE LIMITED	3.40.	Investop-risk is defined as the "amount of the highest amount of financial investments deposited or externally managed with a single third party". We would suggest that: This is an ambiguous definition that requires clarification. If the factor 0.005 * Investop-risk (assuming that the use of Investoutsourc in paragraph 3.41 is a typographical error) is to be included within the operational risk charge, then the definition of Investop-risk should make clear that it is only intended to refer to a counterparty exposure. The counterparty exposure should be measured as that which would give rise to a loss should the relevant "third party" fail to meet its obligations. Clarification is given that "third party" should refer only to organisations that are not in the same group as the insurer. It should not include organisations under common control with the insurer. Some reasons for these suggestions are given below. We would	Agreed. This capital charge has been removed.

			emphasize that if significant modification is not made in this direction: The increase in the operational risk charge may increase the total SCR by a factor of 5 or even more for some wholesale unit-linked insurers. There is no evidence from CP53 that this sort of increase is justified. The resulting SCR would also be a similar multiple of the capital requirements of institutions currently regulated under the Capital Adequacy Directive 93/6/EC carrying out economically similar business and this would risk distorting the market for such services. There will be motivation for insurers to carry out inappropriate actions to reduce the operational risk charge component of the SCR that will increase the actual operational risk. Some detail is given below. The phrase “deposited” in paragraph 3.40 (and “depositary” in 3.33) risks being interpreted to cover the relationships that insurers have with custodians. Note, for example, that “depositary” is used in this context within the UCITS Directive 85/611/EC. It would seem inappropriate for custodian type relationships to be covered as in most significant jurisdictions they are established on a bankruptcy remote basis so that the insurer would not be directly exposed to the failure of the custodian bank (in broad terms, the assets held in custody are not available to meet the creditors of the custodian). If custodian type relationships were to be covered, it should be noted that an insurer may typically only use one of the main global custodian networks and this may involve the vast majority of the assets of the insurer. Hence the SCR would be increased by 0.5% of the total assets of the insurer – a very significant amount. An insurer might move to reduce this by: The use of internal, rather than external custodial	

			relationships. The issue here is that insurers have tended to move towards the use of outsourced external custodians because of the intensive IT systems and expertise required to operate custodian services effectively. Sophisticated customers of insurers tend to perceive the use of external global custodians by insurers as reducing the risk of the insurer. The use of multiple custodians. However, the issue here is that the services provided by the custodian assist in the insurer in centralising the control and monitoring of credit exposures, currency exposures, stock lending and often aspects of the operation of fund accounting and administration. Diversification of custodial relationships would be likely to increase operational risks arising from these functions. For both of these reasons, including custodial relationships within the coverage may risk inappropriate behaviour arising. The phrase "externally" in paragraph 3.40 (and "external" in 3.33) does not make it clear whether it is intended to be external to the insurer or external to the group of which the insurer is a member. Commonly, insurance groups establish separate investment management companies that, inter alia, manage the assets of the various insurers within the group. Part of the reason why this occurs is because under the existing EU Life Directive (and in Article 18 of the Solvency II Directive), an insurer is prohibited from performing any commercial business other than insurance business. As a result, it is not unusual for an insurer to have a large proportion of its assets managed by such an "in-house" investment management company. It would therefore give rise to a disproportionate operational risk capital charge if it were to be considered as "external".	
382.	CEA,	3.40.	While we support the principle of drawing lessons from the financial	Agreed. This capital charge has

	ECO-SLV-09-448		crisis, we do not understand the rationale for adding a 0.5% risk charge in respect of the largest depositary of an undertaking. Does the factor of 0.5% for outsourced investments allow for the security of the third party or potential mitigants in place such as letters of credit or offsetting balances?	been removed.
383.	CRO Forum	3.40.	We do not understand the rationale for introducing a new factor related to operational risks linked to external services on financial investments as the proposed formula (arbitrary capital charge related to investments deposited or externally managed (0.005 x InvestOutsourc) on top of the previous QIS4 formula) will encourage the undertaking to diversify at the maximum the third parties where investment are deposited or managed. In addition, we would like to mention that these activities are already highly regulated.	Agreed. This capital charge has been removed.
384.	FFSA	3.40.	FFSA does not understand the rationale for introducing a new factor related to operational risks linked to external services on financial investments as the proposed formula will encourage the undertaking to diversify at the maximum the third parties where investment are deposited or managed. Due to the complexity of managing lot of third parties, this factor will generate a highest operational risk. In addition, FFSA would like to mention that these activities are already highly regulated.	Agreed. This capital charge has been removed.
385.	German Insurance Association – Gesamtverband der D	3.40.	While we support the principle of drawing lessons from the financial crisis, we do not understand the rationale for adding a 0.5% risk charge in respect of the largest depositary of an undertaking. Does the factor of 0.5% for outsourced investments allow for the security of the third party or potential mitigants in place such as letters of credit or offsetting balances?	Agreed. This capital charge has been removed.
386.	GROUPAMA	3.40.	Groupama questions the introduction a new factor related to	Agreed. This capital charge has

			operational risks linked to external services on financial investments (even if it parts of the same group). It should be a Pillar 2 issue, dealing with the relation between the undertaking and its assets managers and all controls and reporting settled. Furthermore, these activities are already highly regulated, the 0,5% factor seems over-calibrated. We recommend removing this new factor, or at least not consider assets managed by an other entity of the same group.	been removed.
387.	Legal & General Group	3.40.	The definition of Investop_risk needs to be clarified so that it does not cover asset custodians. Failure to make such a clarification could result in the majority of life offices' assets being captured since most assets are held by independent trustees. We believe that this is not the intention of the additional part of the formula.	Agreed. This capital charge has been removed.
388.	Pearl Group Limited	3.40.	While we support the principle of drawing lessons from the financial crisis, we do not understand the rationale for adding a 0.5% risk charge in respect of the largest depositary of an undertaking. Does the factor of 0.5% for outsourced investments allow for the security of the third party and what impact is there when the investments are outsourced to another company within the group?	Agreed. This capital charge has been removed.
389.	ROAM (Réunion des Organismes d'Assurance Mutuell	3.40.	See comments to paragraph 3.34	Noted.
390.			Confidential comment deleted	
391.	Association of British Insurers	3.41.	We strongly disagree with the introduction of an "Investoutsourc" risk element to the capital charge for Operational risk SCR. This is because this element has been introduced without: (a) a clear	Agreed. This capital charge has been removed.

			definition of scope; and (b) discussion on the prudential purpose and calibration of the charge. The rationale for introducing this element is stated as a "consequence of the failures in this area occurred during the current crisis". This statement does not make clear what threats to solvency are envisaged. Without such information we cannot respond on whether there is double counting with other elements of the SCR. Most fundamentally, a justification of increasing the calibration of other elements of the operational risk SCR has been that firm's internal models produce results that are significantly higher. These internal models do consider the risks associated with outsourcing, both of investment operations and of other activities. We strongly recommend that the arbitrary charge for "Investoutsourc" is removed from the SCR calculation for the operational risk, until such time a proper justification can be provided for this charge, and impact on overall operational risk capital reviewed.	
			There is a term looking at the increase in premiums (or provisions) over the last year where this increase is over 10%. By definition the reference entity will have had no premiums or provisions at time t-1, and so the formula will produce a double operational risk component for the basic charge for all non-UL business at time 0. Of course only 6% of this will fall into the risk margin but is this an intended feature? What is the rationale for singling out growth and third party asset manager concentration risks? These risks are no different to any other operational or strategic risk. Whilst Ponzi schemes may be a current hot topic, this will change, and by 2012 it is likely that some other operational risk will be No. 1. Also, a growth in	Agreed. This capital charge has been removed.

			premium rates can easily result in a 10% increase in premium income, which may reduce operational risk - it is not logical to calculate an additional charge in this way. An operational risk charge of 0.5% of the funds managed by the largest external fund manager is far too high. Why should it be greater if all funds are managed by one manager than if they are managed by several external managers? For a company that uses a single external manager for all of its assets, taken together with the ratio applied to non-linked liabilities it implies that over a third of operational risk could be due to having an external fund manager. While we agree that there are operational risks related to having an external fund manager, this is just one of many factors affecting operational risk, most of which are ignored in the formula. CEIOPS should clarify that an "internal outsourcing" of the Asset Management function of a group to a specific legal entity within a group does not give rise to VaRop risk charge. Furthermore, any investment risk charge should be placed within the minimum function not as an addition to the cap set out in the level 1 text. Investop-risk is defined as the "amount of the highest amount of financial investments deposited or externally managed with a single third party". We would suggest that: This is an ambiguous definition that requires clarification. If the factor 0.005 * Investop-risk (assuming that the use of Investoutsourc in paragraph 3.41 is a typographical error) is to be included within the operational risk charge, then the definition of Investop-risk should make clear that it is only intended to refer to a counterparty exposure. The counterparty exposure should be measured as that which would give rise to a loss should the	

			relevant "third party" fail to meet its obligations. Clarification is given that "third party" should refer only to organisations that are not in the same group as the insurer. It should not include organisations under common control with the insurer. Some reasons for these suggestions are given below. We would emphasize that if significant modification is not made in this direction: The increase in the operational risk charge may increase the total SCR by a factor of five or even more for some wholesale unit-linked insurers. There is no evidence from CP53 that this sort of increase is justified. The resulting SCR would also be around five times the capital requirements of institutions currently regulated under the Capital Adequacy Directive 93/6/EC carrying out economically similar business and this would risk distorting the market for such services. There will be motivation for insurers to carry out inappropriate actions to reduce the operational risk charge component of the SCR that will increase the actual operational risk. Some detail is given below. The phrase "deposited" in paragraph 3.40 (and "depositary" in 3.33) risks being interpreted to cover the relationships that insurers have with custodians. Note, for example, that "depositary" is used in this context within the UCITS Directive 85/611/EC. It would seem inappropriate for custodian type relationships to be covered as in most significant jurisdictions they are established on a bankruptcy remote basis so that the insurer would not be directly exposed to the failure of the custodian bank (in broad terms, the assets held in custody are not available to meet the creditors of the	

			custodian). If custodian type relationships were to be covered, it should be noted that an insurer may typically only use one of the main global custodian networks and this may involve the vast majority of the assets of the insurer. Hence the SCR would be increased by 0.5% of the total assets of the insurer – a very significant amount. An insurer might move to reduce this by: The use of internal, rather than external custodial relationships. The issue here is that insurers have tended to move towards the use of outsourced external custodians because of the intensive IT systems and expertise required to operate custodian services effectively. Sophisticated customers of insurers tend to perceive the use of external global custodians by insurers as reducing the risk of the insurer. The use of multiple custodians. However, the issue here is that the services provided by the custodian assist in the insurer in centralising the control and monitoring of credit exposures, currency exposures, stock lending and often aspects of the operation of fund accounting and administration. Diversification of custodial relationships would be likely to increase operational risks arising from these functions. For both of these reasons, including custodial relationships within the coverage may risk inappropriate behaviour arising. The phrase “externally” in paragraph 3.40 (and “external” in 3.33) does not make it clear whether it is intended to be external to the insurer or external to the group of which the insurer is a member. Commonly, insurance groups establish separate investment management companies that, inter alia, manage the assets of the various insurers within the group. Part of the reason why this occurs is because under the existing EU Life Directive (and in Article 18 of the Solvency II Directive), an insurer is prohibited from	

			performing any commercial business other than insurance business. As a result, it is not unusual for an insurer to have a large proportion of its assets managed by such an "in-house" investment management company. It would therefore give rise to a disproportionate operational risk capital charge if it were to be considered as "external".	
392.	CEA, ECO-SLV-09-448	3.41.	The calibration of the factors has not been made transparent. We ask Ceiops to justify their choice. Investop_risk While we support the principle of drawing lessons from the financial crisis, we do not understand the rationale for adding a 0.5% risk charge in respect of the largest depositary of an undertaking. Does the factor of 0.5% for outsourced investments allow for the security of the third party or potential mitigants in place such as letters of credit or offsetting balances? The proposed formula may encourage the undertaking to diversify at the maximum the third parties where investment are deposited or managed. Due to the complexity of managing lot of third parties, this factor will generate a highest operational risk. In addition, these activities may already be highly regulated. Some companies may have included an allowance for risks relating to external asset management in their internal models. Since Ceiops recommended factors for the bulk operational risk are taken directly from these internal models there is potentially some double counting in the analysis performed. Article 106, paragraph 3 of the Directive, the calculation of the capital requirement for operational risk looks at insurance and reinsurance operations but not investment operations of an undertaking.	Partially agreed. See revised text with further details on calibration. Agreed. This capital charge has been removed.

			Finally, we wonder whether an explicit charge on outsourcing is not double counting, since Article 48 (as mentioned in paragraph 2.5) required measures which do not unduly increase the operational risk. Following on the reasons above, the CEA believes that no capital requirement should be set for investments deposited or externally managed with a single third party. Delta, reflecting a change in premiums. What is the rationale behind this parameter and why 10%? The additional loading for companies whose premiums or technical provisions are expected to increase by over 10% assumes that the increase is due to the volume of risk being taken by the company. The CEA does not understand the rationale of linking the operational risk to the change of technical provisions as this change can result from other components (economic inflation or market movements) and not only from the increase of the business. We would like to mention that there is no such charge in the banking sector which will lead to cross-sector inconsistencies. It is unclear why the 10% increase in volume is not considered in case of Health SLT and non SLT, but only in the premium volume measures. Some formulae may need correction, perhaps typos? In SCRop formula, Oplnul should be changed for Opall_non_unit_linked? What does "Opall_non_unit_linked(Opall_non_unit_linked)" mean? Diversification	Not Agreed. It is expected that a high growth rate in the TP will be mirrored by a high growth rate in premiums However in a situation of a high growth in the technical provisions without a parallel high growth in premiums, one could also expect an increase of operational risks stemming from this unbalance. Noted. Not agreed. Please refer to

			As stated in our answer to CP60 in paragraph 3.255, we do not agree with summing solo operational risk capital requirements at group level. It seems clear that having a fraud case from an agent in Asia is totally uncorrelated to having a fire that destroys the buildings of an undertaking in France. The CEA thus would like Ceiops to consider factors that take into account the geographical diversification arising from the presence of a Group in different countries.	comment #9.
393.			Confidential comment deleted	
394.	CRO Forum	3.41.	We propose to leave the QIS4 factors as long as diversification benefits and a ladder factor are not allowed for in the standard formula (please refer to 3.8 and 3.11 for detailed comments). Our initial thoughts are that the formula still looks very complex. The proxy volume measure technical provisions and earned premiums look fine. Re 'Investoutsource': We strongly disagree with the introduction of an "Investoutsourc" risk element to the capital charge for Operational risk SCR. This is because this element has been introduced without: (a) a clear definition of scope; and (b) discussion on the prudential purpose and calibration of the charge. The rationale for introducing this element is stated as a "consequence of the failures in this area occurred during the current crisis" . This statement does not make clear what threats to solvency are envisaged. Without such information we cannot respond on whether there is double counting with other elements of the SCR. Most fundamentally, a justification of increasing the calibration of other elements of the operational risk SCR has been that firm's internal models produce results that are significantly	Not agreed. Please refer to comment #9. Agreed. This capital charge has been removed.

			higher. These internal models do consider the risks associated with outsourcing, both of investment operations and of other activities. We strongly recommend that the arbitrary charge for "Investoutsourc" is removed from the SCR calculation for the operational risk, until such time a proper justification can be provided for this charge, and impact on overall operational risk capital reviewed. This could be taken into account under Pillar II. Re 'Non-unit linked': Opall_non_unit_linked (Opall_non_unit_linked) is possibly simply Opall_non_unit_linked There should be no differentiation based on future management actions in Life (please refer to 3.28 for details). We understand the underlying idea for an add-on in case of a fast growing business although we would like to mention that there is no such charge in the banking sector which will lead to cross-sector inconsistencies. The 10% threshold seems to be arbitrary and should be reflect in the assessment of the qualitative op. risk management capabilities. There is little information on the derivation of this component. We would expect to see information on how the 10% was derived. Was any allowance made for the fact that in many circumstances the technical provisions of a in force book will naturally increase over time even without new business or for the fact that through reinsurance one can acquire a large technical provision with no material change in operational requirements?	Noted. Not Agreed. See Comment #392
395.	FFSA	3.41.	FFSA does not understand the rationale to proportionate the operational risk to the change of technical provisions as this change	Agreed. This capital charge has been removed.

			can result from other components than only the increase of the business. FFSA notes that in the SCR formula the basic operational risk charge for all business other than unit-linked business (gross of reinsurance) is referred to by Oplnul, whereas thereafter it is written as Opall_non_unit_linked. FFSA recommends the use of compliant notations. FFSA suggest that a ladder factor has to be introduced, as suggested in §3.9: this factor has to be applied to the operational risk capital charge, reflecting the degree of progress of each undertaking in the management of its operational risk. This would be fully consistent with the spirit of the Directive, which aims at fostering best practices in risk management within the undertakings. This ladder factor could create the link to Pillar II, as discussed in CRO Forum's Calibration Principles published in May, 2009. FFSA takes note that diversification with other risk charges is not being considered. However, FFSA strongly believes that diversification within lines of business and within Groups should be taken into account. For instance, it seems clear that having a fraud case from an agent in Asia is totally uncorrelated to having a fire that destroys the buildings of an undertaking in France. FFSA thus would like CEIOPS to introduce factors that take into account the diversification arising from the diversification in the lines of business and the presence of a Group in many different countries (see answers to CP60).	Noted. Not agreed. Please refer to comment #5. Not agreed. Please refer to comment #9.
396.	German Insurance Association –	3.41.	The calibration of the factors has not been made transparent. We ask CEIOPS to justify their choice. Investop_risk	Partially agreed. See revised text with further details on calibration.

	Gesamtverb and der D		While we support the principle of drawing lessons from the financial crisis, we do not understand the rationale for adding a 0.5% risk charge in respect of the largest depositary of an undertaking. Does the factor of 0.5% for outsourced investments allow for the security of the third party or potential mitigants in place such as letters of credit or offsetting balances? The proposed formula may encourage the undertaking to diversify at the maximum the third parties where investment are deposited or managed. Due to the complexity of managing lot of third parties, this factor will generate a highest operational risk. In addition, these activities may already be highly regulated. Some companies may have included an allowance for risks relating to external asset management in their internal models. Since CEIOPS recommended factors for the bulk operational risk are taken directly from these internal models there is potentially some double counting in the analysis performed. Article 106, paragraph 3 of the Directive, the calculation of the capital requirement for operational risk looks at insurance and reinsurance operations but not investment operations of an undertaking. Finally, we wonder whether an explicit charge on outsourcing is not double counting, since Article 48 (as mentioned in paragraph 2.5) required measures which do not unduly increase the operational risk. Following on the reasons above, the GDV believes that no capital requirement should be set for investments deposited or externally managed with a single third party. Delta, reflecting a change in premiums.	Agreed. This capital charge has been removed. Not Agreed.

			What is the rationale behind this parameter and why 10%? The additional loading for companies whose premiums or technical provisions are expected to increase by over 10% assumes that the increase is due to the volume of risk being taken by the company. The GDV does not understand the rationale of linking the operational risk to the change of technical provisions as this change can result from other components (economic inflation or market movements) and not only from the increase of the business. We would like to mention that there is no such charge in the banking sector which will lead to cross-sector inconsistencies. It is unclear why the 10% increase in volume is not considered in case of Health SLT and non SLT, but only in the premium volume measures. Some formulae may need correction, perhaps typos? In SCRop formula, Oplnul should be changed for Opall_non_unit_linked? What does "Opall_non_unit_linked(Opall_non_unit_linked)" mean?	See Comment #392 Noted.
397.	Groupe Consultatif	3.41.	See 3.33 There is no justification for the external managed operational risk charge. Please see our comments for 3.33	Noted.
398.	Institut des actuaires (France)	3.41.	See 3.33	Noted.
399.	International Underwriting Association of London	3.41.	We note that companies would be required to hold additional capital in the event that their Technical Provisions or Earned Premium increases by more than 10% over the year to reflect increased business activity. It is possible that the market premium	Not Agreed. See Comment #392

			cycle could trigger such an increased capital charge. For example a hard market combined with organic business growth could trigger such an increased capital charge. We believe if any such increased capital charge is deemed necessary, it should relate to a significant increase in business activity, and not simply be dependent upon a growth in premiums. We would also question whether such a charge might apply where mergers and acquisitions take place.	
400.	Investment & Life Assurance Group (ILAG)	3.41.	There is no justification for the external managed operational risk charge. Please see our comments for 3.33.	Noted.
401.	Legal & General Group	3.41.	The definition of Opall_non_unit_linked based on Opall_non_unit_linked(Opall_non_unit_linked) is not clear. InvestOutsourc is not defined – we assume this is the same as Investop_risk. We can see no rationale for adding 0.5% risk charge in respect of the largest depositary.	Noted. Agreed. This capital charge has been removed.
402.	Munich RE	3.41.	The introduction of an "Investoutsourc" risk element has not been motivated convincingly ("... consequence of the failures in this area occurred during the current crisis") and we therefore to not agree to consider it. Moreover, the formulas are wrong: a) SCRop should contain Opall_non_unit_linked and maybe more. b) Opall_non_unit_linked (Opall_non_unit_linked) is possibly simply Opall_non_unit_linked	Agreed. This capital charge has been removed. Noted.
403.	Pearl Group Limited	3.41.	The calibration of the factors has not been made transparent. We ask CEIOPS to justify their choice.	Partially agreed. See revised text with further details on calibration.

404.			Confidential comment deleted	
405.	The Association of Friendly Societies (AFS)	3.41.	There is no justification for the external managed operational risk charge. Please see our comments for 3.33	Noted.
406.	XL CAPITAL LTD	3.41.	The additional loading for companies whose premiums or technical provisions are expected to increase by over 10% assumes that the increase is due to the volume of risk being taken by the company. However there are other factors (economic inflation or market movements) that could cause this increase and would be penalised under the suggested formula. The nature of the business written by a company (commercial, wholesale, volume of policies, geographical spread of operating territories) will affect its Operational Risk. This CP does not recognise that Operational Risk is more then a function of premium and does not encourage improvements in the management of Operational Risk. We are also concerned that the "+0.005*InvestOutsource is not properly defined in the paper and could reflect a large number. We request CEIOPS to provide a clear definition of what is meant by "outsourced", whether this is viewed from the perspective of the individual entity (where services could be outsourced to other group members) or from the perspective of the group (and hence relates to "true" third parties) These comments also apply to paragraph 3.35 above	Not Agreed. See Comment #392 Agreed. This capital charge has been removed.