

**Summary of Comments on Consultation Paper 78 - CEIOPS-CP-78/09  
CP No. 78 - L2 Advice on Equivalence for reinsurance activities &  
group supervision**

**CEIOPS-SEC-35/10  
05.03.2010**

CEIOPS would like to thank ABI, AIRMIC, American Council of Life Insurers, American Insurance Association, Association of Bermuda Insurers and Reinsurers (AB, Bermuda Monetary Authority, Canadian Life and Health Insurance Association (CL, Cayman Islands Monetary Authority, CEA, CRO, Deloitte, DIMA (Dublin International Insurance & Management , FFSA, GDV, Group of North American Insurance Enterprises, Inc, Groupe Consultatif, Guernsey Financial Services Commission, Guernsey Insurance Company Management Association, Heritage Insurance Management Limited (Guernsey), Insurance Council of Australia, INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON, IOMCA, JFSA, KPMG ELLP, METLIFE, Munich Re, PricewaterhouseCoopers, Property Casualty Insurers Association of America , Reinsurance Association of America, SII Legal Group, Sun Life (IE), Swiss Financial Market Supervisory Authority, FINM, Swiss Insurance Association (SIA), The General Insurance Association of Japan (GIAJ), The Life Insurance Association of Japan, US National Association of Insurance Commissioners, and XL Capital Ltd

The numbering of the paragraphs refers to Consultation Paper No. 78 (CEIOPS-CP-78/09)

<b>No.</b>	<b>Name</b>	<b>Reference</b>	<b>Comment</b>	<b>Resolution</b>
1.	ABI	General Comment	<p>We are in favour of a less prescriptive approach: The equivalence assessment should focus on the outcome of third countries regulatory regimes making sure that it provides policyholders with the same level of protection rather than being a tick box exercise against the individual, detailed requirements of the Directive.</p> <p>In the interest of transparency the degree of importance of the indicators should be known in advance, it does not seem appropriate to lend an equal weighting to every indicator.</p> <p>In addition we believe that the CEIOPS advice should focus on the principles and objectives. The indicators are therefore used only for guidance when assessing the regulatory regime of a third country and should not form a rigid template. Accordingly we suggest they be moved from the blue text to the White text.</p>	<p>Noted.</p> <p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters</p> <p>Noted.</p>

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		<p>Distortion in the level playing field; As it stands, groups with a head office outside the EU may only apply solvency II to their EU sub group, whilst EU groups may be forced to apply Solvency II requirements to the entire consolidated group including operations outside of the Solvency II area.</p> <p>As a consequence overseas subsidiaries of these EU groups could be competitively challenged against local insurers and may therefore be priced out of the market.</p> <p>It will be important to avoid this outcome, to ensure that EU groups can compete on a level playing field. So groups should be able to apply local standards to local business, and only where risks may affect the overall group and in particular its European operations, should this create any additional capital or risk management requirements.</p> <p>The alternative may be that EU-based groups are forced to re-structure and move their head office and group capital to a location outside the EU, leaving the EU business as a subsidiary of an overseas regulated group, which is not the outcome we believe CEIOPS or the industry want to see.</p> <p>EU centric nature of the process; It should be recognised that Solvency II represents a significant step up in regulatory requirements. Third countries have had limited opportunity to participate in the process of developing Solvency II. Accordingly, a CEIOPS hard line approach could be perceived as a tentative step toward imposing their own exact framework on the rest of the World, which is likely to be a recipe for regulatory conflict and might well have a counterproductive effect.</p>	<p>Article 220 of the Level 1 text foresees as the default method foresees the calculation of the group SCR on the consolidated accounts with SII rules for EEA groups.</p> <p>Noted</p> <p>Agreed – the objective is to ensure that EEA policyholders level protection is the same</p>
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			<p>The objective of the process should remain the protection of EU policyholders, not to impose Solvency II unilaterally on the rest of the world.</p> <p>Transitional measures; Solvency II took over a decade to elaborate and to allow third countries to adapt we are asking for some transitional measures/ grandfathering of existing regimes. This would be crucial for the continuum of business and successful implementation of Solvency II.</p> <p>It is also worth noting an absence of transition would be more damaging for the EU than for third countries since the EU is a net exporter of (re)insurance services.</p> <p>Prescriptive use of D&amp;A consolidation method: We believe that (re)insurer should have the ability to propose/request the use of the deduction aggregation method, or some combination of methods with the consolidated approach, subject to a reasonable justification and supervisory approval.</p>	<p>regardless of the interactions of EEA entities with third countries ones.</p> <p>Noted</p> <p>Noted. Please see redraft under 227</p>
2.	AIRMIC	General Comment	<p>AIRMIC Membership</p> <p>AIRMIC has a membership of nearly 850 individual risk managers from about 450 companies, including about 75% of the FTSE 100, as well as very substantial representation in the mid 250 and other smaller companies. Also, several smaller companies are members, including a number of charities. AIRMIC members are responsible</p>	Noted

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for the purchase of insurance and place insurance business to the extent of about £5 billion of insurance premium spend per annum. Additionally, members place about £2 billion of premium spend in captive insurance companies and have responsibility for the payment of insurance claims from their company finances to the value of at least a further £2 billion per year.

Many AIRMIC members operate captive insurance companies in several domiciles, including Guernsey, Isle of Man and Bermuda, as well as domiciles within the EU, such as Gibraltar, Ireland and Malta. These captives operate as both re-insurance and direct writing captives and often purchase re-insurance themselves. Captives that operate as re-insurance captives are generally fronted by the London office of a multi-national insurance company licensed to operate in the EU. The captive insurance companies of AIRMIC members write most classes of insurance business, including property and casualty. Many captives provide re-insurance financing for deductibles within the primary layer of compulsory classes of insurance.

The majority of Captive insurance companies owned by the major UK corporations are located offshore in Guernsey, Isle of Man and Bermuda.

These domiciles are all regulated in accordance with the Core Principles agreed by the International Association of Insurance Supervisors (IAIS) and they are monitored by independent bodies including the IMF.

There have been no significant problems relating to Captive insurance, so we believe that for Captive insurance at least these domiciles should be granted equivalence.

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3.	American Council of Life Insurers	General Comment	<p>On behalf of the member insurance and reinsurance companies of the American Council of Life Insurers (ACLI), we would like to confirm our interest in equivalence and third country issues within Solvency II. ACLI's members represent over two-hundred and fifty years of experience in providing risk protection and retirement security products in the U.S. and in over one-hundred and seventy markets around the world.</p> <p>We believe a supervisory framework applicable to life insurance and life reinsurance companies globally should treat domestic and foreign insurers equally without discrimination in U.S. and international jurisdictions. This would include, but not limited to, harmonization of global supervisory solvency requirements and cooperation among supervisors; and the promotion of sound and competitive insurance markets through an efficient and effective supervisory environment.</p> <p>We appreciate the opportunity to offer our member input on the initiative of CEIOPS to provide advice to the European Commission on the Level II Implementing Measures, and on the technical criteria for 3rd country equivalence. ACLI members have followed, and continue to closely follow, Solvency II and its impact on US companies' business globally, no matter where their groups are headquartered. The impact of Solvency II on third country (re)insurers will vary greatly depending upon its specific circumstances (cross- border reinsurance, EU parent with U.S. subsidiary, U.S. parent with EU subsidiary, transatlantic affiliates, U.S. parent with non-European international operations).</p>	Noted.

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		<p>ACLI members have raised concerns that in the Final Advice, the different roles of the principles and indicators should be clearer. In our view, a positive equivalence assessment under each Article should be based on meeting the principles, rather than each of the indicators noted in CP78. While the indicators provide useful reference criteria to promote convergence, we would suggest they should be merely referenced in the advice to the European Commission for level II measures.</p> <p>We urge that that the methodology instead be incorporated at Level III. This would allow for sufficient flexibility to recognize specificities in 3rd country regimes. Here again, the indicators should be discussed under the Level III CEIOPS Guidance in a manner that ensures there is no discrimination between domestic and foreign (re)insurers regarding capital supervision in any individual jurisdiction.</p> <p>ACLI members urge the use of "benchmarks" as indicators, rather than just a list of standards, which would provide more context to the process. ACLI members agree that "equivalence" does not mean "equality," and urges CEIOPS to make sure equivalence assessments will not constitute a search for countries with identical systems to the European Union.</p> <p>We look forward to continuing to work with CEIOPS to ensure our members' interests are taken into consideration and we would be pleased to discuss our comments with you at your convenience.</p>	<p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters</p> <p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul>
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4.	American Insurance Association	General Comment	<p>The American Insurance Association appreciates the opportunity to provide comments in connection with this consultation process. Our membership includes US and other non-European based company groups doing business in Europe and European based company groups doing business in the US and other non-European countries. They share a common interest in achieving effective and efficient global regulation of insurance and believe that such effective and efficient regulation best serves policyholders and beneficiaries, in that it provides safety and security and allows the maximum amount of competition, innovation and insurance coverage.</p> <p>Total sales in Europe by US companies and affiliates are estimated at \$35 billion annually, while total sales of European insurers in the US are estimated at \$87.4 billion annually. Thus, the economic importance of effective and efficient regulatory systems in the US and Europe and the need to make them equivalent and smooth functioning as between them is of utmost importance.</p> <p>Trans-Atlantic insurance commerce should not be disrupted by these developments, but should instead be enhanced through more uniform, effective and efficient regulation in and between the EU, US and other third country insurance markets. This is important to avoid negative financial ramifications for insurers and because anti-competitive or inefficient regulation harms policyholders and beneficiaries in several ways. First, they will have fewer choices of insurance providers and products and will pay higher prices. Second, the global risk-spreading and geographic diversification that is so important to the financial strength and stability of the insurance system will be reduced. Third, societies are deprived of the many important social benefits of insurance, including loss</p>	Noted.

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compensation, risk management and loss prevention and advocacy for the improved safety of buildings, highways, products, services and workplaces.

In general, we see the potential for significant negative results from the failure to achieve equivalence between the Europe and the US. First, capital recognized in one jurisdiction may not be recognized in the other. This has adverse competitive effects, but as importantly, would require unnecessary capital be set aside that could otherwise be used to support the offering of more insurance. Second, non-equivalence could result in groups being restructured to be less efficient overall, especially in the use of capital, and could lead to increased and conflicting reporting obligations, as well as other regulatory burdens. Again, resources expended to comply with unproductive regulation are resources that will not be available for providing insurance or engaging in other socially beneficial activities of insurance.

Equivalence determinations will be complicated in any event, but even more so with regard to the U.S. because of the current sub-national regulatory system. Operating standards and reporting mandates differ from state to state. Plus, there are legal constraints on the ability of any one state to engage in effective group supervision that extends beyond its borders.

Recognizing that criteria for equivalence determinations are still evolving, we wish to make several procedural recommendations. First, trans-Atlantic business should not be disrupted by a delay in the equivalence assessment, so, if the U.S. cannot be quickly assessed for equivalence during the first wave, there should be, as recommended by the CRO Forum, a grandfathering mechanism or provisional approval, to give insurers, legislators and regulators the

Noted. No transitional/grandfathering foreseen as the Level 1 text foresees the possibility for EEA supervisors to verify equivalence in case no decision has been made by the EC.

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			<p>time they need to make necessary adjustments. Second, the consultation and dialogue with the global industry should continue on a regular basis throughout the next several years. As regulatory concepts evolve, our ability to re-analyze and communicate to decision-makers the potential impacts of equivalence determinations will continue to be critical for avoiding errors that could negatively affect insurers and everyone that relies upon them.</p> <p>Third, we ask for clarification of the process going forward with decision-making on the criteria for equivalence and the process for determining equivalence, including the use of the indicators.</p> <p>On both sides of the Atlantic, regulatory processes and procedures should adhere closely to the OECD's recommendations, guidance and check list on effective and efficient financial services regulation issued on December 3, 2009. In this regard, industry should be kept advised of the progress on the standards for the equivalence review and be given the opportunity to provide input at every stage. Also, there should be rigorous cost-benefit analyses to assure that the least costly, but effective alternatives are selected with respect to both criteria and actual equivalence determinations. Finally, we recommend that there be periodic review and accountability to assure that the final decisions on criteria and actual equivalence remain effective and efficient.</p>	<p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul>
5.	Association of Bermuda Insurers and Reinsurers (AB	General Comment	<p>Thank you for the opportunity to comment on CP 78. The Association of Bermuda Insurers and Reinsurers (ABIR) is a professional trade association representing Bermuda's Class 4 insurers and reinsurers. Our 23 members write a significant amount of insurance and reinsurance from both subsidiary corporations in Europe and from cross border export sales from Europe to our Bermuda underwriting headquarters. Eighteen of our 23 member companies have European subsidiary corporations.</p>	

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	<p>ABIR recognizes that the CP provides a high level outline of the methodology to be used in equivalence assessments that will be further elaborated upon in Level 3 guidance. However, as part of a general overview we provide the following comments for your consideration:</p> <ol style="list-style-type: none"> <li>1. ABIR supports an assessment methodology that evaluates the outcomes of a third country's regulatory regime – the effectiveness of that regime.</li> <li>2. ABIR supports the application of a principles-based assessment of regulatory equivalence, rather than a rules-based assessment. The principles-based approach is consistent with the methodologies employed by the IAIS and the International Monetary Fund (IMF) which conduct financial regulatory sector assessments evaluating utilization of the IAIS Insurance Core Principles. Therefore, the expectation should be that demonstrated compliance with the principles -- and not the 'indicators' -- would suffice for a satisfactory equivalency finding. This approach allows for an efficient and pragmatic assessment, i.e. one that measures whether or not a jurisdiction is meeting the objectives of supervision, etc; rather than one focused on 'ticking the boxes' of specific European directive requirements.</li> <li>3. ABIR supports a jurisdictional assessment based on equivalence of regulation, not one focused on 'uniformity' of laws and policies, nor exact compliance with specific rules based indicators.</li> <li>4. ABIR supports a regulatory assessment regime that recognizes that -- since Europe's Solvency II is an evolving regime with technical measures still to be agreed upon – third countries will be evaluated upon their in place regulatory framework; plus appropriate consideration for new regulatory measures or</li> </ol>	<p>Noted.</p> <p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul> <p>Noted</p> <p>Noted</p>

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		<p>enhancements that are in the process of being implemented and will be in place prior to the effective date of Solvency II.</p> <p>5. ABIR supports a regulatory assessment process that is based on a solid fundamental evaluation of the effectiveness of a prudential supervision regime. The process should be fair, transparent and free of unrelated collateral issues beyond prudential supervision of insurers.</p> <p>6. ABIR supports a regulatory equivalency assessment process that leads to improved coordination in the supervision of multi-jurisdictional groups of insurers. The end goal should be improved regulatory cooperation, information sharing and trust. Equally important are clarity of regulatory requirements and responsibilities that lead to a more effective and efficient regulatory system that avoids redundancy, contradiction and delay.</p> <p>7. ABIR supports a regulatory cooperation regime that ensures privacy of confidential data amongst the cooperating regulators and support the recognition of the IAIS MMOU as a benchmark as to whether this goal is met.</p> <p>8. ABIR supports a regulatory equivalency assessment process that recognizes it would be unfair to impose a penalty on third country insurers when the lack of regulatory recognition results from a time line or resource constraint on the part of CEIOPS or an individual jurisdiction. To the degree that resource or timing constraints will lead to a limited number of equivalency assessments being completed, then third country insurers should not be penalized via collateral, regulatory or capital requirements based on the lack of completion of an assessment. Provisions should be made to grant conditional equivalence based on completion of a MMOU or IMF FSAP until such time an assessment can be completed; or alternatively to delay implementation of</p>	<p>Noted</p> <p>Noted</p> <p>Noted. For IAIS reference, please see new last paragraph of the introduction</p> <p>Noted</p>
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			regulatory compliance requirements until such an assessment is completed.	
7.	Bermuda Monetary Authority	General Comment	<p>The Bermuda Monetary Authority ("the Authority") is pleased to be afforded the opportunity to provide comments on CEIOPS-CP78 ("CP 78") and welcomes the opportunity to solidify closer working relationships with CEIOPS. The Authority hopes that the following comments will assist in enhancing the proposals outlined in CP78:</p> <p>1. Dates and timelines for the equivalence assessment</p> <p>CEIOPS issued the proposed timeline for the adoption of the Level 2 advice by the Commission circa November 2010. We suggest that third country assessments occur after the Commission adopts the Level 2 framework and/or the Level 3 guidance on the proposed methodology has been finalised (whichever is later) so that third countries and assessors have a clear understanding as to the benchmarks set by the Commission on these assessments.</p> <p>Further, third country assessments prior to Solvency II's implementation date should account for concrete and tangible plans, otherwise third countries would be held to a standard higher than that applied in several European States that may be still in their preparation phase. This point is captured in paragraph A1.15, which states that "When the national provisions are not in place at the time of the assessment, proposed improvements can, where appropriate, be noted in the assessment report." We recommend that CEIOPS clarify this issue and permit an equivalence</p>	<p>Noted.</p> <p>Noted, please see new first paragraph of the Annex</p>

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		<p>determination "subject to" future implementation before the effective date of the Solvency II Directive.</p> <p>2. Proposed methodology</p> <p>Given the ramifications to third countries, (re)insurers, European Union ("EU")-policyholders seeking third country capacity, and in the interest of transparency, we are of the opinion that a draft methodology should accompany this CP to enable recipients to understand the assessment against the technical criteria.</p> <p>In addition to the criteria set out in A1.9, we recommend that CEIOPS will allow third countries to comment on their equivalence assessment reports at a draft stage, to ensure that the information contained therein and conclusions derived are reflective of the realities as they exist within the jurisdictions, this should include the opportunity to comment/confirm/rebut statements made before finalisation and publication.</p> <p>3. Consideration be given to the unique characteristics of each third country</p> <p>We are of the view that, while CEIOPS is assessing third countries against the respective articles under the Directive, it is important to consider that third countries are heterogeneous and as such, it may be inappropriate to apply a "one size fits all" assessment. Therefore, any assessment should consider the unique characteristics of the respective markets and inherent protections therein (wholesale versus retail markets, the predominance of</p>	<p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul> <p>Noted. Please see redraft in first paragraph of the advice under each of the 3 chapters</p>
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sophisticated players engaged in contractual arrangements, etc). Hence, while appreciating what CEIOPS hopes to achieve under each principle/objective, we propose that the assessment be risk-based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets.

The primary objective of regulatory and supervisory regimes is policyholder protection. Various jurisdictions also have specific laws that inherently protect policyholders. Risk-based frameworks may reflect the legislative context. Solvency II was constructed to address policyholder protection in the European Union context. We support CEIOPS' desire to ensure that policyholders in the European Union are equally protected regardless of whether purchasing coverage from an insurer based in a third country. We request that CEIOPS also acknowledges in CP 78 that some third country regimes have classes of (re)insurers that operate almost solely outside the European Union, in markets that have laws ensuring high levels of policyholder protection. The regulatory and supervisory frameworks in such countries could account for this and may not require the provisions proposed in Solvency II to achieve the similar levels of policyholder protection. CEIOPS appears to imply this in paragraph 2.3.4. of CP 78. We are of the opinion that this should be emphasized and applied across all three assessments (i.e. where a third country has distinct classes, particularly where certain classes do not generally write business in the European Union, the assessment could be limited to the regulatory and supervisory frameworks of relevant classes while (re)insurers in other classes would not be afforded the same benefits under the Directive).

Noted. Please see redraft in par. 1.4 of the introduction and related changes in the advice (2<sup>nd</sup> par. in the advice under each Chapter)

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			<p>4. Consistent application of the principles and indicators across all three assessments</p> <p>We recommend that the principles/objectives/indicators need to be both streamlined and consistently applied across all three assessments. An example is cited in Chapter III where groups, in disclosing the Group Solvency and Financial Condition report (4.3.14-4.3.15), are allowed a level of non-disclosure where the disclosure "would confer a significant undue advantage on competitors...., or in relation to where there is a binding obligation of secrecy or confidentiality." This consideration is not mentioned in Chapter I: Equivalence under article 172.</p> <p>Further, it would be helpful if a facility could be provided for those third countries that will be undergoing all three assessments to submit information on common principles/indicators and then expand into specifics based on the particular assessment.</p> <p>5. Broad equivalence</p> <p>CEIOPS has provided verbal clarification that broad equivalence is the goal (though, as per General Comments 1 and 2, clear benchmarks are desirable). We are of the opinion that this goal should be given heavier emphasis in the CP/final advice than currently exists in the draft, as well as acknowledgment that third countries employ a variety of methodologies to achieve the</p>	<p>Noted. Please see redrafts in the advice aiming at ensuring this increased consistency.</p> <p>Noted</p>
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		<p>supervisory outcomes arising from the principles/objectives. In some cases, certain third countries take a different but more conservative approach than that outlined by the CP's indicators. Again, the assessment should primarily seek to ensure that jurisdictions effectively meet the desired supervisory outcomes (i.e. comparable levels of protection for policyholders in the European Union).</p> <p>6. Unclear language and impractical principles, objectives and indicators.</p> <p>Generally, the language contained in the CP under the principles/objectives/indicators appears unclear and somewhat vague and may appear to be impractical for third countries (for example 2.3.32 states that there must be "continuous supervision of outsourced functions or activities."). We believe that the language should be reflective of a more realistic performance of the various requirements.</p> <p>7. We recognise that due to a number of constraints, CEIOPS will be undertaking its assessments of third countries in phases. Therefore, those third countries where an assessment has not occurred or may be in the process of being assessed, may, in the interim, be subjected to conditions as though they were not equivalent, until such time an assessment has been completed. It is our view that CEIOPS and the EU Commission should grant third countries conditional equivalence where these jurisdictions have undertaken any formal information exchange agreements, including the IAIS MMoU, or undergone other international assessments, such as the IMF FSAP, etc., until CEIOPS has completed its assessments of those third countries.</p>	<p>Noted. Please note also that advice is based current practice.</p> <p>Noted.</p> <ul style="list-style-type: none"> <li>- For IAIS reference, please see new last paragraph of the introduction</li> <li>- No transitional/grandfathering measures are foreseen as the Level 1 text foresees the possibility for EEA supervisors to verify equivalence in case no decision has been made by the EC.</li> </ul>
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8.	Canadian Life and Health Insurance Association (CL	General Comment	<p>The Canadian Life and Health Insurance Association (CLHIA) appreciates the opportunity to comment on CEIOPS' draft advice on the assessment of regulatory equivalence. The CLHIA, established in 1894, represents the collective interests of member companies accounting for 99 per cent of the life and health insurance in force in Canada. CLHIA also administers about two-thirds of Canada's pension plans. Some of our members either have operations in the European Union or are affiliated with EU-based companies. A number of our members are also engaged in direct competition with EU-based insurers in the Canadian market. Generally, European firms operating life insurance or re-insurance business in Canada are also members of the CLHIA.</p> <p>In assessing the regulatory equivalence of third-country insurance regulatory regimes, CLHIA requests that CEIOPS keep the following principles in mind:</p> <ol style="list-style-type: none"> <li>1. The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.</li> <li>2. The assessment should be focused on principles, not rules.</li> <li>3. Uniformity should not be an expectation or requirement.</li> <li>4. The assessment process should be divorced from politics as much as possible, with the focus on assessing regulatory quality.</li> </ol>	<p>Noted. Please see 7</p> <p>idem</p> <p>idem</p> <p>Noted</p>

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			<p>5. Regulatory efficiencies, not redundancies, should result from regulatory equivalency recognition. The assessment process should not promote the adoption of redundant processes by other jurisdictions in order to improve the likelihood of a finding of equivalence.</p> <p>6. Ensuring the privacy of confidential data amongst the cooperating regulators in group supervision is essential. The public interest in the effective supervision of financial institutions requires that a relationship of confidentiality with those regulated entities be fostered.</p>	<p>Noted</p> <p>Noted</p>
9.	Cayman Islands Monetary Authority	General Comment	<p>The Author's of this response are Ms. Cindy Scotland, Managing Director of the Cayman Islands Monetary Authority and Mr. Steve Butterworth who is the distinguished Fellow of the International Association of Insurance Supervisors (IAIS) and former Head of Insurance Supervision at the Guernsey Financial Services Commission.</p> <p>The Cayman Islands Monetary Authority ("CIMA") is the principle regulatory body for the insurance industry in the Cayman Islands. CIMA bases its regulatory regime on the core principles issued by the IAIS. These principles are applied in the context of the risk profile of the particular licensee such that regulation is appropriate to the risk of the business undertaken. Whilst the Cayman Islands is not a member state of the European Union and therefore Solvency II does not directly apply to our insurance entities, we hope that CEIOPS would welcome our comments as meaningfully based on forty years of experience in regulating both insurance and reinsurance entities.</p>	Noted.

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			<p>In terms of an overall comment, other than remarks to follow, we feel that the general premise of equivalency is sound and appropriate, and we would hope that the process of gaining equivalency would be fair, proportional and transparent process based on mutual cooperation and the recognized adoption of prescribed principles, objectives and indicators rather than a subjective process based on factors not outlined in the equivalency process.</p>	
10.	CEA	General Comment	<p>It should be noted that CP 78 refers to many elements which are still under discussion in relation to the level 2 implementing measure. Although we believe that the final equivalence criteria should be consistent with both the Level 1 Directive and the final Level 2 implementing measures, we do not believe that the current consultation is in principle the appropriate place to reiterate our position with regard to specific issues that have been discussed as part of other consultation papers. Therefore, the fact that we do not provide specific comments on issues still under consideration under level 2 which have been included in CP 78, should not be understood in any sense as an agreement of the CEA with CEIOPS' final advice on those issues.</p> <p>General comments</p> <p>The CEA welcomes the opportunity to comment to CEIOPS' draft advice on Solvency II Level 2 implementing measures in relation to the Technical criteria for assessing 3rd country equivalence in relation to Article 172, 227 and 260.</p> <p>The CEA supports the approach taken which is similar to the one applied to assessing equivalence under the Reinsurance Directive (2005/68/EC) and the Financial Conglomerates Directive</p>	<p>Noted</p> <p>Noted</p>

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			<p>(2002/87/EC). Requiring equivalence with the core principles and objectives of the Solvency II Directive, rather than with each of the more detailed indicators is considered to be an appropriate approach as this recognises that other methods may be used to be determined equivalent as long as a similar level of prudential supervision and policyholder protection is achieved.</p> <p>1. It should be emphasised that only the principles and the objectives are determinative for the assessment of equivalence.</p> <p>2. Although it is indeed stated that indicators are meant to provide guidance, and should therefore not be determinative like the principles and objectives, the high number and high level of detail of the indicators gives the impression that a “copy-and-paste” of the Solvency II provisions is in fact expected. We therefore believe that CEIOPS should emphasise the difference between principles, objectives and indicators more clearly and confirm our understanding that “the (partial) non-observance of either a single or several indicators will not automatically result in a negative equivalence assessment as long as the respective principle and objective are considered to be sufficiently met”. Such a clarification or a similar statement should avoid that the criteria create the wrong perception that a “copy-and-paste” of the Solvency II provisions is required to be deemed equivalent. The scope and outcome of prudential supervision should be the basis for assessing equivalence, which is captured in the principles and objectives. Therefore only these are legally binding for decisions on equivalence.</p>	<p>Noted</p> <p>Noted. Please see redraft in first paragraph of the advice under each of the 3 chapters</p> <p>Noted, please see redraft in first paragraph of the advice under</p>
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		<p>In addition, we would like to draw CEIOPS attention to the following key comments which are complementary to the more detailed comments outlined in response to the specific paragraphs:</p> <p><input type="checkbox"/> Importance and relevance of indicators – According to the draft advice, the indicators provide guidance to determine observance with the relevant objectives and principles are achieved. The advice consists of a relatively high number of indicators (in comparison to the number of overarching objectives and principles) without specifying any degree of importance to the indicators. However, during the stakeholders meeting on equivalence, the impression was given that not all indicators are considered to be equally important. Although we would prefer to maintain a flexible principle-based approach, it would be useful if CEIOPS could indentify certain indicators as more important than others if it intends to apply a different weighting.</p> <p><input type="checkbox"/> Assessment methodology – It would be useful if the timeframe and methodology for performing the equivalence assessments that are expected to take place alongside the finalisation and implementation of Solvency II could be clarified. Equivalence assessments and decisions have to be based on clear criteria and a holistic view in the areas concerned. As indicated by CEIOPS, the assessment should not only take the formal rules in non-EU jurisdictions into account but also the actual scope and outcome of supervisory practices.</p> <p>A pragmatic approach needs to be taken for those third countries for which the prudential regime will be assessed before Solvency II comes into force. As several elements of the Solvency II Framework are still developing, compatibility of local rules with Solvency II cannot be fully assessed by third countries. As is the case within the EU, supervisors and the industry will need to be</p>	<p>each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul> <p>Noted</p>
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		<p>given some time to adapt to the new rules. The assessment of equivalence should therefore be based on the principles and the objectives and a transitional period should be foreseen. If core principles and objectives are met by the third country supervisory authorities there should be no objection against equivalence.</p> <p><input type="checkbox"/> Effective group supervision is a fundamental feature of any prudential regime - Once a third country is deemed to be equivalent the supervisor from this third country should be appropriately involved in the organisation of supervisory colleges. While emphasizing that the negotiations in the EU with regard EIOPA's powers is still ongoing, it is worth noting that it has been proposed that EIOPA would have the possibility to enter into cooperation arrangements with third country supervisory authorities. For those issues that affect groups under supervision by an equivalent third country supervisor, a joint mediation process by EIOPA and the equivalent third country authority, based on such mutual cooperation agreement, could be a viable option</p> <p><input type="checkbox"/> Comparability of principles, objectives and indicators – Although the equivalence assessment with respect to reinsurance supervision, group solvency calculations and group supervision are on a stand-alone basis, a large number of the principles, objectives and indicators that will be considered during the equivalence assessment are the same. To improve the readability and comparability it would therefore be helpful if the same sequence would be applied. Furthermore, when similar principles, objectives or indicators are part of more than one assessment, it would be more transparent if CEIOPS would present any potential additional requirements in a clearer manner.</p> <p>Furthermore, certain objectives and indicators refer to the supervisory regime (e.g. referring to "the existence and extent of provisions ...") while other refers to the undertaking or group (e.g.</p>	<p>Noted</p> <p>Noted. Please see changes to advice in order to ensure increased consistency</p>
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		<p>4.3.52 "Groups shall maintain adequate financial resources ..."). This creates unnecessary ambiguity. Indeed, CEIOPS may wish to review the different objectives and indicators to improve the clarity and ensure consistency or to clarify the approach taken in the introduction chapter.</p> <p><input type="checkbox"/> Consultation of relevant industry representatives – The experience and expertise that the insurance industry can add to the equivalence assessment process may be significant. Therefore, we would welcome a stronger commitment of CEIOPS to consult the relevant industry representatives during the assessment process (in particular (re)insurers with a subsidiaries in the respective third country or EU subsidiaries of subsidiaries of third country (re)insurer and respective insurance industry associations).</p> <p><input type="checkbox"/> The advice does not go into sufficient detail on the procedural aspects related to the assessment of equivalence. For instance we believe that timeframes should be set in Level 2 for when CEIOPS has been requested to perform an assessment on equivalence and also for the Group supervisor to render its decision on equivalence in the absence of a decision from the EC. Other procedural aspects should be clarified such as what is meant by "Assessments will be kept under review and take into account any developments that might lead to relevant changes in the third country supervisory". It should be clarified that assessments will take place if clearly pre-defined material changes to the legal requirements in the equivalent third country occur.</p> <p><input type="checkbox"/> Need for pragmatic solutions during the transitional period – We would like to emphasize the importance of taking decisions on equivalence before Solvency II becomes operational. However, when taking into account the extent of the equivalence exercise and the number of potential countries that need to be reviewed, it is unlikely that all relevant countries can be assessed in the first</p>	<p>Noted.</p> <p>Noted, please see redraft in first paragraph of the advice under each of the 3 chapters as well as:</p> <ul style="list-style-type: none"> <li>- new last paragraph of introduction</li> <li>- new first paragraph of the Annex</li> </ul> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p>
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wave. Furthermore, Solvency II as well as third country supervisory regimes are still under development. Considering the potential distortions in the level playing field of both EEA (re)insurers with non-EEA (re)insurance subsidiaries as well as non-EEA (re)insurance groups with operations within the EEA, the development of transitory measures should be considered, for example by grandfathering of existing supervisory recognition (or equivalence) arrangements and/or the recognition of IMF/World Bank Financial Services Assessment Program's (FSAP) reports on observance of IAIS Standards (ICP's).

In particular we feel that grandfathering should apply for those countries who have already received an acknowledgement of equivalence under the current Reinsurance directive for Article 172 equivalence. Grandfathering should also apply to countries who have received a positive recommendation under the Financial Conglomerates directive regarding Article 260 equivalence until such time as the application for equivalence submitted by the relevant third country has been decided upon. During that time the third country group supervisor must be involved in the EU supervision process of cross-border groups with operations in that third country.

Distortion in the level playing field - As it stands, groups with a head office outside the EU would only be required to apply Solvency II to their EU operations, whilst EU groups may be required to apply Solvency II requirements to the entire consolidated group including operations outside of the Solvency II area.

For these EU groups, their overseas subsidiaries could be competitively challenged against local insurers and may therefore be priced out of the market. It will be important to avoid this outcome, to ensure that EU groups can compete on a level playing

Noted

The objective is to ensure that EEA policyholders level protection is the same regardless of the interactions of EEA entities with third countries ones.

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11.	CRO	General Comment	<p>The CFO Forum and the CRO Forum welcome the opportunity to comment on CP78. All our Members are internationally active with business in the EU/EEA as well as in 3rd countries. Equivalence is a highly relevant topic for us both in the perspective of the effect on group solvency assessments, enhancing supervisory cooperation as well as with view to the significant commercial implications it has on the international competitiveness of EU insurers.</p> <p>78 A –Equivalence must not be a pre-requisite for the approval of internal models or recognition of diversification benefits from business in 3rd countries.</p> <p>Although 3rd country cooperation is important in the context of Group supervision and the approval process of internal models, this must not lead to a situation, where equivalence implicitly becomes a requirement or relevant. We appreciate that this understanding is shared by CEIOPS. We want to point out, that other means than relying on 3rd country supervisors exist to access and validate information in 3rd countries.</p> <p>We particularly want to point out that the accounting consolidation method should be the default method, and applied independently from equivalence.</p> <p>78B - Equivalence recognition may have significant commercial implications. It is therefore highly relevant in the context of the stated Solvency II objective of improving the international competitiveness of EU insurers and reinsurers. Equivalence</p>	<p>Noted.</p> <p>Noted. Please see redraft under 227</p> <p>Noted</p>

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			<p>recognition must therefore contribute to creating and maintaining a level-playing field for all internationally active companies.</p> <p>For each of the three areas identified by the Solvency II Framework Directive, the outcome of equivalence recognition has the potential to influence the competitive position of EU insurers and reinsurers</p> <ul style="list-style-type: none"> <li>- Art. 172 (reinsurance activities with head office in non-EU/EEA country): impact on the location of capital backing direct insurance sold in the EU and the ability of Swiss, EU and for example Bermuda to compete;</li> <li>- Art. 227 (equivalence for 3rd country solvency regimes with head office in EU/EEA with the purpose of assessing group capital requirements with the deduction and aggregation method): absence of equivalence would result in insurers having to hold additional capital to meet, presumably higher, undiversified Solvency II requirements for non-EU business; this would challenge their competitiveness and possibly force them to price themselves out of the market. In this situation, the absence of equivalence may create significant distortions in the level playing field of 3rd countries, where subsidiaries of EU-based groups are active.</li> <li>- Art. 260 (equivalence for 3rd country solvency regime with head office in 3rd country): impact on the competitive position of groups as well as the location of group capital.</li> </ul> <p>To create and/or maintain a level-playing, we consider it important that our following key messages are reflected in the final advice by CEIOPS and the implementing measures put in place by the EC.</p> <p>78C – Equivalence testing needs to strike the balance between a</p>	<p>Noted</p>
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	<p>should not make reference to any details under the implementation measures that are still being developed.</p> <p>We suggest that the drafting of the principles and objectives is principles based, makes use of the explanations in relevant recitals and avoids the reference to specific articles which are indicators of a principle in the Solvency II Framework. This is to ensure that there is sufficient flexibility in the principles, objectives and criteria to recognize the specificities of 3rd country regimes.</p> <p>We accept that indicators provide useful examples for interpreting whether the principles and objectives are applied within a jurisdiction. We suggest further clarification on the difference between principles and indicators. A determination of equivalence should be based on establishing that the principles are met. The existence of indicators in a jurisdiction should inform this determination, but their existence is not necessary. We agree with the statement made at the Hearing that equivalence assessment should not become a 'box-ticking' exercise and that the indicators are intended to be "guidance" to "help the assessor". We therefore suggest that – for the avoidance of any doubt – the indicators should not become part of a legally binding text such as the Level II implementation measures and should be removed from the blue text in the advice.</p> <p>78E – We expect that transitional measures will be put in place to recognize 3rd country equivalence in order to allow for a smooth transition and to avoid possible competitive distortions.</p> <p>Grandfathering arrangements should be applicable to 3rd countries:</p> <p><input type="checkbox"/> that are recognized or are in the process of being recognized as equivalent regimes today (e.g. under the Reinsurance Directive,</p>	<p>Noted</p> <p>Noted</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p>

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			<p>Insurance Groups Directive (IGD) or the Financial Conglomerates Directive) or</p> <p><input type="checkbox"/> that are able to demonstrate to be in the process of introducing a potentially equivalent framework.</p> <p>We suggest a clarification that possible consequences of absence of equivalence (according to Article 172,227 &amp; 262) must not be put in place for 3rd countries operations or groups where the process of assessing equivalence has been started but not yet finally concluded.</p> <p>We are ready to work with the CEIOPS and the European Commission to develop proposals for the assessment criteria that could be used for the transitional measures.</p>
12.	DIMA (Dublin International Insurance & Management)	General Comment	<p>Introductory comments</p> <p>DIMA welcomes the opportunity to comment on CP78 as topic of particular relevance to a large proportion of its member companies. DIMA represents around 65 insurance and reinsurance undertakings and managers, all writing international business. A number of DIMA members are part of larger groups which may or may not be headquartered in a third country.</p> <p>DIMA notes that the draft advice is limited to the assessment of positive indicators and does not address the presence of potential negative indicators. Neither does the draft advice address the relevance of negative indicators to an assessment of equivalence.</p> <p>In responding to this consultation, DIMA has not attempted to repeat its position with regard to specific issues that it has already addressed in its comments as part of other Solvency II consultations. Nothing in the comments on CP78 should be</p>

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		<p>interpreted as a contradiction or qualification of DIMA's stated positions as expressed in other consultations.</p> <p>Commercial implications</p> <p>DIMA notes that Solvency II will establish one of the most sophisticated supervisory regimes in the world. Criteria for equivalence recognition therefore need to strike the right balance between (a) a comprehensive assessment to reflect the sophisticated risk-based economic approach of Solvency II, and (b) a pragmatic approach to recognise structural differences in third countries' frameworks and each of the different purposes of the equivalence.</p> <p>DIMA stresses that equivalence has significant commercial implications and therefore is highly relevant in the context of the stated Solvency II objective of improving the international competitiveness of EU insurers and reinsurers. In particular, the impact of equivalence is not necessarily symmetrical for EU reinsurers when compared to EU insurers.</p> <p>(Re)insurance is a global business with many EU (re)insurance groups competing in non-EU markets and non-EU (re)insurance groups competing in EU markets. More specifically, DIMA emphasises the global nature of the reinsurance market, both from a target market and source of competition perspective.</p> <p>In each of the three areas identified by the Solvency II Framework Directive, the outcome of equivalence has the potential to significantly distort the playing fields for European (re)insurers and groups:</p> <ul style="list-style-type: none"> <li>- The ability of EU reinsurers to compete (even for European business) against those reinsurers based outside the EU, with</li> </ul>	<p>Noted.</p>
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			<p>potential consequences for the location of capital backing direct insurance sold in the EU (Article 172). However, please see further comments below related to CEIOPS-DOC-23/09.</p> <ul style="list-style-type: none"> <li>– The ability of subsidiaries of EU-based groups to compete in third countries against local insurers with the clear and present danger of being forced to price themselves out of the local market if there is no equivalence, notwithstanding that accounting consolidation is the default method (Article 227). (For example, see Comments 3.3.10, 3.3.11, 3.3.12 and 3.3.13.)</li> <li>– The competitive position of groups and the location of group capital (Article 260).</li> </ul> <p>These issues highlight the need for:</p> <ul style="list-style-type: none"> <li>– each of the three sets of commercial implications to be considered in its own right when applying the principles, objectives and criteria for assessing equivalence; and</li> <li>– clear grandfathering arrangements to provide certainty given the details of the Solvency II are still to be determined.</li> </ul> <p>With regard to CEIOPS-DOC-23/09, the hierarchy for assessing counterparty default risks gives primacy to ratings. Therefore DIMA understands that, in the case of a rated non-EU reinsurer, Article 172 equivalence is only relevant to the question of collateral requirements. There appears to be a dearth of guideline or advice as to how Article 172 can or could be implemented to ensure that a</p>	<p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p> <p>Noted</p>
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			<p>the framework directive and therefore agrees with the three chapter structure of CP78 for discussing the three types of equivalence assessment identified in the Solvency II Framework Directive.</p> <p>DIMA emphasises that the three equivalence assessments in Articles 172, 227 and 260 serve different purposes and have unique and potentially opposing commercial contexts (see "Commercial implications" above for each). The final advice requires greater differentiation between each of the purposes. This should be evident by a deeper analysis of the relative importance of the principles, objectives and indicators to be applied in each case.</p> <p>DIMA emphasises that three distinct equivalence determinations must be made in respect of each third country and that each determination must be based on its own considerations. (See comment on 1.2.)</p> <p>Relevant and realistic criteria to achieve equivalence recognition</p> <p>DIMA agrees with the general structure of CP78 and particularly the distinction between principles, objectives and indicators.</p> <p>To be consistent with the role of indicators as articulated in CP78, DIMA suggests they be excluded from the "advice" to the EC (i.e. taken out of the "blue boxes") and developed at Level 3.</p> <p>There needs to be sufficient flexibility in the assessment against principles and objectives to recognise specificities of third country regimes. It appears that CP78 attempts to recognise this in A1.10 (see comment on A1.10 below).</p> <p>CP78 is silent on the question of how to take the set of assessments made up of each assessment against each</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted. Please see revised advice text for increased consistency</p> <p>Noted. Please see new last par. of the introduction</p> <p>Noted. Please see new last par. of the introduction and new 1<sup>st</sup> par.</p>
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		<p>principle/objective in order to reach a conclusion as to whether a regime is equivalent or not. DIMA suggests that the final advice should address this point in some detail. In fact, DIMA notes that the language in 2.3.7, 3.3.7 and 4.3.26 is not sufficiently broad to enable an overall assessment and would therefore not be making full use of the concept of categorisations as outlined in A1.14. (See comment 2.3.7 below.)</p> <p>To elaborate on the comments above, CP78 could be greatly improved by being clearer (with separate clarification for each equivalence purpose) on:</p> <ul style="list-style-type: none"> <li>- the importance of indicators in making assessment, or at least their relative importance;</li> <li>- the level(s) of categorisation (as per A1.14) that would be deemed to 'meet' (per 2.3.7, 3.3.7 and 4.3.26) each principle and objective;</li> <li>- for the purpose of determining equivalence (per 2.3.7, 3.3.7 and 4.3.26), the assessment of the importance of and interaction between categorisations assessed (as per A1.14); and</li> <li>- with respect to each principle and objective, how the assessments should be combined in order to arrive at the overall binary decision to grant equivalence or not.</li> </ul> <p>These are absolutely critical points on which the final advice provides no realistic advice. (See comment on 2.3.7, 3.3.7, 4.3.26, A1.10 and A1.14.)</p> <p>It is important that CP78 does not prejudge the ongoing numerous debates on many of the implementation measures currently under consideration by the Commission. Therefore, the indicators should not make reference to any details under the implementation measures that are still being debated.</p>	<p>in the Annex</p>
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			<p>Assessment methodology</p> <p>The final advice should advise on how an assessment methodology might contemplate the specific challenges of conducting assessments at a time when Solvency II is not in effect and while Level 2 and/or Level 3 implementing measures are still not final. For third countries, it is unclear in the absence of Level 2 and Level 3 conclusions which benchmarks should be targeted. For the Commission, the benchmarks against which it should make assessments in the absence Level 2 and Level 3 conclusions are not clear and, even if they were, it is arguably unreasonable to assess third countries' current practice (see A1.5) against these standards when EU current practice would not meet the same standards.</p> <p>Developing transitional measures</p> <p>Given the challenges noted above in introducing an assessment methodology before Solvency II is itself fully defined and/or in effect, DIMA would endorse any suggestion to develop transitional measures to recognise third country equivalence for a limited period in order to allow for a smooth transition and to avoid possible competitive distortions. DIMA's endorsement is limited to Articles 227 and 260 equivalence. In the case of Article 172, European reinsurers could easily be put at a competitive disadvantage relative to non-EU reinsurers by any such transitional measure. (See comments 2.1.5 and 2.2.3 below for proposed Article 172 transitional measures.)</p> <p>Background</p>	<p>Noted. Please see new last par. of the introduction and new 1<sup>st</sup> par. in the Annex</p>
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		<ul style="list-style-type: none"> <li>– Solvency II will establish one of the most advanced supervisory regimes in the world</li> <li>– Solvency II and third country supervisory regimes are still evolving</li> <li>– Equivalence testing will take time</li> </ul> <p>Grandfathering of equivalence recognition should be applicable to third countries:</p> <ul style="list-style-type: none"> <li>– that are recognised as equivalent regimes today;</li> <li>– that would not strictly meet the requirements for equivalence recognition, and yet be able to demonstrate the existence of an efficient regulatory framework or be in the process of introducing a potentially equivalent framework.</li> </ul> <p>The appropriate criteria could be based on a set of internationally recognized standards, for example:</p> <ul style="list-style-type: none"> <li>– IAIS Common Structure for the Assessment of Insurer Solvency as a generally accepted basis to define high level criteria; or</li> <li>– Financial Services Assessment Program’s (FSAP) reports on Observance of Standards and Codes (where available).</li> </ul> <p>DIMA believes that the development of such transitional measures is a matter of utmost urgency. A disconnect currently exists between the absence of such transitional measures and the envisaged timeframe for the implementation of Solvency II.</p>	<p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p> <p>Notes. Please see new last par. of the introduction</p> <p>Noted. Please see new last par. of</p>
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		<p>Ongoing assessment</p> <p>Article 172(2) requires that decisions on equivalence are regularly reviewed and DIMA suggests that implementing measures specify the parameters and process for the regular review.</p> <p>For example, DIMA notes that the debate about equivalence does not yet seem to acknowledge the concept that third country regimes might change for the worse relative to Solvency II standards. Whilst undesirable and unlikely in the context of bodies such as the IAIS, such developments are not impossible. A very undesirable outcome might be a positive assessment for a third country under Article 172 and subsequently for that third country regime to change, such that EU reinsurers could be at a competitive disadvantage vis-à-vis non-EU reinsurers from that third country.</p> <p>This point also leads to the question of whether such ongoing assessment should be triggered by a change in the Solvency II Framework Directive or in Level 2 or Level 3 implementing measures or of a change in assessment criteria. This last question should be considered in conjunction with DIMA's comment on 3.1.4 (i.e. if a uniform set of assessment criteria should be considered for all regimes then should past assessments be reviewed in the light of new criteria introduced for more recent assessments?).</p> <p>The questions of transparency, a role for industry stakeholders &amp; appeals</p> <p>CP78 is completely silent on these important aspects of equivalence determination. Please see DIMA comments on Annex 1.</p>	<p>the introduction and new 1<sup>st</sup> par. in the Annex as to CEIOPS further work.</p>
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		<p>Directive for which clarity is sought. CEIOPS Level II Guidance needs to contemplate this situation.</p> <p>There is a lack of consistency in the phraseology used in Section 2 of Chapter IX of the Directive to refer to third country reinsurance activity. By way of example:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Article 172(1) (which deals with the question of equivalence) refers to "reinsurance activities of undertakings with their head office in that third country".</li> <li><input type="checkbox"/> Slightly different phraseology is used in Article 173 (which deals with the prohibition of pledging of assets). It refers to where the reinsurer is a "third-country insurance or reinsurance undertaking...."</li> <li><input type="checkbox"/> Article 174 (which deals with member states not extending more favourable treatment to third country reinsurers) uses the phraseology "third-country reinsurance undertakings taking up or pursuing reinsurance activity".</li> <li><input type="checkbox"/> Article 175 (which deals with agreements with third countries) states that such agreements will be established for the purposes of exercising supervision over third country reinsurance undertakings which conduct reinsurance business in the Community.</li> </ul> <p>The difficulty with this variation in phraseology is that the variations may be understood to suggest that Articles 173, 174 and 175 are deliberately more restrictive in scope than Article 172. This is because the phraseology used in Article 172 would cover a greater variety of circumstances than, for example, the phraseology used in Article 174. Specifically, the former term would cover EU business written by the following:</p>	<p>Noted. Advice revised to ensure increased consistency</p>
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- a third country pure reinsurance undertaking carrying on business from its head office;
- a third country pure reinsurance undertaking carrying on business from an EU branch;
- a third country insurance undertaking carrying on reinsurance business from its head office; and
- a third country insurance undertaking carrying on reinsurance business from an EU branch whether established exclusively to carry on reinsurance business or carrying on both insurance and reinsurance business through that branch.

The definition of "third country reinsurance undertaking" as set out in Article 13 refers to an undertaking which would require authorisation as a reinsurance undertaking in accordance with Article 14 if its head office were situated in the Community. However, where reinsurance business is carried on by an EU reinsurance branch of a third country insurance company, it is not clear whether such an entity would qualify as a third country reinsurance undertaking because if such entities also carry on direct insurance (even from head office) they would not require authorisation as a reinsurance undertaking in accordance with Article 14 (given the direct insurance component of their business). However, an authorisation as a third country insurance company is inappropriate if the undertaking intends to write only reinsurance business from its EU branch.

DIMA notes that the following recommendation goes beyond the scope of CP78, but sees no room for constructive interpretation of the language of the Framework Directive. Therefore, in the event that there is an opportunity and in order to avoid technical

Noted. L1 text is outside of CEIOPS competence

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			<p>difficulties with the Framework Directive, DIMA would recommend that amendments be made to the language in Articles 173, 174 and 175 to be consistent with Article 172. DIMA also recommends clarifications be made around the interpretation of the definition of "third country reinsurance undertaking" within the Framework Directive.</p> <p>In the absence of such amendments, DIMA suggests that Level 2 guidance should constitute binding measures making it clear that EU reinsurance branches of third country insurance undertakings would not be prejudiced against under Articles 173, 174 and 175 and within the interpretation of the definition of "third country reinsurance undertaking".</p>	
13.	FFSA	General Comment	<ol style="list-style-type: none"> <li>1. FFSA supports that the criteria for assessing third country equivalence should be part of level 2 implementing measures.</li> <li>2. FFSA would like to emphasize that the criteria of adequate resources has not been set up in the Level 1 Solvency II Directive. As a result, it should not be considered as indicator to assess the equivalence of a third country regime.</li> <li>3. Following the same logic, FFSA suggest to not consider the power in respect of suspension of voting rights and nullity of votes</li> </ol>	<p>Noted.</p> <p>Noted. Please see L1 text – recital 17</p> <p>Noted. Please see L1</p>

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		<p>cast or possibility of annulment as an indicator to assess the powers and the responsibilities of the third country supervisory authority.</p> <p>4. Regarding the assessment methodology, FFSA would like to emphasize the following points:</p> <ul style="list-style-type: none"> <li>- The way for CEIOPS to assessing the equivalence should be clarified,</li> <li>- The timeframe for performing the assessment in the perspective of the Solvency II enforcement should be clarified,</li> <li>- Representatives from insurers operating in the related third country should be included in the assessment process,</li> <li>- If there is no sufficient cooperation from a third country supervisory authority, European insurers operating in the related third country can also provide information to CEIOPS for performing the assessment.</li> </ul>	<p>Noted. Please see new last par. of the introduction and and new 1<sup>st</sup> par. in the Annex as to CEIOPS further work.</p> <p>Noted</p> <p>Noted</p> <p>Noted.</p>
14.	GDV	<p>General Comment</p> <p>GDV recognises 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. It should be noted that our comments might change as our work develops.</p> <p>General comments</p> <p>The GDV supports the approach taken which is similar to the one applied to assessing equivalence under the Reinsurance Directive (2005/68/EC) and the Financial Conglomerates Directive (2002/87/EC). Requiring equivalence with the core principles and objectives of the Solvency II Directive, rather than with each of the</p>	<p>Noted.</p> <p>Noted</p>

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more detailed indicators is considered to be an appropriate approach as this recognises that other methods may be used to be determined equivalent as long as a similar level of prudential supervision and policyholder protection is achieved. Although we are aware that Solvency II is a very sophisticated regulation and that strict application of the equivalence requirements may lead to competitive disadvantage in third countries, we believe that an equal level of security for European companies needs to be safeguarded.

1. It should be emphasised that only the principles and the objectives are determinative for the assessment of equivalence.

2. We principally agree with the objectives and principles identified in CP 78, even though we believe that the criteria are very detailed and the role of the indicators is not clear yet. Although it is stated that indicators are meant to provide guidance, and should therefore not be determinative like the principles and objectives, the high number and high level of detail of the indicators gives the impression that a "copy-and-paste" of the Solvency II provisions is in fact expected. We therefore believe that CEIOPS should emphasise the difference between principles, objectives and indicators more clearly and confirm our understanding that "the (partial) non-observance of either a single or several indicators will not automatically result in a negative equivalence assessment as long as the respective principle and objective are considered to be sufficiently met".

In addition, we would like to draw CEIOPS attention to the following key comments which are complementary to the more detailed comments outlined in response to the specific paragraphs:

- Importance and relevance of indicators – According to the

Please see redraft to relevant paragraph under the introduction as well as the 1<sup>st</sup> par. of the advice under each Chapter

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draft advice, the indicators provide guidance to determine observance with the relevant objectives and principles are achieved. The advice consists of a relatively high number of indicators (in comparison to the number of overarching objectives and principles) without specifying any degree of importance to the indicators. However, as discussed during the stakeholders meeting on equivalence, the impression was given that not all indicators are considered to be equally important. Although we would prefer a flexible principle-based approach, it may be useful if CEIOPS would identify certain indicators as more important than others.

Assessment methodology – It would be useful if the timeframe and methodology for performing the equivalence assessments that are expected to take place alongside the finalisation and implementation of Solvency II could be clarified. Equivalence assessments and decisions have to be based on clear criteria and a holistic view in the areas concerned. As indicated by CEIOPS, the assessment should not only take the formal rules in non-EU jurisdictions into account but also the actual supervisory practices. We believe it is not sufficient that equivalent solvency regimes and supervisory systems are in place. It is essential for the recognition of equivalence that existing rules are consistently applied.

A pragmatic approach needs to be taken for those third countries for which the prudential regime will be assessed before Solvency II comes into force. As several elements of the Solvency II Framework are still debated, it will not be fully assess the compatibility of local rules with Solvency II. As is the case within the EU, supervisors and the industry will need to be given some time to adapt to the new rules. The assessment of equivalence should therefore be based on the principles and the objectives and a transitional period should be foreseen. If core principles and

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objectives are met by the third country supervisory authorities there should be no objection against equivalence.

- Effective group supervision is a fundamental feature of any prudential regime - In our understanding, once the third country is deemed to be equivalent the supervisor from this third country will be able to act as group supervisor within the Solvency II framework and to organise the relevant supervisory colleges. This will also require that equivalent third country supervisors participate in EIOPA based on a mutual cooperation agreement, at least for those issues that affect groups under supervision by the equivalent third country supervisor.
- Comparability of principles, objectives and indicators - Although the equivalence assessment with respect to reinsurance supervision, group solvency calculations and group supervision are on a stand-alone basis, a large number of the principles, objectives and indicators that will be considered during the equivalence assessment are the same. To improve the readability and comparability it would therefore be helpful if the same sequence would be applied. Furthermore, when similar principles, objectives or indicators are part of more than one assessment, it would be more transparent if CEIOPS would present any potential additional requirements in a clearer manner.
- Consultation of relevant industry representatives - The experience and expertise that the insurance industry can add to the equivalence assessment process may be significant. Therefore, we would welcome a stronger commitment of CEIOPS to consult the relevant industry representatives during the assessment process (in particular (re)insurers with a subsidiaries in the respective third country or EU subsidiaries of subsidiaries of third country (re)insurer and respective insurance industry associations).

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- The advice does not go into sufficient detail on the procedural aspects related to the assessment of equivalence. For instance we believe that timeframes should be set in Level 2 for when CEIOPS has been requested to perform an assessment on equivalence and also for the Group supervisor to render its decision on equivalence in the absence of a decision from the EC. Other procedural aspects should be clarified such as what is meant by "Assessments will be kept under review and take into account any developments that might lead to relevant changes in the third country supervisory". It should be clarified that assessments will take place if clearly pre-defined material changes to the legal requirements in the equivalent third country occur.
  
- Need for pragmatic solutions during the transitional period – We would like to emphasize the importance of taking decisions on equivalence Solvency II becomes operational. However, when taking into account the extent of the equivalence exercise and the number of potential countries that need to be reviewed, it is unlikely that all relevant countries can be assessed in the first wave. Furthermore, Solvency II as well as third country supervisory regimes are still under development. Considering the potential distortions in the level playing field of both EEA (re)insurers with non-EEA (re)insurance subsidiaries as well as non-EEA (re)insurance groups with operations within the EEA, the development of transitory measures should be considered, for example by grandfathering of existing supervisory recognition (or equivalence) arrangements and/or the recognition of IMF/World Bank Financial Services Assessment Program's (FSAP) reports on Observance of IAIS Standards (ICP's).
  
- In particular we feel that grandfathering should apply for those countries who have already received an acknowledgement of equivalence under the current Reinsurance directive for Article 172

Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking

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			<p>equivalence. Grandfathering should also apply to countries who have received a positive recommendation under the Financial Conglomerates directive regarding Article 260 equivalence until such time as the application for equivalence submitted by the relevant third country has been decided upon. During that time the third country group supervisor must be involved in the EU supervision process of cross-border groups with operations in that third country. We recognize that transitory measures may be needed until equivalence testing is finished. But we doubt if there is any room for unlimited grandfathering in this respect. This might lead to a distortion of competition.</p> <p>It should be noted that CP 78 refers to many of elements which are still under discussion under level 2. Although we believe that the final equivalence criteria should be consistent with both the Level 1 and the final Level 2 implementing measures, we do not believe that the current consultation is in principle the appropriate place to reiterate our position with regard to specific issues that have been discussed as part of other consultation papers. Therefore, the fact that we do not provide specific comments on issues still under consideration under level 2 which have been included in CP 78, should not be understood in any sense as an agreement of the CEA with CEIOPS' final advice on those issues.</p>	<p>Noted. Please also see new par. 1.8 of the Introduction.</p>
15.	Group of North American Insurance Enterprises, Inc	General Comment	<p>GNAIE greatly appreciates the opportunity to comment on CEIOPS' draft advice on the assessment of regulatory equivalence. GNAIE represents large international reinsurers, life and non-life insurers. A number of our members either write substantial business in the European Union or are affiliated with EU-based companies.</p> <p>Before beginning with comments on this draft, we would like to urge the CEIOPS and the European Commission to undertake the</p>	<p>Noted.</p>

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development of implementing measures related to other aspects of equivalence beyond just the criteria and valuation process. Many insurers and regulators in third countries remain uncertain as to the impact of equivalence decisions on their operations because guidance on the other aspects has not been developed. Three examples of the issues which need to be clarified for third country companies with European operations are the conditions under which non-equivalent third countries subsidiaries would need to form a single European holding company, the manner in which solo plus supervision would be applied to third country holding companies, and how corporate calculations and models would be accepted by the group regulator in Europe in cases of non-equivalence. We are equally concerned about the implications of equivalence on the overall market. GNAIE believes that regulations in all jurisdictions should treat market participants equally regardless of the country of origin. Equivalence decisions could have an impact on third country markets if they create conditions in which capital requirements are applied unevenly. We believe there needs to be further discussion of these effects. A few implementation issues have been discussed in other consultation papers, but not all. It would be helpful to consolidate the existing advice related to third countries in a single document to facilitate assessment by third country regulators and their insurers, as well as expanding the advice in other areas which need to be addressed.

We would also like to state before beginning comments on the draft that we agree with the proposal from the CRO Forum presentation on January 7 that delays in equivalence consideration could result in harm to certain markets and jurisdictions. As a result, a process should be considered for granting temporary equivalence status to jurisdictions which meet international standards, such as having an equivalence accounting system as judged by the EU, being a signatory of the IAIS MMOU, and having a successful rating from

Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking

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the IMF on an FSAP. While these criteria do not duplicate the requirements for equivalence recognition, they would demonstrate the existence of an efficient regulatory framework and would provide a transitional period until a complete assessment can be conducted.

Regarding CP 78, we urge CEIOPS and the European Commission to keep the following principles in mind in setting equivalence standards:

1. The assessment should not require uniformity with Solvency II, but rather examine whether the other regime properly protects the policyholders within its jurisdiction.
2. The assessment should be based exclusively on the principles and objectives identified by CEIOPS. None of the indicators should be considered vital to an equivalence finding.
3. The equivalence assessment should be results-focused. CEIOPS should evaluate the outcomes of regulation in the third country, rather than whether particular regulatory provisions are identical.
4. The assessment should not require that each objective is "fully observed". As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.
5. The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements which have been adopted but not implemented. CEIOPS should bear in mind that Solvency II itself is not yet implemented, although the commitment to do so is clear.
6. The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not

Noted. Please see redraft to relevant paragraph under the introduction as well as the 1<sup>st</sup> par. of the advice under each Chapter.

Noted. Please see par. 1.9 of the introduction and new 1<sup>st</sup> paragraph of the Annex.

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			<p>agree to the evaluation, either by the Commission or a group supervisor, in would seem inadvisable to conduct such an evaluation.</p> <p>7. A ruling by a group regulator regarding equivalence of a third country regime should apply universally to the supervision of all entities in the jurisdiction.</p>
			<p>Noted. Agreed.</p> <p>Noted.</p>
16.	Groupe Consultatif	General Comment	<p>Requirement for economic balance sheet and capital requirements appears to present a serious obstacle to some regimes e.g. US. But without it we can't see how one can assess an equivalent outcome year on year but could there be a regime that is so conservative that it will exceed SII in all anticipated circumstances? If so why should it be excluded? This line works for reinsurance but we think it fails for group aspects where the split between TP, assets and SCR is important</p> <p>A key question is whether CEIOPS should be setting such a comprehensive check list against SII and saying that each needs to be met. ( Though later they imply that uniform adherence is not required.)</p> <p>We would appreciate greater clarity on the quality requirements for own funds. In places there appears to be no tier system requirements ( 2.3.22+46) but 2.3.53 reads more strongly re quality of capital but 4.3.11 says a tier system is not a prerequisite. From this we could conclude that there are no specific requirements to be met but that the 3rd country regime is expected to have some criteria to define eligible capital. If CEIOPS intends more it should make it clear</p>
			<p>Noted.</p> <p>Noted. CEIOPS does not support/propose a "check-list" approach</p> <p>Noted. Please see redrafts under Chapters 3 and 4.</p>

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17.	Guernsey Financial Services Commission	General Comment	<p>The draft criteria imply that the assessment of equivalence is dependent upon the achievement of a number of detailed indicators and as such is focussed on the process of supervision rather than the outcome. It is felt that consideration should be given to the adoption of a less prescriptive approach with greater focus on the outcome of the supervisory process rather than the process itself.</p>	<p>Noted. Please see redraft to relevant paragraph under the introduction as well as the 1<sup>st</sup> par. of the advice under each Chapter.</p>
18.	Guernsey Insurance Company Management Association	General Comment	<p>In cases where the Member State/Group Supervisor is making a determination of equivalence of a third country jurisdiction, it is anticipated that the Member State/Group Supervisor will have to utilise the Solvency II equivalence criteria as per CP78 when carrying out their own assessment of equivalence (for both reinsurance supervision - Article 172 - and group supervision - Article 227). We do not believe that the equivalence criteria relating to the third country as a whole are necessarily appropriate when considering an individual company, although this will depend on how they are implemented in practice. For example:</p> <p>2.3.26 – System of Governance.</p> <p>The objective currently states that the different tasks of an appropriate risk management and internal control system should be regulated. Whilst we do not disagree with the principle, if local regulations do not require regulation, then we do not believe that this should prevent equivalence at an individual company level – provided that they have internal standards that can be shown to be equivalent to the Solvency II standard.</p> <p>3.3.13 – Capital requirements.</p> <p>Similarly, a third country may not have local regulations in place that require a minimum capital standard of a 1 in 200 ruin scenario over a one year period. However, an individual company may chose to maintain this higher standard in accordance with group</p>	<p>Noted. As per L1 text, equivalence assessments are pursued in relation to a supervisory system and cannot be related to individual/single undertakings.</p> <p>Noted. CEIOPS will seek to assess end result rather than identity of means used for achieving it.</p> <p>Noted. Please see revised introductory paragraphs under each piece of advice</p>

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			<p>policy.</p> <p>We would encourage CEIOPS to consider allowing greater flexibility when assessing individual companies which could take in to account their specific circumstances rather than the more general third country regulations.</p>	CEIOPS will not assess individual companies/undertakings
19.	Guernsey Insurance Company Management Association	General Comment	<p>The Guernsey Insurance Company Management Association represents Guernsey's (Re)Insurance Industry, Guernsey's Captive Industry and Guernsey's Captive Insurance Management Industry. Our website is www.gicma.gg. As at 30 November, Guernsey had 387(re)insurance companies registered of which 23 are domestic (re)insurers and 364 are international (re)insurers or captives. If one includes Cells in Protected Cell Companies the latter number (international (re)insurers or captives) increases to 702</p> <p>Guernsey is currently considering applying for 3rd country equivalence and therefore these equivalence criteria are of great relevance to Guernsey and the Guernsey Insurance Company Management Association.</p> <p>A key issue we feel needs to be addressed is that it is not clear whether equivalent countries / domiciles need to apply the same regulatory processes to all insurance and reinsurance business within their domicile to meet equivalence or whether it only needs to be applied to reinsurance business which interacts with EU insurers. We see this as an important point of clarification.</p> <p>A number of our members will in addition be making individual responses and the life element of our industry will also be making its own response; this response should be read in conjunction with the other Guernsey submissions.</p>	Noted.
20.	Heritage Insurance	General Comment	<p>By considering the level of equivalence with Articles 172,227 and 260 of the Solvency II Directive, there is an implicit view that the</p>	Noted.

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	Management Limited (Guernsey)		market under consideration within the third country jurisdiction is comparable to the European insurance market. This is not the case for jurisdictions such as Guernsey which is made up of a vast majority of captive (re)insurance and risk retention vehicles. As such, any equivalence assessment must firstly consider the implications of the insurance market under consideration being fundamentally different to that of the European market. Once the differences are understood, then the Principles and Objectives which must be met (per 1.3) can be considered in the context of the relevance and appropriateness for the specific market under consideration.	
21.	Insurance Council of Australia	General Comment	<p>The Insurance Council of Australia (the Insurance Council) appreciates the opportunity to comment on Consultation Paper (CP) 78. The Insurance Council is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written in Australia by private sector general insurers. We are aware of at least two Insurance Council members that currently have insurance undertakings within the European Union (EU).</p> <p>The Insurance Council notes that the Solvency II regime being adopted in the EU has strong similarities to the risk based regulatory regime operating in Australia. The Insurance Council therefore anticipates that the Australian regime would be rated favourably if any request was made for an assessment of third country equivalency.</p> <p>The Insurance Council recognises that the CP provides a high level outline of the methodology to be used in equivalence assessments that will be further elaborated upon in Level 3 guidance. However, as a general overview we provide the following comments for your consideration:</p>	Noted. Please see par. 1.9 of the introduction and new 1 <sup>st</sup> paragraph of the Annex.

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1. The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.
2. The Insurance Council supports the application of a principles-based assessment of regulatory equivalence, rather than a rules-based assessment. The principles-based approach is consistent with the methodologies employed by the IAIS and the International Monetary Fund (IMF) which conducts financial sector regulatory assessments evaluating utilisation of the IAIS Insurance Core Principles.  
  
The expectation should be that demonstrated compliance with the principles -- and not the 'indicators' -- would merit a satisfactory equivalency finding.
3. The Insurance Council supports a jurisdictional assessment based on equivalence of regulation, not one focused on uniformity of laws and policies, nor exact compliance with specific rules based indicators.
4. The Insurance Council supports a regulatory assessment process that is based on a thorough evaluation of the effectiveness of a prudential supervision regime. The process should be fair, transparent and free of issues unrelated to the prudential supervision of insurers.
5. The Insurance Council supports a regulatory equivalency assessment process that leads to improved coordination in the supervision of multi-jurisdictional groups of insurers. The end goal should be improved regulatory cooperation, information sharing

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			<p>and trust.</p> <p>Equally important are clarity of regulatory requirements and responsibilities that lead to a more effective and efficient regulatory system that avoids redundancy, contradiction and delay.</p> <p>6. The Insurance Council supports a regulatory cooperation regime that ensures privacy of confidential data amongst the cooperating regulators and support the recognition of the IAIS Multilateral Memorandum of Understanding (MMOU) as a benchmark as to whether this goal is met.</p> <p>7. The Insurance Council supports a regulatory equivalency assessment process that recognizes it would be unfair to impose a penalty on third country insurers when the lack of regulatory recognition results from a time line or resource constraint on the part of CEIOPS or an individual jurisdiction.</p> <p>To the degree that resource or timing constraints will lead to a limited number of equivalency assessments being completed, then third country insurers should not be penalised via collateral, regulatory or capital requirements based on the lack of completion of an assessment.</p> <p>Provisions should be made to grant conditional equivalence based on completion of a MMOU or an IMF Financial Sector Assessment Program until such time an assessment can be completed; or alternatively to delay implementation of regulatory compliance requirements until such an assessment is completed.</p>	
22.	INTERNATIONAL UNDERWRITING ASSOCIATION	General Comment	<p>While we support CEIOPS in wishing to ensure that non-EEA regimes should not be recognised as equivalent to Solvency II unless it can be demonstrated that they rise to its exacting requirements, the overall approach of the consultation paper appears overprescriptive. That non-EEA regimes should not be</p>	<p>Noted.</p> <p>Please see CEIOPS wording in</p>

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	N OF LONDON	<p>expected to include internal models certainly shows a willingness to recognise that the same outcomes can be achieved through different routes, but to imply that there must be a standard formula on the same lines as Solvency II seems to ignore the originality and ingenuity that supervisors from different administrative traditions and cultures may bring to solving problems of regulatory control.</p> <p>CEIOPS also shows that it wishes the equivalence regime to rely on outcomes rather than identical methodologies in non-EEA systems, but the list of criteria does read as though for a regime to be deemed equivalent it will be necessary to clone large chunks of Solvency II and graft them on to the supervisory system. We believe that Solvency II is a good model for supervisors across the world and wish to assist in promoting it as such, but it must be recognised that the world is diverse and constantly changing, so flexibility is essential for any system to survive in the long term. We suggest, therefore, that the proposed criteria should focus more on equivalent outcomes and less on equivalent means. The solution could be to set IAIS principles as the benchmark. It would also seem best that the indicators should be classified as guidance, so as to assist flexibility of application.</p> <p>There is also a danger that, quite contrary to the actual intentions of the EU, an overprescriptive regime will be perceived as symptomatic of a will to use prudential requirements to block access to trade.</p> <p>When CP 78 and Directive Article 211 are set alongside paragraph 3.98 of CEIOPS' Advice for L2 Implementing Measures on SII: Group solvency assessment, there emerges a significant risk of an uneven playing field between non-EEA-headquartered groups which are likely to find themselves having Solvency II apply to a newly created sub group at European level, and EEA-headquartered groups which will need to apply Solvency II to the entire</p>	<p>par. 1.5 of the introduction.</p> <p>Noted.</p>
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			<p>consolidated group, including their operations outside the EEA. How will the European authorities set about levelling the uneven playing field that will result from different treatment for firms depending on the location of the headquarters?</p> <p>When Solvency II comes into effect, there will be other regimes that are already Solvency II equivalent and others close to achieving equivalence. At the same time, many European jurisdictions may still be struggling to implement the regime effectively. That being the case, a fast-track provisional recognition system would seem fair, pending the outcome of the initial assessments of the first wave of countries.</p> <p>With regard to the USA, it is important to consider that the individual States have retained sovereignty over insurance regulation and that it is consequently they, rather than the Federal Government, which should be the counterparty third countries in negotiations, unless federal law denies them that possibility or the relevant sovereign powers are transferred to a new federal agency, as has been proposed. CEIOPS and the European Commission need, therefore, to consider how they will go about negotiating with the Federal Government and the States. Since the USA is the largest market outside Europe, the equivalence regime needs to be as open to it as possible, if it is to gain credibility and traction. Once again, comparison of effective supervisory outcomes should be the objective rather than checklists of specific measures.</p>	<p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p> <p>Noted</p>
23.	IOMCA	General Comment	<p>The response contains comments from the Isle of Man Captive Association (IOMCA). This points made in respect of article 172 are equally applicable to articles 227 and 260. As the Isle Of Man is primarily a captive domicile this has been the focus of attention in the response.</p>	<p>Noted.</p>

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24.	JFSA	General Comment	<p>The Financial Services Agency of Japan (JFSA) is an integrated national supervisor who is responsible for policy making, supervision and inspection for banking, securities and insurance industries as well as protection of depositors, insurance policy holders and securities investors. We would like to take this opportunity to comment our general observations as follows.</p> <p>Reciprocal Dialogue</p> <p>JFSA considers it is imperative that both evaluating jurisdiction and evaluated jurisdiction fully discuss and agree the evaluation framework, including its objectives, process and methods prior to entering into equivalence assessment process. JFSA believes this reciprocal approach is extremely important to secure its fairness, objectivity and verifiability of the equivalence assessment.</p> <p>For the purpose of harmonizing an international insurance regulation and supervision, IAIS is currently under discussion of international equivalence assessment framework among the member states. JFSA strongly believes that such efforts of multi-lateral discussion are vital to form a comprehensive assessment framework and the actual equivalence assessment should take place after the establishment of common understanding in the IAIS. Thus, if one specific region is to implement the equivalence assessment of insurance regulation and supervision of the 'third jurisdiction' ahead of international agreement of assessment framework, JFSA requests that all jurisdictions that may be affected by such assessment be involved in the development process of such an assessment framework. JFSA attaches high importance to such opportunities for discussions.</p>	Noted.
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			<p>Comprehensive Assessment in Practice</p> <p>Regarding the methodology of equivalence assessment, JFSA believes it is essential to capture the whole practices of the regulatory and supervisory system, considering not only quantitative indicators but also the qualitative depth of supervision and inspection, in order to appropriately evaluate the effectiveness of insurance regulation and supervision as a whole in each jurisdiction. Given that Solvency II has not been implemented in practice, it is inconceivable for one to be able to evaluate the entire regulatory and supervisory framework of others without the actual experiences of supervision and inspection taken place in home jurisdiction. Thus, JFSA has doubts and concerns whether a third party country can be comprehensively and fairly assessed by that jurisdiction, where there are no actual experiences under the newly planned regulatory and supervisory framework.</p>	Noted.
25.	KPMG ELLP	General Comment	<p>We welcome the publication of the Consultation Paper and support the principles based approach that it seeks to adopt.</p> <p>However, we believe it would be useful to clarify explicitly that equivalence assessment is about equivalence of outcomes (in respect of protection of policyholders). Although the paper talks about equivalence of principles and objectives, there is a risk that the extensive indicators set out as guidance in the text could become used as some form of checklist, even if that is not CEIOPS's intention. For this reason, we would prefer to see these deleted from the blue text that will form the basis of the Advice to the Commission. If they are to remain, we would like to see some non-Solvency II derived examples (for example the use of Tail VAR or examples of acceptable risk management processes) to help overseas regulators in assessing their current regime against the</p>	<p>Noted.</p> <p>Noted. Please see redrafts. No deletion in the final advice though due to significance (overarching principle)</p>

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			<p>Solvency II standards.</p> <p>We would have like to have seen more detail on the actual process to be followed for the assessment (or not) of equivalence, including an indication of the likely timeframe involved. We believe this would be helpful to enable third country regulators to determine their approach. We would therefore have liked to see more detail in this regard in Annex 1, especially regarding the level of granularity that might be expected in the proposed equivalence assessment questionnaires and the likely duration of the equivalency assessment process.</p>	<p>Noted. Please see par. 1.9 of the introduction and new 1<sup>st</sup> paragraph of the Annex.</p>
26.	METLIFE	General Comment	<p>About MetLife</p> <p>MetLife, Inc. is a leading provider of insurance and other financial services to millions of individual and institutional customers throughout the United States. Outside the U.S., MetLife companies have direct insurance operations in Asia Pacific, Latin America and Europe. Around the world, the MetLife companies offer life, accident and health insurance, retirement and savings and reinsurance products through agents, third-party distributors such as banks and brokers, and direct marketing channels. We work with families, corporations and governments to provide them with solutions that offer financial guarantees in their lives. Our name is recognized and trusted by more than 70 million customers worldwide and over 90 of top 100 FORTUNE 500 companies in the United States.</p> <p>MetLife in Europe</p> <p>We are relatively recent entrants to the European market. In 2007, MetLife Europe Limited introduced its unique range of unit-linked guarantee products to the European market. Registered in Dublin, Ireland and with a London based branch, MetLife Europe's products and services are currently available in the UK, Poland, Greece and</p>	





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			<p>As the largest and oldest life insurer in the US with a growing long-term commitment to the European insurance marketplace, MetLife would be dismayed to see a lack of mutual recognition between supervisors of these two largest insurance markets at a time when regulatory cooperation and global oversight is such a vital political and economic priority. We would call on regulators in the EU and the US to do everything they can to reach an agreement which will allow them to cooperate, even if this takes place over a phased period and requires some compromises on both sides.</p> <p>Whilst we recognise that the insurance regulatory system in the US may be subject to change in future, and it is not currently practicable to predict what the system may look like in 5 or 10 years' time, we would call for the EU and the US regulators to put in place interim arrangements which allow regulators from both territories to work together during a period of unprecedented changes in the structure of financial supervision. It would be detrimental to policy-holders, industry and the economies of both the US and the EU if supervisory cooperation between both territories is delayed due to disagreements over structural differences between regulation in the two territories.</p>	<p>Noted</p> <p>Noted</p>
27.	Munich Re	General Comment	<p>We fully support all of the GDV statements and would like to add the following points:</p> <p>We welcome and are supportive of CP 78. Although we are aware that Solvency II is a very sophisticated regulation and that strict</p>	Noted.

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		<p>application of the equivalence requirements may lead to competitive disadvantage in third countries, we believe that an equal level of security for European companies needs to be safeguarded.</p> <p>We principally agree with the objectives and principles identified in CP 78, even though we believe that the criteria are very detailed and the role of the indicators is not clear yet.</p> <p>We believe it is not sufficient that equivalent solvency regimes and supervisory systems are in place. It is essential for the recognition of equivalence that exiting rules are consistently applied.</p> <p>We recognize that transitory measures may be needed until equivalence testing is finished. We doubt whether there is any room for grandfathering for supervisory systems / solvency regimes which have not yet the required standard or which no longer meet the equivalence requirements.</p>	<p>Noted. Please see revised text in advice under each of the Chapters</p> <p>Noted</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p>
28.	PricewaterhouseCoopers	General Comment	<p>Following consultation with members of the PricewaterhouseCoopers network of firms in the European Union, this response summarises the views of member firms who commented on this consultation paper. "PricewaterhouseCoopers" refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.</p>

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We welcome the opportunity to respond to this consultation paper. We would like to raise some questions on the approach to the assessment of supervisory equivalence outlined in the Consultation Paper:

We welcome a principles-based approach to the assessment of supervisory equivalence. We recognise that flexibility needs to be built into the approach when assessing whether third country supervisory regimes provide similar outcomes to Solvency II although in certain areas direct equivalence would be necessary to achieve such an outcome. The Consultation Paper sets out principles, objectives, and indicators for making the assessment. The principles and objectives are consistent with the Level 1 text, as CEIOPS' intended. We would appreciate CEIOPS' views on the need to include detailed indicators at Level 2. Too detailed coverage of the individual indicators in the Level 2 text could restrict the ability to flex the assessment appropriately to focus on the supervisory outcomes in third countries. However, a more detailed overview of the assessment process itself – how decisions will be reached in relation to a combination of factors – might helpfully be included in Level 2 measures: essentially a more detailed discussion of the approach outlined in A1.14. Also, if there is a the possibility of a weighting of factors – i.e. certain factors are deemed more important than others, or the possibility that some factors will need direct equivalence to Solvency II requirements, whereas others will require a more qualitative assessment, could also be laid out clearly in the Level 2 measures. Given the proposed developments in relation to the establishment of EIOPA, it may be appropriate to consider including detailed consideration of the indicators in Level 3 technically binding standards and/or guidance. This would also have the advantage of allowing more flexibility to

Noted.

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			<p>adapt the indicators in the future to reflect changing regulatory approaches and best practice.</p> <p><input type="checkbox"/> We note that the principles, objectives and indicators are not identical for the three articles, and would welcome further guidance on CEIOPS' thinking behind the differences, and what incremental criteria third countries that are equivalent under one article would have to satisfy to achieve equivalence under the other articles.</p> <p><input type="checkbox"/> Please see also our comments on the assessment methodology at Annex 1, below.</p>	<p>Noted. Final advice has been revised to ensure increased consistency</p> <p>Noted, Please see new par. 1.9 and A.1</p>
29.	Property Casualty Insurers Association of America	General Comment	<p>PCI greatly appreciates the opportunity to comment on CEIOPS' draft advice on the assessment of regulatory equivalence. PCI represents more than 1,000 non-life insurers writing nearly 40% of the non-life insurance written in the United States. A number of our members either write substantial business in the European Union or are affiliated with EU-based companies. Many of our members are also either engaged in direct competition with EU-based insurers in the US market, or sell or purchase reinsurance products to and from those companies. Thus PCI has a significant interest in the process by which the EU will assess the regulatory equivalence of third-country insurance regulatory regimes.</p> <p>We urge CEIOPS and the European Commission to keep the following principles in mind:</p> <ol style="list-style-type: none"> <li>1. The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of leading supervisors within CEIOPS that this will be the case.</li> <li>2. The assessment should not require uniform compliance from</li> </ol>	<p>Noted.</p> <p>Noted and not in CEIOPS intention. Please see revised text</p>

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	<p>the jurisdiction under review, particularly at the "indicators" level. The indicators should be used to help assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.</p> <p>3. The assessment should not require that all objectives are "fully observed". As long as the objectives are observed in general and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p> <p>4. The assessment process should be kept as separate from politics as possible.</p> <p>5. The assessment process should not promote adoption of redundant processes by other jurisdictions in order to improve the likelihood of a finding of equivalence. This could happen if jurisdictions believe they have to adopt Solvency II-type procedures in addition to their own in order to improve the chances of an equivalence finding. This process should lead to supervisory efficiency, not redundancy.</p> <p>6. The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements. The assessment should bear in mind that Solvency II is not a fully-implemented system, and we will not know how effective it is until a number of years have passed.</p> <p>7. We agree with the CRO Forum's statement during the 7 January Frankfurt hearing that "grandfathering of equivalence recognition should be applicable to 3rd countries;</p> <ul style="list-style-type: none"> <li>- that are recognized as equivalent regimes today;</li> <li>- that would not strictly meet the requirements for equivalence recognition, and yet be able to demonstrate the existence of an efficient regulatory framework or be in the process of introducing a</li> </ul>	<p>of advice under each Chapter</p> <p>Noted</p> <p>Noted</p> <p>Noted. Not in CEIOPS aim.</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p>

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		<p>potentially equivalent framework." We believe this is especially important given the enormous volume of trans-Atlantic insurance commerce and the need to avoid disruption in that commerce.</p> <p>8. We urge CEIOPS and the European Commission to continue be as transparent as possible as CEIOPS develops its final advice and the Commission adopts implementing measures on the equivalence criteria. If the process is transparent, its results will be viewed with greater acceptance. We commend CEIOPS for its solicitation of public comments and efforts to discuss equivalence issues with interested parties at the beginning of this process. We hope that there will be similar opportunity to provide comment as the process continues.</p> <p>9. Finally, we would appreciate it if CEIOPS and the Commission would provide more clarity about the consequences of a decision of non-equivalence, in particular with regard to reinsurance supervision and the group supervision assessment under Article 260.</p>	<p>Noted</p> <p>Noted. Solutions available at the L1 text and CEIOPS advice (ref. reinsurance)</p>
30.	Reinsurance Association of America	<p>General Comment</p> <p>The Reinsurance Association of America (RAA) appreciates the opportunity to comment on CEIOPS' draft advice on the assessment of regulatory equivalence. RAA represents US reinsurers. A number of our members either write substantial business in the European Union or are affiliated with EU-based companies.</p> <p>We urge CEIOPS and the European Commission to keep the following principles in mind in setting equivalence standards:</p> <p>1. The assessment should not require uniformity with Solvency II, but rather should assess whether the other regime properly protects the policyholders within its jurisdiction.</p> <p>2. The assessment should be based on only the principles and</p>	<p>Noted. Not in CEIOPS intention</p> <p>Noted. Please see revised text of advice under each Chapter</p>

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		<p>objectives. None of the indicators should be viewed as vital to an equivalence finding. The indicators are too narrowly defined in Solvency II terms only.</p> <p>3. The equivalence assessment should be based upon outcomes of regulation (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular regulatory provisions are identical.</p> <p>4. The assessment should not require that all objectives are "fully observed". As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p> <p>5. The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements which have been adopted but not implemented. CEIOPS should bear in mind that Solvency II itself is not yet implemented.</p> <p>6. The assessment process should be as divorced from politics as possible.</p> <p>We agree with the CRO Forum presentation on January 7 that delays in equivalence consideration could result in harm to certain markets and jurisdictions. As a result, a process should be considered for granting temporary equivalence status to jurisdictions which meet international standards, such as having an equivalence accounting system as judged by the EU, being a signatory of the IAIS MMOU, and having a successful rating from the IMF on an FSAP. While these would not strictly meet the requirements for equivalence recognition, they would demonstrate the existence of an efficient regulatory framework until a complete assessment can be conducted.</p>	<p>regarding role and usage of indicators.</p> <p>Noted.</p> <p>Noted. Objectives are mandatory. For indicators please see revised text of advice under each Chapter</p> <p>Noted</p> <p>Notes</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking</p> <p>Noted. On the IAIS, IMF, OECD please see new last par (1.9) of the introduction</p>
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31.	SII Legal Group	General Comment	<p>These comments are provided by the Solvency II Legal Group, a network of Central London law firms with specialist corporate and insurance practices.</p> <p>In general the approach to equivalence issues adopted in CP78 is helpful. We would suggest, however, that the emphasis of the approach might be adjusted so as to make it clear that equivalence of third country regimes will be determined primarily by reference to high level criteria contained in the "objectives" set out in the CP. In many cases those objectives may be achieved without such regimes necessarily being compliant with the lower level "indicators" proposed. This is particularly the case where Solvency II standards are not already embodied in international practice. It should also be borne in mind that the final decision on the detail of Solvency II level 2 measures is not due to take place until the latter part of 2011.</p> <p>To the extent that the equivalence criteria do require compliance with novel Solvency II standards, then third country regimes which are otherwise equivalent with more established international standards should be recognised as equivalent on an interim basis. This could be subject to a fuller alignment with the Solvency II regime being achieved at a later date. This could be achieved by use of the "review" mechanism provided for in articles 172(2), 227(4) and 260(3).</p> <p>It would also be helpful if CEIOPS were to explain to what extent the three chapters of CP78 are considered to be interdependent. For instance, can a jurisdiction achieve equivalence under chapter 3 without achieving equivalence under chapter 1, since there are some objectives and indicators under chapter 1 for which there is no equivalent provision in chapter 3.</p>	<p>Noted.</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking.</p> <p>Noted</p>



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			<p>reinsurance activity. By way of example:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Article 172(1) (which deals with the question of equivalence) refers to "reinsurance activities of undertakings with their head office in that third country".</li> <li><input type="checkbox"/> Slightly different phraseology is used in Article 173 (which deals with the prohibition of pledging of assets). It refers to where the reinsurer is a "third-country insurance or reinsurance undertaking...."</li> <li><input type="checkbox"/> Article 174 (which deals with member states not extending more favourable treatment to third country reinsurers) uses the phraseology "third-country reinsurance undertakings taking up or pursuing reinsurance activity".</li> <li><input type="checkbox"/> Article 175 (which deals with agreements with third countries) states that such agreements will be established for the purposes of exercising supervision over third country reinsurance undertakings which conduct reinsurance business in the Community.</li> </ul> <p>The difficulty with this variation in phraseology is that the variations may be inferred to suggest that Articles 173, 174 and 175 are deliberately more restrictive in scope than Article 172. This is because the phraseology used in Article 172 would cover a greater variety of circumstances than, for example, the phraseology used in Article 174. Specifically the former term would cover EU business written by the following:</p> <ul style="list-style-type: none"> <li>• a third country pure reinsurance undertaking carrying on business from its head office;</li> <li>• a third country pure reinsurance undertaking carrying on</li> </ul>	
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			<p>175 to be consistent with Article 172. We also recommend that clarifications be made around the interpretation of the definition of "third country reinsurance undertaking" within the Framework Directive.</p> <p>If this is not possible, we recommend that CEIOPS Level II guidance should constitute binding measures making it clear that EU reinsurance branches of third country insurance undertakings would not be prejudiced against under Articles 173, 174 and 175 and within the interpretation of the definition of "third country reinsurance undertaking".</p>	<p>Noted. L2 cannot modify L1.</p>
33.	Swiss Financial Market Supervisory Authority, FINM	General Comment	<p>The Swiss Financial Market Supervisory Authority FINMA as a third country supervisory authority thanks CEIOPS for providing further clarity on the equivalence testing methodology under the Solvency II Directive by developing CP 78 and submitting it for consultation. It is particularly valuable to see the articulation of Principles/Objectives/Indicators. FINMA hopes that the following comments serve CEIOPS to further enhance and clarify CP 78.</p> <p>1. Equivalence and equivalence criteria</p> <p>A1.6 sets out that third country regimes have to meet the Principles and Objectives, and the assessment criteria focused on "observance" are addressed in A1.14 and A1.15.</p> <p><input type="checkbox"/> Both aspects do not describe the benchmarking parameters that would be applied in the equivalence testing.</p>	<p>Noted, Please see new par. 1.9 and A.1</p>

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- Thus, we propose that the benchmark parameters should be specified as "equivalence/equivalence testing in regards of scope and impact of the third country regime and of the Solvency II Directive".
  - This measurement implies that
  - the testing should focus on ascertaining the outcomes from a regulatory regime rather than process details,
  - a contextual assessment methodology is applied, not a line by line observance test,
  - no need to meet every element of the objectives and even less so all of the indicators, and
  - the assessment criteria "observance" is to be replaced by "equivalence".
2. Indicators
- Certain indicators are calling for a third country regime to be almost identical to the Solvency II Directive. This may create a disproportionate focus on achieving identity to Solvency II.
- We propose that the list of indicators be reduced where they are going beyond the needs of testing equivalence in regards of scope and impact, and/or the indicators be modified when they are too narrowly defined or focused on process and not on outcomes. Specific proposals have been addressed in the individual comments.
3. Interrelation between the equivalence testing regarding

Noted. Please see redraft of advice under each Chapter seeking to clarify role and usage of indicators.

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		<p>reinsurance, group solvency calculations and group supervision:</p> <p>1.2 sets out that the three elements of equivalence testing regarding reinsurance, group solvency calculations and group supervision are addressed separately. In principle, this approach provides clarity.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> It does, however, not address the process for third country regimes who would wish to submit to a testing under at least two of the three elements.</li> <li><input type="checkbox"/> Therefore, it would be helpful to provide information and guidance for the process for third country regimes going through a testing under at least two of the three elements. This might be achieved by addressing Principles/Objectives/Indicators common to all three or at least two elements in one process (ev. general part before the specific parts).</li> <li><input type="checkbox"/> Operationally the process could be facilitated by applying, to the extent possible, the same sequence of Principles/Objectives/Indicators under all the three elements.</li> </ul> <p>4. Timing</p> <p>Given the time dimension of the equivalence assessments, two elements would be helpful to be added:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Transitory regime</li> <li><input type="checkbox"/> provisional application of equivalence if the testing is not completed by the time the Solvency II Directive comes into operation.</li> <li><input type="checkbox"/> Consideration of evolution of third country regime</li> </ul>	<p>Noted</p> <p>Noted. No transitional/grandfathering measures are foreseen as L1 text and CEIOPS advice provides solutions for the situation when a EC decision on equivalence is lacking.</p>
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			<input type="checkbox"/> A 1.6 should be expanded to allow for taking into account the third country regime as in existence at the time of testing or as being in preparation.	
34.	Swiss Insurance Association (SIA)	General Comment	<p>The Swiss Insurance sector welcomes the opportunity to comment to CEIOPS' draft advice on Solvency II Level 2 implementing measures in relation to the Technical criteria for assessing 3rd country equivalence in relation to Article 172, 227 and 260.</p> <p>We generally welcome CEIOPS' CP 78 and support the chosen approach to identify firstly the key supervisory principles encapsulated in the Solvency II Directive and the objectives each supervisory principle seeks to achieve and then secondly to showcase indicators for these principles. Hence the main focus of equivalent testing lays on achieving core principles of supervision, for which methods and calibration used can differ.</p> <p>Only principles and objectives are determinative for assessing equivalence</p> <p>We would propose to more clearly differentiate between principles and indicators and clearly state that for equivalence the principles have to be met but not all the indicators. To further clarify the role of the indicators as "guidance", we recommend not including them in the legally binding text, but rather keeping them as guidance for interpretation of the legally binding principles and objectives.</p> <p>Alternatively we would welcome a statement that it is not necessary for equivalence that all indicators are met in total or that each indicator must be fully met. Equivalence decisions should not be linked to certain Solvency II requirements in an isolated</p>	<p>Noted. Please see redraft of advice under each Chapter seeking to clarify role and usage of indicators.</p>

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			<p>manner. For this reason we suggest in addition to state that "Non-observance of neither a single nor several indicators may not automatically result in a negative equivalence assessment as long as the respective principle and objective are considered to be sufficiently met."</p> <p>Relevance and weighing of indicators</p> <p>The indicators of equivalence are very comprehensive and in parts go beyond the Level 1 text and touch on Level 2 requirements, which are not yet finalised in the EU. We would therefore propose to strictly refer to Level 1 and not include Level 2 requirements. A more balanced approach should be applied as some indicators go far beyond the EU requirements.</p> <p>Furthermore general clarification is needed whether equivalence will be assessed only against Level 1 or whether the scope of assessment will go beyond and will include Level 2 implementing measures, which will not be finalised EU-wide before the actual testing of equivalence for the first wave of countries. Therefore any reference to Level 2 implementing measures should be taken out as otherwise hardly any third country is able to meet the equivalence criteria. It might not in the interest of neither CEIOPS nor the European Commission that a third country regime must be almost identical to the Solvency II Directive.</p> <p>In addition the CP mentions that the assessment of each principle and objective requires a judgemental weighing of numerous elements, but the CP does not specify these elements. Further indications how this assessment could be conducted are helpful as well as elaboration of possible main key indicators and possible less important derivative indicators.</p>	<p>Idem</p> <p>Idem. Equivalence is assessed in relation to supervisory regimes i.e. L1 and L2 need to be seen as a single legal unit.</p>
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		<p>appear in this CP. The third country only needs to be equivalent to these; the used methods must be comparable, but not identical.</p> <p>In order to read and compare the three chapters of CP 78 more easily and make the CP more stringent we would prefer the same sequence regarding the indicators in all three chapters like valuation of assets and liabilities, own funds, internal models etc.</p> <p>Need for more detail on procedural aspects</p> <p>We believe that timeframes should be set in Level 2 for maximum periods when CEIOPS has been requested to perform an assessment of equivalence by the European Commission. Other procedural aspects should be clarified such as what is meant by "Assessments will be kept under review and take into account any developments that might lead to relevant changes in the third country supervisory". It should be clarified that assessments will take place if only clearly pre-defined material changes to the legal requirements in the equivalent third country occur.</p> <p>We would welcome a statement whether, and what, additional information has to be submitted by third countries who have earned equivalence recognition under the Reinsurance Directive (regarding Article 172) and the Financial Conglomerate Directive (regarding Article 260) in order to earn equivalence recognition under the Solvency II Directive.</p> <p>Consultation of industry</p> <p>The Swiss insurance industry is ready to contribute its experience and expertise to the equivalence process conducted by CEIOPS. We look forward to the opportunity to further consultation during the</p>	<p>Noted. Please see par. 1.9 and A.1</p> <p>Note</p>
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			equivalence process in particular (re)insurers with subsidiaries in the respective third country or EU subsidiaries of third country (re)insurers.	
35.	The General Insurance Association of Japan (GIAJ)	General Comment	<p>1. First of all, the General Insurance Association of Japan (GIAJ) highly appreciates the CEIOPS for providing an opportunity to submit comments. The GIAJ, is an industry organization whose 27 member companies account for about 95 percent of the total general insurance premiums in Japan.</p> <p>We understand that additional burdens may be required for insurers based in Japan and groups of insurers whose headquarters are domiciled in Japan (hereinafter collectively defined as "Japanese insurers"), if the Japanese relevant supervisory regimes are not acknowledged as equivalent.</p> <p>Reinsurance transaction with the EU region and insurance business in the EU region are significantly important for the Japanese insurers and we ask for your clearer explanation on what burdens will occur for Japanese insurers if equivalency is not acknowledged.</p> <p>For example:</p> <p><input type="checkbox"/> From paragraph 2.1.3 of the CEIOPS-CP-78/09 (Draft CEIOPS'Advice for Level 2 Implementing Measures on Solvency <input type="checkbox"/>:Technical criteria for assessing 3rd country equivalence in relation to art.172,227 and 260), it is assumed that if equivalency is not recognised in the consideration of chapter 1 (Reinsurance), burdens such as i. collateral to cover unearned premiums and outstanding claims provisions, and ii. localisation within the Community of assets held to cover the technical provisions covering risks situated in the Community, may be required.</p> <p><input type="checkbox"/> From paragraph 3.97 and 3.98 of the CEIOPS-DOC-52/09</p>	Noted.

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		<p>(CEIOPS' Advice for Level 2 Implementing Measures on Solvency <input type="checkbox"/>: Assessment of Group Solvency), it is assumed that if equivalency is not recognized in the consideration of chapter 3 (Group supervision), burdens such as i. calculation of solvency margin on a consolidated basis of a Japanese insurer, which must be verified by a group supervisor located in EU, and ii. establishment of an insurance holding company which has its head office in the EU and a calculation of solvency margin under Solvency 2 on the consolidated basis of the holding company, may be required.</p> <p>In the first place, we have strong concern on the EU/CEIOPS ever conducting equivalence assessment, although the burdens are not clear yet.</p> <p>Burdens occurred as a result of equivalence assessment may cause a disadvantage for Japanese insurers in terms of competition with EU insurers. Apart from the intention of the EU supervisors, the implementation of third country assessment may lead to the creation of trade barriers.</p> <p>2. If the assessment is conducted without global consistency, there could be a possibility that the assessing region or country may indirectly force the assessed third country to adapt its regime to the assessing side's system. Even if EU/CEIOPS conduct equivalence assessment, assessment criteria and procedure should be based on the discussion and development of the IAIS international standards for equivalence assessment.</p> <p>Although we have strong concern in equivalence assessment by EU/CEIOPS, due consideration should be given to the following points even if such assessment is conducted.</p>	<p>Noted</p> <p>Noted. Goes to the aim of equivalence by comparison to identity.</p>
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		<p>3.</p> <p><input type="checkbox"/> The decision on equivalence should be made by using the "principles" and "objectives", and the "indicators" should be used as references (referring to Para A1.14). Therefore, even if the indicators are not fully satisfied, the fulfilment of the "principles" and "objectives" should lead to the recognition of the equivalence.</p> <p><input type="checkbox"/> The decision on equivalence should be made not only by using the individual "principles" and "objectives", but also in a comprehensive view. For instance, although an individual quantitative standard does not satisfy the equivalence criteria, complementary factors such as supervisory powers and structures should be taken into consideration in the decision on equivalence. As the current financial crisis has proved, prudential regulations which are focused only on the quantitative aspect are not sufficient. Complementation by qualitative aspect, such as sophistication of risk management system, is important and decisions under comprehensive understanding of regulatory and supervisory system should be made.</p> <p><input type="checkbox"/> The decision on equivalence should not be made only by the supervisory regime that exists at the time of the assessment. If there are clear descriptions and roadmaps for a regulatory reform, it should also be taken into consideration (referring to Para A1.15).</p> <p><input type="checkbox"/> The process and results of the equivalence assessment should be kept transparent. In addition, not only the regulatory authorities, but also the insurance industry should have opportunities to express their views and challenge the decision, depending on the situation (referring to Para A1.13).</p> <p>4.</p>	<p>Noted. Please see redraft in advice under each Chapter.</p> <p>Noted.</p> <p>Noted</p> <p>Noted.</p>

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37.	The Life Insurance Association of Japan	General Comment	<p>We, The Life Insurance Association of Japan (LIAJ) would like to extend our gratitude to CEIOPS for providing us with an opportunity to submit our comments on the Consultation Paper No. 78.</p> <p>The LIAJ is a trade association comprised of all 46 life insurance companies currently operating in Japan. Our aim is to promote the sound development of the life insurance industry and maintain its reliability in Japan.</p> <p>In this Consultation Paper, the criteria to be used for assessing the equivalence of third country solvency regimes under the EU Solvency II Directive are described as follows:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Valuation of assets and liabilities should be based on an economic valuation and be consistent with international accounting standards, to the extent possible</li> <li><input type="checkbox"/> The valuation of technical provisions should be market consistent</li> <li><input type="checkbox"/> The capital requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period or ensure that policyholders and beneficiaries receive at least the same level of protection.</li> </ul> <p>Regarding the criteria for the assessment of third country equivalence, the LIAJ is concerned that CEIOPS might require third countries to have a framework for solvency assessment which is almost the same as the assessment of Solvency II currently under</p>	Noted. Not the aim of equivalence.
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		<p>consideration in the EU.</p> <p>The International Association of Insurance Supervisors (IAIS) is currently developing international solvency standards, and it is likely that in the future, the solvency standards in respective jurisdictions will be converged based on the IAIS's deliberations. However at present, solvency regimes adopted in third countries, including Japan, are specific to each jurisdiction, depending on their supervisory regimes, accounting standards, economic circumstances and market conditions.</p> <p>In this context, we are concerned that assessing the equivalence under EU Solvency II in a rule-based way, as stated in this Consultation Paper, would lead to requiring third countries to adopt almost the same solvency regime as that in EU Solvency II, and such assessment would extremely restrict third countries that are deemed to be equivalent.</p> <p>We believe that the equivalence should be assessed not only based on the consistency of the solvency regimes (particularly concerning quantitative matters) but also by considering comprehensively and extensively the unique circumstances of each jurisdiction, provided that various solvency standards exist.</p> <p>Therefore, we wish to recommend that principle-based criteria should be used to assess the equivalence of third country solvency regimes rather than the rule-based criteria stated in this Consultation Paper.</p>	<p>Noted. Please see new par. 1.9 in the introductory part and reference to restrictions</p> <p>Noted</p> <p>Noted</p> <p>Noted.</p>
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			In addition, since each jurisdiction is currently in the process of reviewing their existing solvency regime, we would like to suggest that when determining the equivalence of each solvency regime, the deliberation and future progress of each solvency regime should be taken into account, alongside the regime in existence and applied at the time of the assessment.	Noted
38.	US National Association of Insurance Commissioners	General Comment	<p>The National Association of Insurance Commissioners (NAIC) is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and five U.S. territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands). Formed in 1871, the NAIC is the oldest association of U.S. state officials. The following General Observations on Equivalence are followed by comments to specific sections in the Consultation Paper. The NAIC welcomes the opportunity to make these comments and looks forward to continuing dialogue on these issues with CEIOPS going forward.</p> <p><input type="checkbox"/> International vs. Regional solutions. The NAIC prefers that international standards, rather than regional standards, be applied in evaluating the "equivalence" of supervisory regimes. EU regulators should heed the calls of the G20 and the FSB to move toward international standards, rather than try to impose regional solution on the rest of the world. Apart from the potential implications on the EU's trade obligations, it is inappropriate in light of the recent financial crisis to impose untested standards on non-members, especially if the result – and oft-stated motivation – could be creation of a competitive advantage in the world for EU</p>	Noted.

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businesses. An approach designed to address the prudential needs of consumers doing business with EU companies would see greater benefit in applying international standards, which are the result of collaboration and sharing of best practices from around the world. We would also like to have more clarification as to the possible application of a provisional equivalence regime to third countries based on FSAP reports on Observance of standards and codes or other international standards in order to avoid potential competitive distortions.

No experience under Solvency II. The NAIC finds it premature for Solvency II standards to be used as a basis for evaluating "equivalence." As Solvency II is not due to come into effect until the end of 2012, its effectiveness cannot be evaluated in any measure other than moving Europe beyond Solvency I and introducing a risk focus into the EU's insurance regulatory system. We applaud this achievement by the EU. It is certainly appropriate for Europe to assess and modernize solvency regulation in Europe, but efforts to evaluate the conformity of sovereign third countries to an untested system clearly require an outcomes-based approach in the equivalence process. As set forth in our FSAP Self Assessment, where we evaluated the U.S. insurance regulatory system against international standards, we demonstrate how we meet or exceed the vast majority of international standards set forth in the IAIS Insurance Core Principles. As this demonstrates, the U.S. system of financial solvency oversight - including its highly acclaimed accreditation and peer review mechanism - represents a tried, tested and successful national system of state-based regulation. We previously communicated several specific concerns regarding Solvency II, including its over-reliance on the use of internal models and ERM to set capital requirements, and the

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allowance of diversification benefits in a group structure, including unregulated entities. Of perhaps greater concern is the fact that Solvency II was designed prior to the current economic upheaval and has not been adequately adjusted to reflect the new realities of the financial markets and the supervision thereof. Increasing regulatory deference to financial institutions to determine appropriate capital levels, though appropriate in targeted areas, contradicts reforms of supervisory regimes presently contemplated and proposed around the world in light of the financial crisis. The lack of experience under Solvency II is highlighted by the controversy over draft CEIOPS implementing measures that would reportedly require insurers to hold excessive capital - prudential advice that should be free from being undermined by political forces.

"Third country" review: With proven efficacy supervising approximately 40% of the world's insurance market, the U.S. national system of state-based insurance regulation should receive consideration and support as an "equivalent" solvency regime. There have been public comments from representatives of the EU Commission and the Parliament that the U.S. cannot be found equivalent because, when it comes to insurance regulation, the U.S. is not a "country." Some of the European views expressed on the U.S. state-based system are at best misinformed interpretations of the U.S. insurance regulatory system; at worst, it is a thinly veiled intrusion into a domestic political debate over how the U.S. chooses to regulate its insurance market and would threaten to undermine important consumer protections. Furthermore, this position ignores the extensive harmonization in place in the national system of state-based regulation in the U.S. In fact the U.S. state-based system closely parallels the structure of

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the EU’s Member State-based approach which preserves the sovereignty of local authorities and enhances consumer protection. Of course, the US system has 138 years of experience on which our state-based approach is based. Two significant differences between the U.S. and Europe are (1) the level of coordination and cooperation among U.S. states established over years of operating under the same regulatory system, and (2) the NAIC’s Financial Regulation Standards and Accreditation Program (the “Accreditation Program”). As a model for enhancing multijurisdictional supervisory harmonization in Europe, the NAIC’s Accreditation Program is a comprehensive peer review ensuring that the rules that form the foundation of a standardized approach to financial regulation are enforced. To be accredited, states not only have to demonstrate that they have the legal authority, but also the resources, personnel and capacity necessary to meet the standards. Ensuring consistent implementation and enforcement of common standards in Europe’s Member State environment will ultimately require the checks and balances inherent in our Accreditation system.

Outcomes-Based Approach: The NAIC strongly favors an outcomes-based approach to evaluating “equivalence.” In a proposed framework for reform of reinsurance regulation, U.S. regulators have proposed a mechanism for assessing “supervisory recognition” that is outcomes-based. An outcomes-based process, which is consistent with IAIS work on “supervisory recognition”, should accept that a system can adequately satisfy stated principles and objectives using different means. Therefore, although indicators are useful, the highest level of emphasis should be placed on those indicators representing “outcomes” or “objectives” achieved, with less emphasis placed on the specific practices or procedures utilized by a particular supervisory system. We

Noted. Please see  
- revised text on the role and usage of indicators under each Chapter  
- new par. 1.9 of introduction for references to IAIS

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understand that CEIOPS does not advocate an approach that merely "ticks the box" for compliance with each indicator; to reinforce this, we suggest providing explicit language in the paper indicating that, although the indicators will be used as guidance, jurisdictions will not be required to meet every indicator in order to be deemed equivalent. We look forward to sharing with you our methodology and experience with assessing adherence to national standards on a multijurisdictional basis under the NAIC's Accreditation Program. Our methodology and experience would be instructive and provide guidance to CEIOPS on how observance (observed/largely observed) will be applied since an equivalence assessment leads to consequences that have a direct impact on transatlantic commerce and the abilities of US insurers to operate on a level playing field in Europe.

U.S. reinsurance collateral rules. U.S. prudential measures requiring collateral for liabilities transferred to unlicensed reinsurers should not be an impediment to a finding of U.S. "equivalence." Comments in the equivalence debate about U.S. reinsurance collateral rules stand as a further example of the unhealthy intrusion of EU political objectives into a U.S. prudential matter. A truly outcomes-based approach to equivalence would focus on the strengths and validity of a supervisory approach and not differences regarding valid prudential measures. Nevertheless, some EU policymakers have stated clearly that, as long as the U.S. requires any collateral from unlicensed reinsurers – entities over which U.S. regulators have no direct authority – the U.S. cannot be deemed equivalent. The oversight of reinsurance credits granted to ceding companies in the U.S. is premised on the reinsurer being licensed in the U.S.; however, rather than prevent financial statement credits with respect to unlicensed reinsurers, U.S. regulators

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		<p>created an exception that allows credit for cessions to an unlicensed reinsurer if those liabilities are backed up by collateral. In terms of market impact, far from the barrier to trade decreed by some EU politicians, non-U.S. reinsurers dominate the U.S. market.</p> <p><input type="checkbox"/> Reciprocity: As other nations/regions move to undertake an equivalence analysis, has the EU considered the impact of possible inconsistent findings of equivalence by different jurisdictions? We suggest that CEIOPS consider adding a reference to bilateral analysis of reciprocity for equivalence as a way to prevent possible inconsistent results. Further, it is highly likely that, if the U.S. were to undertake an equivalence assessment of the EU system, only a high-level, outcomes-based approach to equivalence would find the European system of regulation equivalent because, notwithstanding significant agreement on general principles and even necessary outcomes, varying degrees of differences in the legal regimes, marketplaces, consumer protections and corporate cultures inevitably will result in different means of achieving the same end.</p>	Noted
39.	XL Capital Ltd	<p>General Comment</p> <p>We support a principles-based approach in CP 78 which presents the criteria to be used to assess third country equivalence, stating the key supervisory principles encapsulated in the Solvency II Directive and the objectives that each supervisory principle seeks to achieve.</p> <p>However, much of CP 78 appears, in our view, to be over prescriptive, including the long list of detailed "indicators" of equivalence, which CEIOPS refer to as "guidance" (para 2.3.7), but include within the blue box text. This presentation creates uncertainty as to whether all the indicators have to apply on a</p>	<p>Noted.</p> <p>Noted. Please also see redraft in first paragraph in the advice form each of the 3 Chapters</p>

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			<p>mandatory basis. . We believe that this very detailed approach is likely to lead to a checkbox mentality, which we feel is unhelpful and inconsistent with the principles-based approach noted above. We suggest that the indicators be removed from the blue text and placed in an appendix or annex and clearly titled as Guidance Notes.</p> <p>Also many of the indicators appear to overlap or duplicate one another, and we suggest that the list could be reduced in length (see our detailed comments below).</p> <p>We are concerned that inclusion of such detailed indicators will mean that, to gain equivalence, a third country regime will need to adopt, wholesale, large elements of the Solvency II regime. If a truly principles-based approach were to be taken, the focus would be more on the outcome of the regulatory regime and its successful protection of policyholders, rather than on stipulating detailed requirements of how it should operate.</p> <p>Some of the indicators are written in general terms and therefore set a very high benchmark (for example see our comments at 2.3.11)</p> <p>Where no equivalence determination is made by the Commission and Member States are able to make their own equivalence assessment based on the equivalence criteria, we fear that inconsistent decisions may be made with the potential to create an un-level playing field.</p>	
40.	American Insurance Association	1.		
41.	Cayman	1.	It appears that in order to qualify for equivalence, a third country	Noted. Please also see redraft in

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	Islands Monetary Authority		<p>has to demonstrate that all of the principles/objectives/indicators have been satisfied on a per indicator level basis. Thus, it appears that a bottom up approach is required to satisfy equivalence.</p> <p>This formulaic approach appears to be particularly onerous, since many of the indicators are based on very detailed requirements. For example, for capital requirements - the indicator includes: use test, statistical quality standards, validation standards, documentation standards, calibration standards and profit &amp; loss attribution just to satisfy one part of one indicator under one objective for one principle. This example provides concern that would be significant distortion in third countries where subsidiaries of EU-based insurance groups would be competitively challenged vis-à-vis non-EU member state insurers and could be in some instances forced to price themselves out of the market if there is no equivalence. This would be particularly pertinent for small to mid-sized insurance carriers.</p> <p>As an alternative, rather than the one-size-fits-all approach being advocated by CEIOPS, by virtue of which to qualify, equivalence must be demonstrated for each indicator on an individual basis, perhaps a "model office" approach could be utilized by virtue of which benchmarks for each principle / objective are presented and a scaling system developed to assess equivalence on an overall, relative basis.</p> <p>Such a relative evaluation (based on a scaling system) could be implemented as means of granting latitude for alternative approaches that can be demonstrated to satisfy the principles and similarly recognize aspects of insurance practice unique to the various jurisdictions and would be a better adoption of the proportionality principle.</p>	first paragraph in the advice form each of the 3 Chapters
42.	American	1.1.	We ask that Article 1 include language to address the issues raised	Noted.

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	Insurance Association		in the immediately preceding general comment, specifically the transparency of the process for determining the criteria for equivalence and the actual process for determining equivalence in specific cases.	
43.	Bermuda Monetary Authority	1.2.	See General Comment 4: A provision should be made for third countries undergoing all three assessments.	Noted.
44.	CEA	1.2.	<p>Supporting the approach to allow for separate decisions on equivalence</p> <p>We support the approach to allow for separate equivalence assessment and decisions in the field of reinsurance supervision, group solvency or group supervision. Equivalence on all three areas might not always be of interest to a third country. However, if equivalence on all three areas would be relevant, we believe that the actual assessment process should be combined.</p> <p>There is a substantial overlap in the indicators that are applicable in each field. Therefore, we would urge that these overlaps would be recognised during the assessment process with respect to the information that third countries need to provide to EU review team. Indeed, there is no need require information with regard to the same issue (e.g. on valuation of assets and liabilities or technical provision) three times (as this is the indicators are applicable in all three areas of potential equivalence).</p> <p>However, since the same language is used for most of the overlapping indicators, it appears that CEIOPS would not apply a different methodology or weighting to these in relation to the different areas of equivalence under Solvency II. Therefore, if CEIOPS would intend to apply differences in the weighting for the</p>	Noted.

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			<p>same indicators when considering these for the different areas of equivalence, it would be useful if CEIOPS could make this clear and clarify the methodology it will use.</p> <p>Editorial comment: as it may not be fully clear to which "particular articles" is referring to, we would suggest to clarify the sentence as follows:</p> <p>"Each chapter of advice is designed to stand alone, since third countries can be assessed separately in respect of reinsurance supervision (art 172, chapter 2), group solvency (art 227, chapter 3) or group supervision (art 260, chapter 4) particular articles".</p>	
45.	DIMA (Dublin International Insurance & Management	1.2.	<p>DIMA notes that the final advice acknowledges that third countries can be assessed separately in respect of particular Articles and recommends that this should always be the case in practice. In view of the different purposes of equivalence, DIMA does not agree that where there are common elements between the three Articles that a consistent approach is valid, not least because of the asymmetrical commercial implications. This general reservation is elaborated further in general comment above, "Relevant and realistic criteria to achieve equivalence recognition".</p>	Noted.
46.	GDV	1.2.	<p>Supporting the approach to allow for separate decisions on equivalence</p> <p>We support the approach to allow for separate equivalence assessment and decisions in the field of reinsurance supervision, group solvency or group supervision. Equivalence on all three areas might not always be of interest to a third country. However, if equivalence on all three areas would be relevant, we believe that the actual assessment process should be combined.</p> <p>There is a substantial overlap in the indicators that are applicable in</p>	Noted.

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			<p>each field. Therefore, we would urge that these overlaps would be recognised during the assessment process with respect to the information that third countries need to provide to EU review team. Indeed, there is no need require information with regard to the same issue (e.g. on valuation of assets and liabilities or technical provision) three times (as this is the indicators are applicable in all three areas of potential equivalence).</p> <p>Therefore, it would be useful if CEIOPS could elaborate on the methodology for equivalence testing and the weighting applied to the principles and objectives regarding each specific chapter.</p> <p>It would be useful if CEIOPS could elaborate a bit on the methodology</p> <p>Furthermore, as this is an important point and it may not be fully clear to which "particular articles" is referring to, we would suggest to clarify the sentence as follows:</p> <p>"Each chapter of advice is designed to stand alone, since third countries can be assessed separately in respect of reinsurance supervision (art 172, chapter 2), group solvency (art 227, chapter 3) or group supervision (art 260, chapter 4) particular articles".</p>	
47.	Guernsey Insurance Company Management Association	1.2.	The ability to consider and obtain Equivalence separately under Articles 172, 227 and 260 is supported.	Noted.
48.	IOMCA	1.2.	The ability to consider and obtain Equivalence separately under Articles 172, 227 and 260 is supported.	Noted.

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49.	Swiss Financial Market Supervisory Authority, FINM	1.2.	See General Comment 3: Need to address procedure for third countries going through at least two elements of equivalence testing.	Noted.
50.	Swiss Insurance Association (SIA)	1.2.	Need for a combined equivalence process We support the taken approach to allow for separate equivalence assessment regarding Article 172, 227 and 260. Nevertheless there might be third countries which are applying for equivalence in more than one part. A combined assessment process could therefore be of interest, because of the overlap of principles, objectives and indicators in each chapter. It would be helpful if this overlap could be defined in order to require this information only once from the third country supervisor applying for all areas equivalence is tested. If the weighing of principles and objectives are different between chapters, it would be useful, if CEIOPS could elaborate on the methodology for equivalence testing applied.	Noted.
51.	American Insurance Association	1.3.	The paper notes that the indicators provide "guidance". We ask that the role of indicators be clarified. By guidance, we assume that not all of the indicators must be present in order to satisfy the principle. However, it is not clear how the principle will be assessed if all of the indicators are not present.	Noted. Please also see redraft in first paragraph in the advice form each of the 3 Chapters
52.	Association of Bermuda Insurers and Reinsurers (AB)	1.3.	As stated above, we support deeming equivalence if the third country regime meets the principles and objectives as opposed to individual indicators. A statement should be added in this paragraph, consistent with what has been said orally by CEIOPS representatives as follows: "An equivalency decision will be based on the scope of the regulatory framework and its success at achieving regulatory objectives as described by the principles and	Noted. Please also see redraft in first paragraph in the advice form each of the 3 Chapters

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			objectives in this paper.” In addition, to make sure this is not viewed by others as a “box ticking exercise”, and sentence such as this should be added: “A jurisdiction can be found to meet the principles and the objectives without having met all the indicators. Indicators are not conclusive proof of the objective or principles having been met.”	
53.	Bermuda Monetary Authority	1.3.	See General Comments 3, 4 and 5: While appreciating what CEIOPS hopes to achieve under each principle/objective, the assessment should be risk-based and more focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. The assessment should primarily seek to ensure that jurisdictions effectively meet the desired supervisory outcomes (i.e. comparable levels of protection for policyholders in the European Union). We appreciate that the indicators are important and provide supervisors with guidelines, however there may be cases depending on the characteristics of a particular market where they may not apply. For example, the protection objective may be met in another jurisdiction requiring collateralisation of policyholder obligations rendering a specific indicator unnecessary.	Noted. Please also see redraft in first paragraphs in the advice from each of the 3 Chapters
54.	CRO	1.3.	We refer to our general comments 78C and 78D. In order to clarify the role of principles and objectives vs. indicators, we suggest reformulating the second part of the section in the following way: ‘In order to be considered equivalent, a 3rd country regime will have to meet each of the principles and objectives laid in this advice. For each principle and objectives, a list of indicators has been developed that are examples providing guidance when assessing whether the relevant principles and objectives are met. The existence of any of these indicators in a jurisdiction should	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters

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			assist the assessment although their existence is not necessary. An assessment of equivalence needs to be pragmatic and take into consideration the general objectives of the 3rd country's regime as well as its outcome – which is the adequate protection of policyholders.	
55.	Group of North American Insurance Enterprises, Inc	1.3.	<p>We suggest the deletion of the words "each of" in the second sentence, so it reads, "In order to be considered equivalent, a third country regime will have to meet the principles and objectives laid out in this advice." As we stated in our general comments, the equivalence assessment should not require that all objectives are judged to be "fully observed." As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p> <p>We further suggest that CEIOPS emphasize the statement that the evaluation is to be based on the principles and objectives and that the indicators are "guidance." We support this approach, but believe that the importance of this statement is lost by being made only at the end of this paragraph. We suggest it be reiterated in a separate paragraph.</p>	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters
56.	Guernsey Financial Services Commission	1.3.	<p>Clarification is needed regarding the process for using the indicators to assess whether each objective has been achieved. In particular whether every indicator has to be met in full or whether equivalence can be achieved if some indicators are not met or are only partially met.</p> <p>If not all indicators have to be met in order to achieve an objective then there should also be an indication of the relative importance of the various indicators.</p>	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters

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57.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	1.3.	We suggest that when a third country is being assessed for two or three of the types of equivalence, the exercises should be merged to avoid duplication. We appreciate that such merging would need to take account of the particular focus required for each type of equivalence.	Noted.
58.	KPMG ELLP	1.3.	<p>We agree that the assessment of equivalence should be based on principles and objectives. However, we feel CEIOPS could go further in this regard and confirm explicitly that it is equivalence of outcome that is the driver behind the equivalence assessment, and not equivalence of processes.</p> <p>We understand that the indicators set out in the rest of the paper to support the principles are positioned as guidance, but by including these within the Level 2 Advice, there is a danger that, at least where the assessment of equivalence is conducted by EEA supervisors (as indicated within Annex 1, paragraph A1.4), these indicators could result in some form of checklist approach being applied, as opposed to merely providing guidance as to how the principles may be evidenced.</p> <p>In this regard, we note that Annex 1 paragraph A1.14 suggests that the equivalence assessment process will start from a self-assessment completed in a form of questionnaire. We would welcome CEIOPS producing this questionnaire in the short term, so that the level of detail is known.</p> <p>We also highlight, as stated in our general comments above, that the indicators included in the paper are very highly linked to the Solvency II requirements, many of which will not be directly replicated outside the EEA. We believe that Third Country supervisors will wish to be able to assess the extent to which their</p>	<p>Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters.</p> <p>Also, please note new paragraph 1 in the Annex</p>

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			<p>own existing regime would be regarded as acceptable for equivalence, and what the implications of any gaps might be.</p> <p>We therefore believe it would be helpful if CEIOPS could include some indicators, based on their knowledge of other regulatory regimes, which do not mirror the Solvency II details, but provide a similar level of policyholder protection. We include some examples in our general comments, but suggest that reference to the IAIS GUIDANCE PAPER ON THE MUTUAL RECOGNITION OF REINSURANCE SUPERVISION (October 2008) would be a useful addition in relation to indicators.</p> <p>Finally, we question whether “each of the principles and objectives” must be met. Paragraph A1.14 of the Annex requires self-assessment by third country supervisors against five categories, including “partially observed” and “not observed”. We believe that the equivalence assessment is unlikely to be a straightforward process and that a large degree of pragmatism is likely to be required. It would be helpful to understand whether CEIOPS really intends that this is read as “each and every”, which may be difficult to achieve. We would prefer deletion of “each of” from this sentence.</p> <p>We comment further on specific concerns in this regard against relevant paragraphs later in this response.</p>	
59.	METLIFE	1.3.	<p>We believe that more guidance should be provided regarding the extent that each of the indicators should be achieved in order to allow some flexibility and to give clarity to supervisors in EU and non EU territories.</p> <p>We also would recommend that the Indicators should be changed to the status of Level 3 guidance rather than directly applicable Regulations under Level 2. This would facilitate the flexibility available to supervisors of all territories in reaching decisions which</p>	<p>Noted. Please also see</p> <ul style="list-style-type: none"> <li>- new last paragraph in the Introduction</li> <li>- redraft in first paragraph in the advice from each of the 3 Chapters</li> <li>- new paragraph 1 in the Annex</li> </ul>

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			<p>ensure policy-holder protection without imposing over-rigid like-for-like requirements on third country regimes.</p> <p>Although we welcome this flexibility, we note that based on the current reading of the consultation paper there is a lot of scope for supervisors to arrive at a different conclusion regarding an equivalence assessment for a supervisory regime. We believe that all assessments should be reviewed by a specialist Sub Committee within CEIOPS reporting to the Commission, to improve consistency. Such a Sub Committee might need to have representatives from the EIOPC or European Parliament to ensure inter-institutional balance.</p>	
60.	Property Casualty Insurers Association of America	1.3.	<p>As we stated above, the assessment should not require that all objectives are judged to be "fully observed". As long as the objectives are observed in general and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p>	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters.
61.	Reinsurance Association of America	1.3.	<p>We suggest the deletion of the words "each of" in the second sentence, so it read, "In order to be considered equivalent, a third country regime will have to meet the principles and objectives laid out in this advice." As we stated above, the assessment should not require that all objectives are judged to be "fully observed". As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p> <p>We further suggest that CEIOPS emphasize the statement that the evaluation is to be based on the principles and objectives and that the indicators are "guidance." We support this approach, but believe that the importance of this statement is lost by being made only at the end of this paragraph. We suggest it be reiterated in a separate paragraph.</p>	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters.

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62.	Swiss Financial Market Supervisory Authority, FINM	1.3.	See General Comment 1: With a focus on equivalence/equivalence testing in regards of scope and impact no need to meet every aspect of the objectives and even less so of every indicator.	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters.
63.	Swiss Insurance Association (SIA)	1.3.	Need for a holistic view instead of "ticking boxes" It is not clear to which extend the principles and objectives have to be met and how the indicators will be assessed, suggestion therefore is to slightly amend the second sentence as follows: "In order to be considered equivalent, a third country regime will have to largely meet the principles and objectives laid in this advice"; see also 2.3.7.	Noted. Please also see redraft in first paragraph in the advice from each of the 3 Chapters.
64.	Group of North American Insurance Enterprises, Inc	1.4.	We support the decision not to require an internal model regime to be in place as a prerequisite to equivalence. While the focus on internal models in Europe has prompted other regimes to assess the value of internal models in regulatory oversight, the process itself is still developing and it would be premature to add such a requirement.	Noted.
65.	Guernsey Insurance Company Management Association	1.4.	We agree that the model required for equivalence should not be specified. We believe that a domicile such as Guernsey should be able to have its own model, suiting its different types of regulated business (for instance captives or third party reinsurers).	Noted
66.	INTERNATIONAL UNDERWRITING ASSOCIATION	1.4.	We suggest that it should be stipulated that assessment of internal models regimes should focus on outcomes and not methodologies. Recognition needs to be given to the ingenuity and originality of other administrative traditions and cultures. Flexibility is also essential in a fast-changing world.	Noted. Also please see redraft in advice regarding the specificities for the internal model.

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67.	IOMCA	1.4.	The ability not to have an internal model and still be equivalent is supported.	Noted
68.	KPMG ELLP	1.4.	<p>We welcome the fact that an internal models regime is not deemed to be a prerequisite for equivalence.</p> <p>However, it is not clear from chapter 4 to what extent the existence, or absence, of a group internal model will impact on the groups aspects of Solvency II.</p>	Noted. Please also see redraft of the specificities for the internal model in chapter 4 advice
69.	METLIFE	1.4.	<p>In paragraph 1.4 CEIOPS say that they do 'not consider that the existence of an internal models regime is a prerequisite to a positive equivalence determination under any of the relevant Articles of the Solvency II directive.' They go on to say that 'where an internal models regime exists...then the internal models regime needs to be equivalent to that established under the solvency II Directive'. We would agree that the existence of some kind of regulatory regime on internal models does not in itself prove equivalence with Solvency II. Indeed, we would argue that the supervision of internal models needs to proceed with considerable caution, since internal models should not be a means for companies to avoid higher capital requirements and take unacceptable risks which distort competition and ultimately result in consumer detriment and macro-economic instability. Regulators in all territories should be highly alert to the possibility that more responsible entities who have a low risk appetite and keep high levels of solvency capital may be at a disadvantage if other players decide to take a riskier approach using internal models with lower levels of capital to offer lower prices but at a higher risk to consumers and the wider economy.</p> <p>In the U.S., solvency and capital standards are set by state</p>	Noted.

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			<p>insurance department regulators. A prime solvency measure, Risk Based Capital (RBC), is determined by a combination of factor-based and principle-based (i.e., a methodology that utilizes a company's experience) approaches. These approaches capture both asset and liability risks with a solvency perspective.</p> <p>In addition to capital requirements, state insurance department regulators require extensive cash flow testing, using best estimates with provisions on adverse deviations, to ensure the level of reserves is adequate based on the assets covering them. Companies are expected to pass these tests under a variety of interest rate scenarios.</p> <p>Models are used for certain aspects of solvency determinations. The models are typically prescribed by the National Association of Insurance Commissioners (NAIC), the umbrella group for the state insurance departments. Although there can be various solvency standards by state, there is typically uniformity via NAIC requirements. Our US regulators generally do not permit insurance company-specific models, except in certain situations where the model results must fall within prescribed parameters. However, companies often can use their own experience as a basis for assumptions employed in the regulator-prescribed models. U.S. regulators believe that company-specific models would lead to solvency standard inconsistencies among companies and trigger significant review and audit responsibilities for regulators</p>	
70.	XL Capital Ltd	1.4.	We support that CEIOPS does not consider that the existence of an internal models regime is a prerequisite to a positive equivalence determination. This indicates a level of flexibility which we would like to see throughout the CP.	Noted
71.	American	1.5.	This paragraph suggests some flexibility, especially the last phrase	Noted

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	Insurance Association		which states that "adjustments to accounting standards may be needed". We believe such flexibility is needed, especially in view of the fact that intentional accounting standards for insurance are now the subject of intense international discussion. We also believe that for supervisory and accounting purposes, asset and liability valuation should reflect economic reality within the relevant legal structure of the market in which insurance products are offered. From this perspective, it may not be necessary to tie the primary objective to international accounting developments.	
72.	Bermuda Monetary Authority	1.5.	The principles of economic valuation are highly desirable. It should be appreciated that a number of assumptions and uncertainties underpin economic valuations, particularly in the absence of deep and liquid markets. Jurisdictions have approached this in a variety of ways, from adding conservatism (e.g. prohibiting discounting) to using measures thought to be more reliable under certain circumstances. Given that the primary goal should be protection of policyholders in the European Union, we believe that conservatism and reliability should be given appropriate recognition. The area of valuation should be viewed in its broadest sense, and in the context of acceptable international practice.	Noted
73.	DIMA (Dublin International Insurance & Management	1.5.	In noting and welcoming the adjustments to be applied to International Accounting policies, DIMA wishes to highlight the need to contemplate adjustments in respect of Embedded Derivatives/Guarantees and Options, in particular with regard to reversing adjustments for Own Credit Risk and with regard to any adjustment required to harmonise the valuation of liabilities on a risk-free rate consistent with that required by final Level 2 implementing measures.	Noted
74.	Group of	1.5.	This paragraph should be applied flexibly, given the current	Noted

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	North American Insurance Enterprises, Inc		divergence in asset and liability valuation rules among jurisdictions that perform successful solvency regulations and the difficulty in developing coherent international insurance liability valuation standards. Even the term "economic approach to valuation" is being extensively debated at the IAIS and IASB and we are uncertain at this point that international accounting standards will be consistent with an economic valuation of assets and liabilities.	
75.	KPMG ELLP	1.5.	<p>CEIOPS refers to an economic approach to the valuation of assets and liabilities as a "primary objective" and recognises that adjustments to accounting standards may be needed to arrive at an "economic approach".</p> <p>Not all regulatory regimes adopt an economic balance sheet approach to the valuation of assets and liabilities. It would be helpful if CEIOPS would clarify whether the absence of this would be sufficient, of itself, to prevent a positive equivalence assessment. Where this is not the case, where local GAAP does not deliver this for statutory reporting, please could CEIOPS state clearly whether it would expect a different valuation approach to assets and liabilities for regulatory purposes?</p>	Noted.
76.	Property Casualty Insurers Association of America	1.5.	This paragraph should be applied flexibly, given the current divergence between asset and liability valuation rules between jurisdictions that perform successful solvency regulations, and the difficulty in developing coherent international insurance liability valuation standards.	Noted
77.	Swiss Financial Market Supervisory Authority, FINM	1.5.	Already today, not only in case of future developments, an economic approach requires adjustments to the accounting standards (e.g. economic valuation of liabilities).	Noted

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78.	Bermuda Monetary Authority	1.6.	See General Comment 2: The draft methodology should accompany this CP so that there is greater clarity of the assessment against the technical criteria.	Noted. Please also new paragraph 1 in the annex.
79.	DIMA (Dublin International Insurance & Management	1.6.	DIMA would welcome early Level 3 implementing measures as the expectation would be that it would answer many of the questions posed in the comments.	Noted. Please also see: - new last paragraph of the introduction - new paragraph 1 in the annex.
80.	KPMG ELLP	1.6.	It is disappointing that CEIOPS has not yet been able to provide more details on the approach that will be applied to the equivalence assessment (other than the high level text in Annex 1). We urge CEIOPS to accelerate its proposals in this area as far as possible, in order to bring clarity to Third Country supervisors and the insurers which operate within those markets regarding the likely outcome of any equivalence assessment.	Noted. Please also see: - new last paragraph of the introduction - new paragraph 1 in the annex.
81.	METLIFE	1.6.	We would reiterate the comments we have made on Paragraph 1.3 above.	Please see 59
82.	Swiss Financial Market Supervisory Authority, FINM	1.6.	It would be very helpful to include the full methodology or at least the important elements (as addressed under General Comment 1) into the present advice.	Noted. Please also see: - new last paragraph of the introduction - new paragraph 1 in the annex.
83.	Cayman Islands Monetary Authority	2.	There is no commentary regarding whether there would be latitude for a phase in (or transition) with respect to demonstrating equivalency. Similar to the issues recognized under CEIOPS Consultation #79, moving to the full risk based capital platform and	Please see general comments on transitional measures. No transitional measures proposed.

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			<p>corresponding risk management requirements required to satisfy equivalence under the proposed approach could be disruptive to smaller market places leading to over-domination by larger carriers. This would certainly significantly increase the cost if implemented at a per company level.</p> <p>In general, it appears that CEIOPS Consultation #78 is most applicable to large insurance and reinsurance holding company structures where there would be concern with inappropriate movement (or recognition) of assets, technical provisions and capital for purposes of disguising possible financial/solvency concerns that would jeopardize stakeholder interests. Applying the equivalency criteria to small monoline insurance carrier would have very little positive impact with respect to the expressed intended purpose (protection of policyholders and beneficiaries), while simultaneously the onerous requirements would be counterproductive to the growth and ultimately stability of the alternative risk transfer industry / marketplace.</p>	<p>Noted, see amended text 2.3.5. (proportionality principle)</p>
84.	DIMA (Dublin International Insurance & Management	2.	<p>The advice does not currently, and should completely, address all matters of equivalence relating to a reinsurance branch in a Member State of an undertaking (reinsurance or insurance) with its head office in a third country. This oversight requires correction. DIMA would welcome clarification as to how such entities will be treated. (See general comments "European reinsurance branch of a third country undertaking (insurance or reinsurance)" above, and comments under 2.1.9.)</p>	<p>Treatment of EU branches of 3<sup>rd</sup> country reinsurers is not explicitly covered by the L1 text. (CEIOPS will consider if L3 guidance is needed)</p>
85.	METLIFE	2.	<p>We believe it is unlikely that many third country supervisory regimes will be deemed equivalent when Solvency II is introduced. In such an event, it would be helpful to consider possible interim arrangements which would allow increased cooperation between EU and non-EU supervisors, and possible mutual recognition of supervisory practices in some areas, even if this falls short of</p>	<p>Please see no. 83. No transitional measures are proposed, however the absence of equivalence is not a barrier to supervisory cooperation, and CEIOPS remains keen to promote increased</p>

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			formally-agreed equivalence. This would have the advantage of allowing companies from outside the EU and third-countries themselves to work towards achieving equivalence at a later date.	supervisory cooperation internationally.
86.	Sun Life (IE)	2.	The advice does not currently, and should completely, address all matters of equivalence relating to a reinsurance branch in a Member state of an undertaking (whether reinsurance or insurance) with its head office in a third country. We would welcome clarification as to how such entities will be treated. (See General Comments and comments under 2.1.9)	Please see no. 84
87.	Swiss Financial Market Supervisory Authority, FINM	2.3.5	See General Comment 2: <input type="checkbox"/> Indicator under first bullet to be modified as to "comparable to the standard formula or standard model based on the local rules". <input type="checkbox"/> Indicator under third bullet to be reduced by deleting "profit and loss attribution".	See amended text of 2.3.53 Disagree. Please see L1 text – art. 123
88.	Guernsey Insurance Company Management Association	2.1.1.	This section only refers to reinsurance business. The difficulty this gives for domiciles who wish to consider equivalence is that it is unclear whether such domiciles need to apply the same regulatory processes to all insurance and reinsurance business within their domicile to meet equivalence or whether it only needs to be applied to reinsurance business which interacts with EU insurers. Clarification of this point is requested.	Disagree. Equivalence will be determined by reference to the overall regime in the 3 <sup>rd</sup> country concerned. Please see L1 text – art. 172.
89.	IOMCA	2.1.1.	The criteria only refers to reinsurance activities and does not provide for those non EU domiciles which contain captive insurance companies which directly insure parental risks. What is the proposal or thought process for domiciles with insurance captives?	Equivalence will be determined by reference to the overall regime in the 3 <sup>rd</sup> country concerning reinsurance, including that applying to captives. Please see L1 text – art. 172.  Direct insurance is not in the

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				scope.
91.	Guernsey Insurance Company Management Association	2.1.3.	EU Fronting Insurers we have spoken to have confirmed that they would still expect to apply collateral requirements for their own purposes as part of commercial arrangements. There does not appear to be clarity as to whether such collateral will allow those insurers to take credit for the related reinsurance even if to a non-equivalent domicile; we believe it should be made clear that collateral should be given credit for solvency within the EU framework.	Noted. Please redrafting under 2.1.3.
92.	IOMCA	2.1.3.	The requirement that Members States cannot require pledging of assets to cover outstanding claims provisions is supported however fronting insurers may still require security from unrated reinsurers based upon their own internal capital models. Is there any way to strengthen this point?	Please see 91
93.	KPMG ELLP	2.1.3.	<p>This paragraph articulates some of the benefits of equivalence, although the impacts of not gaining equivalence are not clearly articulated.</p> <p>We recognise that the question of equivalence could have a significant commercial impact for some insurers/insurance groups, including on their group and capital structure. These are areas that may take some time to change, leading to a wish for an indication of likely decisions and indicative timelines for the assessment process.</p> <p>We would therefore encourage CEIOPS to consider how a regime should be considered while it progresses through the equivalence assessment process and, in particular, whether some form of grandfathering could be adopted – for example, preventing the imposition of collateral requirements during the appraisal process.</p>	For transitional/grandfathering measures – please see 83.

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94.	US National Association of Insurance Commissioners	2.1.3.	<p>With respect to collateral requirements, U.S. regulators note the following:</p> <p>1) Some ceding entities consider collateral to be an important component of a sound risk management strategy. Under any system of solvency regulation or assessment of such system, it is important that ceding entities neither be prohibited nor discouraged from negotiating collateral requirements on a contract by contract basis.</p> <p>2) In the current U.S. system, collateral requirements for non-U.S. licensed assuming insurers are considered to be a matter of prudential solvency regulation. Under an outcomes-based assessment, such requirements should be considered no less effective with respect to ensuring the protection of policyholders and solvency of ceding companies.</p> <p>3) In light of developments in the area of supervisory recognition and regulatory cooperation, U.S. regulators are working toward implementation of a modernized approach to reinsurance regulation. This approach would provide an opportunity for reduction and recalibration of collateral requirements with respect to non-U.S. licensed assuming insurers under appropriate circumstances.</p>	Noted..
95.	DIMA (Dublin International	2.1.4.	DIMA acknowledges and welcomes the opportunity for bilateral negotiations between Council and third countries in accordance with Article 175. DIMA endorses strongly the CEIOPS advice that the	Noted.

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	Insurance & Management		criteria developed in respect of Article 172(1) and the results of any equivalence assessments under Article 172(3) should also be relevant for a proposal by the Commission under Article 175. DIMA would state more strongly that a full equivalence assessment should be a mandatory part of the proposal process under Article 175. It also believes that there is at least a consultative role for industry stakeholders to play in such a process.	
96.	IOMCA	2.1.4.	The market access criteria states the position with respect to reinsurance undertakings. Is there a similar proposal to deal with domiciles with insurance captives	Please see 89 (reinsurance only) and note that L1 text – art. 175 relates only to reinsurance undertakings.
97.	METLIFE	2.1.4.	In paragraph 2.1.4 CEIOPS says that in the case where a third country regime is not deemed equivalent for reinsurance purposes it will be up to individual Member States to assess the equivalence of a third country’s solvency regime. In such cases, it would be helpful to have clarification on what CEIOPS believes the impact would be on companies such as MetLife Europe who use EU passporting arrangements to transact business in a number of EU Member States from headquarters in Ireland. It is not clear whether a decision by the Irish Government or regulator would be sufficient to decide equivalence for all reinsurance activities carried out by a company based in Ireland but carrying out business in a number of EU Member States.	Equivalence assessments do not apply in relation to EU undertakings.
99.	Deloitte	2.1.5.	We believe that L3 guidance that would promote convergence between member states is essential and we welcome CEIOPS further guidance in this regard.	Noted.
100.	DIMA	2.1.5.	DIMA notes that ‘in the absence of an equivalence decision (Article	Noted. CEIOPS is required to

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	(Dublin International Insurance & Management		<p>172) by the Commission, the treatment of reinsurance contracts with insurance companies with their head office in a third country remains a matter for each Member State.'</p> <p>Effectively, Article 174 ensures a 'no better' treatment by the host state for third country reinsurance undertakings. However, this by itself does not ensure a level playing field for European reinsurers vis-à-vis non-EU reinsurers for EU business. If the home state prudential supervision of the third country reinsurer is less onerous for some or all of the business in question, then it will still have a competitive advantage relative to European reinsurers.</p> <p>DIMA believes that to avoid such an unintended consequence, there should be no scope for a Member State to opt-in an undertaking whose third country home state fails to meet the requirements of the Directive.</p> <p>In the circumstance that there has been no determination of equivalence established for a third country regulatory system by the Commission, it should be ensured that the determination undertaken by a Member State should be of sufficient rigour to ensure that there is no competitive advantage for reinsurers located in that third country.</p> <p>Note that this still leaves the issue of how "non-equivalence" is to be treated by Member States in the context of Article 172.</p>	<p>operate within the context of the L1 text but will consider if L3 guidance is needed</p>
101.	Guernsey Insurance Company Management Association	2.1.5.	<p>Member States are not precluded from making their own verification of equivalence of third countries if the Commission has not already taken a decision. We would welcome clarification as to how far down the application and discussion process a third country regulator could proceed with an equivalence application, before a decision one way or the other by the Commission would take place and be binding. This point is relevant to article 227 (3.1.5) below also.</p>	<p>The EC is not required to make reinsurance equivalence determination</p> <p>The EC decision supersedes all national decisions, but its absence, MS may wish to carry out their own equivalence</p>

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			We welcome the ability of the Member State to be able to assess the equivalence of a third country regime on an individual company basis. This enables an opt-in/opt-out approach whereby only those third country (re)insurers with links to the EU (and then only those that choose to) are subject to the Solvency II regime. This point is relevant to article 227 (3.1.5) below also.	assessments. Equivalence of a 3 <sup>rd</sup> country regime will be subject to assessment. Whilst the outcome of the assessment will be relevant to individual companies, the assessment is not on an individual company basis.
102.	IOMCA	2.1.5.	It may not be necessary to provide Level 3 guidance on this issue until the stance taking by Member States can be established. If the possibility is taken up by a number of Member States then consistency maybe relevant.	Noted
103.	KPMG ELLP	2.1.5.	We would welcome level 3 guidance regarding Member State equivalence assessment practices. In the absence of this, there could become an unlevel playing field, with different member states making different assessments of the same regulatory regime.  In this regard, we note that (at least as regards Article 172) some assessments of third country regimes have already been undertaken in relation to the Reinsurance Directive. It would be helpful if CEIOPS could provide some clarity regarding the extent to which this assessment will influence the Solvency II equivalence assessment. In particular, whether there will be any form of grandfathering/transitional arrangements in relation to those regimes currently regarded as equivalent.	Noted  While elements of an existing equivalence assessment of a 3 <sup>rd</sup> country regime under the reinsurance Directive may be relevant to the SII equivalence determination, the SII equivalence requirements are more extensive. Consequently no grandfathering is anticipated.

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104.	METLIFE	2.1.5.	Please note our comments on paragraph 1.3.	Please see reply on par. 1.3.
106.	Association of Bermuda Insurers and Reinsurers (AB	2.1.6.	We agree with the statement that the reinsurance equivalency assessment should consider reinsurance sold by pure reinsurers and insurers that sell both insurance and reinsurance. The CEIOPS survey on "mixed insurers" indicates a disparity of treatment of these reinsurance providers across the EEA. We believe inclusion of this measure in the equivalency assessment will help move the EEA to a common treatment of reinsurance whether sold by a pure reinsurer or an insurer selling both insurance and reinsurance. The conclusion here is consistent with the comments previously provided by the Commission. We have suggested a conforming amendment in paragraph 2.3.22.	Noted.
107.	DIMA (Dublin International Insurance & Management	2.1.6.	DIMA notes that CP78 interprets the reference to 'undertakings' in Article 172 to mean insurance or reinsurance undertakings. (See comment 2.1.8 and general comment above, "European reinsurance branch of a third country undertaking (insurance or reinsurance)".)	Noted.
108.	Groupe Consultatif	2.1.6.	We welcome the clarification that the scope includes insurers writing reinsurance. This will be important for intragroup cessions in insurance groups.	Noted.
109.	KPMG ELLP	2.1.6.	As Article 172 deals with undertakings that write reinsurance business, this is wider than pure reinsurers. It may be helpful to confirm that this means that assessment will cover both the regimes applying to pure and mixed reinsurers.	Noted. Please see redrafting under 2.1.6.
110.	Swiss Financial Market Supervisory	2.1.6.	Is additional information required from third countries who went through an equivalence assessment under the Reinsurance Directive?	Yes. Please see 103.

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	Authority, FINM			
111.	Swiss Insurance Association (SIA)	2.1.6.	Need for more detail on procedural aspects What additional information is required from third countries that have been recognised as equivalent under the Reinsurance Directive? A transitional period may be helpful in order to avoid market distortions when changing to Solvency II in the EEA.	Please see 110. CEIOPS will be developing the methodology as L3 guidance.
112.	CEA	2.1.7.	We believe that Section 2 of Chapter IX (Articles 172-175) should also be included in the assessment criteria (this is within the scope as defined by Article 172).	Agreed. Please see amended text.
113.	GDV	2.1.7.	We believe that Section 2 of Chapter IX (Articles 172-175) should also be included in the assessment criteria (this is within the scope as defined by Article 172).	Please see 112.
114.	Group of North American Insurance Enterprises, Inc	2.1.7.	We agree with scope of this paragraph and agree that it would be inappropriate to include a group supervision requirement in the reinsurance assessment. The assessment should not require that all objectives are "fully observed." As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.	Noted. Please see cover letter.
115.	Reinsurance Association of America	2.1.7.	We agree with scope of this paragraph and agree that it would be inappropriate to include a group supervision requirement in the Reinsurance assessment. The assessment should not require that all objectives are "fully observed". As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.	Noted. Please see cover letter.
116.	US National Association	2.1.7.	This paragraph references Article 129, which provides among other items, the Solvency II system for capital and related governance.	Noted.

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	of Insurance Commissioners		We suggest clarification that these very specific requirements, which differ from country to country, should not be requirements for equivalence. U.S. regulators do not disagree with the principles associated with capital requirements, but are opposed to any suggestion that Solvency II capital requirements are necessary. The same could be said of numerous other items within articles 1-144.	
117.	DIMA (Dublin International Insurance & Management)	2.1.8.	DIMA notes that CP78 interprets the reference to 'undertakings' in Article 172 to exclude Special Purpose Vehicles. The basis for restricting the interpretation in this way is unclear, particularly given the interpretation noted in 2.1.6.	Agreed. Please see redraft on 2.1.8.
118.	DIMA (Dublin International Insurance & Management)	2.1.9.	Overall, the language used in 2.1.9 of CP78 is difficult to understand in its intent as there appears to be some erroneous cross-references to the Framework Directive. Firstly, Chapter VIII (with relevant provisions being Articles 145 to 161 inclusive) deals with the right of establishment and freedom to provide services provisions applicable to EU authorised undertakings (authorised in accordance with Article 14) and that carry on insurance or reinsurance activities either by way of establishment or by way of freedom of services. Chapter IX deals with insurance or reinsurance activities of third country undertakings. Section 1 of Chapter IX (Articles 162 to 171) deals with insurance, including insurance branches, whereas Section 2 (Articles 172 to 175 inclusive) deals with reinsurance, albeit it does not explicitly refer to branches.  If the intended interpretation is that "head office" means the branch office established within a Member State of a third country undertaking, and that "rights of establishing a branch office within the community" apply to third country insurance and reinsurance undertakings, then it is clear on reading the Framework Directive that the requirements regarding rights of establishment of branch	Noted. References revised.  Noted. Text amended.

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offices within the Community only refer to third country insurance undertakings and do not refer to third country reinsurance undertakings, i.e. the Framework Directive does not have requirements set out with respect to the establishment of EU reinsurance branches of third country undertakings. Reading the relevant Articles in sequence:

Article 162(1) states:

“Member States shall make access to the business referred to in the first subparagraph of Article 2(1) by any undertaking with a head office outside the Community subject to an authorisation.”

The business referred to in the first sub-paragraph of Article 2(1) is direct life and non-life insurance business as follows:

“This Directive shall apply to direct life and non-life insurance undertakings which are established in the territory of a Member State or wish to become established there”, which clearly does not include reinsurance business within its scope. In addition, Article 162(3) refers to a branch being a branch that is required to be authorised in accordance with Article 162(1) and pursues insurance business.

Thus, 2.1.9 is incorrect in its assertion that the rights of establishing a branch office within the Community per Articles 162 to 171 refer to both insurance and reinsurance undertakings as it is clear from the text in the Framework Directive that these particular Articles only deal with insurance branches of third country insurance undertakings. Articles 172 to 175 deal only with reinsurance business but do not make explicit reference to third country undertakings (whether insurance or reinsurance) that carry on reinsurance activities from a branch in the EU even though the title to Chapter IX of “branches established within the community and belonging to insurance or reinsurance undertakings with head

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			<p>offices situated outside the Community” would suggest that such a structure is contemplated. That said, where a third country undertaking (whether insurance or reinsurance) conducting reinsurance activities has achieved equivalent status under Article 172, it is not illogical to conclude that the Framework Directive deliberately does not explicitly concern itself with whether such undertakings are carrying on reinsurance activities from a branch within the EU or carrying them on from that third country directly. We would welcome confirmation of this interpretation.</p> <p>This section should be read in conjunction with the general comments above, “European reinsurance branch of a third country undertaking (insurance or reinsurance)”.</p>	
119.	Sun Life (IE)	2.1.9.	<p>It is difficult to understand the intent of this paragraph as there appears to be some erroneous cross references to the Framework Directive. Firstly, Chapter VIII (with relevant provisions being Articles 145 to 161 inclusive) deals with the right of establishment and freedom to provide services provisions applicable to EU authorised undertakings (authorised in accordance with Article 14) and that carry on insurance or reinsurance activities either by way of establishment or by way of freedom of services.</p> <p>Chapter IX deals with insurance or reinsurance activities of third country undertakings. Section 1 of Chapter IX (Articles 162 to 171 inclusive) deals with insurance only, including insurance branches. Section 2 of Chapter IX (Articles 172 to 175 inclusive) deals only with reinsurance business but does not make explicit reference to third country undertakings (whether insurance or reinsurance) that carry on reinsurance activities from a branch in the EU even though the title to Chapter IX of “branches established within the community and belonging to insurance or reinsurance undertakings</p>	Noted..

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			<p>with head offices situated outside the community” would suggest that such a structure is contemplated. That said, where a third country undertaking (whether insurance or reinsurance) conducting reinsurance activities has achieved equivalent status under Article 172, it is not illogical to conclude that the Framework Directive deliberately does not explicitly concern itself with whether such undertakings are carrying on reinsurance activities from a branch within the EU or carrying them on from that third country directly. We would welcome confirmation of this interpretation.</p> <p>This section should be read in conjunction with the General Comments.</p>	
120.	DIMA (Dublin International Insurance & Management)	2.2.1.	DIMA notes that the wording of Article 172 (1) of the Framework Directive is too narrow in scope. It does not contemplate assessing the supervision of non-reinsurance activities of an undertaking with its head office in third country when clearly such non-reinsurance activities could ‘contaminate’ the reinsurance activities. DIMA anticipates that the Commission will not be restricted by the wording of the Directive and will be able to adopt a more holistic approach than implied by it.	Noted
121.	Guernsey Insurance Company Management Association	2.2.1.	We refer to 2.1.1	L1 text
122.	IOMCA	2.2.1.	This should be expanded to include insurance activities where undertaken by a captive insurance company.	L1 text

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125.	DIMA (Dublin International Insurance & Management)	2.2.3.	<p>DIMA notes that 'in the absence of an equivalence decision (Article 172) by the Commission, the treatment of reinsurance contracts with insurance companies with their head office in a third country remains a matter for each Member State.'</p> <p>Effectively, Article 174 ensures a 'no better' treatment by the host state for third country reinsurance undertakings. However, this by itself does not ensure a level playing field for European reinsurers vis-à-vis non-EU insurers for EU business. If the home state prudential supervision of the third country reinsurer is less onerous for some or all of the business in question then it will still have a competitive advantage relative to European reinsurers.</p> <p>DIMA believes that to avoid such an unintended consequence, there should be no scope for a Member State to opt-in an undertaking whose third country home state fails to meet the requirements of the Directive.</p> <p>Therefore DIMA suggests that in the absence of a positive equivalence determination (Article 172) for any third country, that country should be deemed non-equivalent. That is non-equivalence would be the (Article 172) default position for each third country until it receives a positive equivalence determination. This approach could be subject to grandfathering of reinsurance arrangements with third country undertakings in existence at a certain date yet to be decided. (See 2.1.5 and general comment above, "Commercial implications".)</p> <p>Note that this still leaves the issue of how "non-equivalence" is to be treated by Member States in the context of Article 172.</p> <p>Also, see comment on 2.2.4 below.</p>	Extensive interpretation of L1 text. Please see 2.1.5.

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126.	DIMA (Dublin International Insurance & Management	2.2.4.	See comments made earlier in relation to lack of consistency with respect to phraseology in Articles 172 to 175 as further described in general comments above, "European reinsurance branch of a 3rd Country undertaking (insurance or reinsurance)". DIMA would welcome clarification.	Please see 118.
127.	Sun Life (IE)	2.2.4.	See comments made earlier in relation to lack of consistency with respect to phraseology in Articles 172 to 175 as further described in General Comments.	Noted
128.	DIMA (Dublin International Insurance & Management	2.2.5.	See comment 2.1.4.	Please see 95
130.	American Insurance Association	2.3.1.	We agree with the principle that equivalence assessment of a 3rd country's supervisory system should be focused on whether the country ensures protection of the policyholder and beneficiaries. However, definitions are lacking on some concepts used in this paragraph, such as what constitutes a "fair and stable market". We believe another aspect of the main question that should be added is: "whether the supervisory system complies with the OECD recommendations, guidelines and checklist on effective and efficient financial regulation, issued on December 3, 2009."	Noted.  Please see, the assessments are undertaken on the basis of SII.
131.	Association of Bermuda Insurers and Reinsurers (AB	2.3.1.	We support that the overriding test for assessing a third country supervisory system against the criteria is whether its supervisory system ensures the protection of policyholders and beneficiaries in an equivalent manner under Title 1. In the absence of a system to measure contribution to financial stability it would be difficult to assess. Further, factors relating to contributions to a "fair and	Equivalence is determined by reference to principles and objectives.

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			stable market" are even more difficult to quantify and therefore are totally subjective dependent on the assessor(s). It is important that the assessment be measured against principles that are clearly understood and measurable.
132.	Bermuda Monetary Authority	2.3.1.	In our General Comment 3, we reiterate that while we support CEIOPS' desire to ensure that policyholders in the European Union are equally protected regardless of whether purchasing coverage from an insurer based in a third country, we request that CEIOPS also acknowledges in CP 78 that some third country regimes have classes of (re)insurers that operate almost solely outside the European Union, in markets that have laws ensuring high levels of policyholder protection. The regulatory and supervisory frameworks in such countries could account for this and may not require the provisions proposed in Solvency II to achieve the similar levels of policyholder protection.
			The equivalence assessment is on the supervisory regime of the 3 <sup>rd</sup> country concerned and it would be difficult to take into account supervisory regimes with which that country interacts.
133.	Deloitte	2.3.1.	The requirement for the supervisory system to contribute towards 'financial stability and a fair and stable market' appears to be a secondary consideration alongside the primary requirement of policyholder and beneficiary protection. Is this the case, and would the absence of the former result in a failure to demonstrate equivalence?  The consideration of whether the supervisory system "contributes to financial stability and a fair and stable market" noted in paragraphs 2.3.1 and 4.3.1 is not explicitly addressed in the principles and indicators set out in CEIOPS advice in sections 2 and
			Noted.

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			4 Also applies to 4.3.1.	
134.	Group of North American Insurance Enterprises, Inc	2.3.1.	We agree entirely with the first sentence that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.	Noted.
135.	KPMG ELLP	2.3.1.	<p>It is not clear whether CEIOPS is attempting to extend the scope of the Directive in its choice of wording. As shown in paragraph 2.2.1, Article 172 refers to the "solvency regime ... is equivalent to that laid down in Title I", but the wording here includes "protection of policyholders and beneficiaries ... in an equivalent manner to that applicable under Title I". This could be construed as requiring equivalence of process as well as of outcome, and we ask CEIOPS to clarify that its intention is equivalence of outcome.</p> <p>The CP uses phrases such as, in this paragraph, "in an equivalent manner" and "meeting the principles and objectives laid out in this advice", which could be construed in different ways. Consistency of definition of the purpose of equivalence and use of the same language throughout the CP would be helpful</p>	<p>Noted. Please see revised text of 2.3.1.</p> <p>Noted</p>
136.	Property Casualty Insurers Association of America	2.3.1.	We agree entirely with the first sentence that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to	Noted. Please see 130.

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			<p>measure whether those objectives are being met.</p> <p>This comment also applies to paragraph 4.3.1.</p>	
137.	Reinsurance Association of America	2.3.1.	<p>We agree entirely with the first sentence that “the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I.”</p> <p>We believe it is premature to include an assessment of “whether the supervisory system also contributes to financial stability and a fair and stable market” until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.</p>	Noted. Please see 130.
138.	US National Association of Insurance Commissioners	2.3.1.	<p>U.S. regulators agree with the premise of the “main question” in this section, and again emphasize that this “equivalence” assessment should not focus on the existence of prescriptive practices and procedures included within the Solvency II Directive; rather, the analysis should focus on whether the supervisory regime of the third country accomplishes the primary objective of supervision, i.e., the protection of policyholders. As stated before, equivalence should focus on the outcomes of the system, and should only provide that a level of regulation that is no less effective than the level achieved by those jurisdictions that have implemented the Solvency II Directive.</p>	Noted.
139.	CRO	2.3.10.	<p>References to the articles should be removed from the advice and discussed in the background section</p> <p>The language of the principles and objectives should avoid the potential reference to specific articles, which may themselves be indicators of a principle in the Solvency II Framework. (see general comment 78D for details)</p>	Article numbers have been used for transparency purposes, to indicate the legislative base underlying specific indicators against which equivalence will be assessed

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140.	ABI	2.3.11.	"Freedom from undue political, governmental and industry interference in the performance of supervisory responsibilities" Difficult to assess more principle than indicator	Noted
141.	American Insurance Association	2.3.11.	Clarification should be provided for the terms "undue" and "interference". In the U.S., and we suspect in most countries, it is not possible to provide for an insurance supervisory framework without some political, governmental and industry involvement. When does involvement cross the line to become "undue interference"?	Noted. CEIOPS recognises that all supervisory authorities are subject to independence and accountability requirements.
142.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.11.	With regard to dot point four "adequate financial and non-financial resources" we have a comment and a question. Is there an assessment being made within the EEA of the "financial and non-financial resources", including skilled staff, that is being made of all the EEA jurisdictions? If there is not such an evaluation being made then we don't see how it can be made with regard to non-EEA jurisdictions?	SII requires MS to provide supervisory authorities with the resources to fulfil their obligations as set out in the Directive. It is anticipated that this will be subject to peer review.
143.	CEA	2.3.11.	We would suggest to remove "Adequate financial and non-financial (e.g. sufficient numbers if appropriate skilled staff) resources" an indicator. Indeed, EEA supervisory authorities do not have the same level of resources either and therefore the assessment whether these resources are sufficient in a third country would be highly judgemental.  This comment also applies to 4.3.31.	Please see 142.
144.	CRO	2.3.11.	Indicators should be removed from the advice Indicators provide useful examples for interpreting the objectives of	CEIOPS offers a clear indication of what it proposes it should be looked at as part of the

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			<p>the principles however they should not become part of a legally binding text such as the Level II implementation measures. (see general comment 78D for details)</p> <p>On the second bullet "Freedom from undue political, governmental and industry interference in the performance of supervisory responsibilities", this will be difficult to assess and should not be an indicator.</p>	<p>assessment process.</p> <p>Please see 141</p>
145.	Deloitte	2.3.11.	<p>As specified in 2.3.1, and commented upon above, there is a requirement for the supervisory system to contribute towards 'financial stability' and a 'fair and stable market'. Given this requirement, should the indicators listed also make reference to the roles and accountabilities of each individual authority in the 3rd country, in cases where more than one authority exists, as well as how they work towards their common objectives?</p> <p>Also applies to 4.3.31.</p>	<p>The main objective of supervision is set in Recital 16 of the SII ie adequate protection of policyholders and beneficiaries. Indicators focus on this.</p>
146.	FFSA	2.3.11.	<p>5. "Adequate financial and non-financial (e.g. sufficient numbers if appropriate skilled staff) resources" is proposed as an indicator.</p> <p>As all EEA supervisory authorities do not have the same level of resources cross Europe, FFSA suggests to delete this indicator or to clearly set up the expected threshold of resources.</p>	<p>Please see. 142</p>
147.	GDV	2.3.11.		
148.	Group of North American Insurance	2.3.11.	<p>We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.</p>	<p>While assessments are to be done in respect to SII, for its advice to EC, CEIOPS would intend to take into account all available</p>

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	Enterprises, Inc			information as noted in par. 1.9
149.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.11.	Second bullet point: Instead of identifying specific types of undue interference, it might be simpler and clearer just to refer to "harmful interference". Otherwise, certain forms of interference could be missed, while normal dialogue with government or industry could also be too easily represented as undue.	Please see 141. It is not the intention to restrict normal dialogue with stakeholders.
150.	KPMG ELLP	2.3.11.	As stated in 2.3.3, we would prefer all indicators to be removed from the formal Advice and included only in the white text. In addition, we would like to see some indicators that are not heavily drawn from the Level 1 text, to provide indications of alternative approaches that may be deemed equivalent in terms of policyholder and beneficiary protection. We believe this would be helpful to third country supervisors in performing a self-assessment of their regime when the equivalence questionnaire is available.  [Note: comment is relevant to all indicators throughout the CP and is not replicated in subsequent paragraphs]	Please see 144.  The nature of the indicators reflects the fact that the equivalence assessments are done by reference to SII.
151.	Swiss Financial Market Supervisory Authority, FINM	2.3.11.	Last bullet: Should it not relate to "reinsurance activities of undertakings" in accordance with 2.1.6.	CEIOPS believes that supervisory powers should apply in respect of insurance and reinsurance undertakings and not just in respect of reinsurance activities.
152.	Swiss Insurance Association (SIA)	2.3.11.	Stringent requirements for third countries as for EEA  Fourth bullet: EEA supervisory authorities could lack an adequate level of financial and non-financial resources. Therefore this should not be an indicator for equivalence and should apply to the third	Please see 144.

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			country supervisory authority. We suggest deleting this bullet. This applies to 4.3.31, too.	
153.	XL Capital Ltd	2.3.11.	Some indicators set a very high benchmark, and while we understand the sentiment behind these, the wording is so general that it is very difficult to see how one would draw the line between pass and fail. For example "The third country supervisory authority should have... Freedom from undue political, governmental and industry interference in the performance of supervisory responsibilities". There will always be some level of political, governmental and industry involvement, but it is not clear how one would determine this to be "undue".	Please see 141. .It is not the intention to restrict normal dialogue with stakeholders.
154.	ABI	2.3.12.	" - Ability to ensure compliance with laws, regulations and administrative provisions (including through onsite inspections) - Communication of concerns , including those relating to the undertaking's financial position" Overlap with 2.3.17  "- Obligation on the (re)insurer to respond to concerns raised." Overlap with 2.3.14	Noted. Please see amended text from 2.3.12 onwards
155.	CRO	2.3.12.	This indicator refers to the existence/extent of [supervisory] powers in respect of insuring compliance. The indicators in the bullet are very broad and therefore cause unnecessary duplication in later paragraphs.	Noted. Please see amended text from 2.3.12 onwards
156.	Group of	2.3.12.	We believe that most of the indicators here are common to the IAIS	Please see 148

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	North American Insurance Enterprises, Inc		standards and that a positive FSAP report should be an indicator of compliance.	
157.	Group of North American Insurance Enterprises, Inc	2.3.13.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	Please see 148
158.	ABI	2.3.14.	Overlap with 2.3.12	
159.	CEA	2.3.14.	We would suggest to align the wording closer to that of the Solvency II Framework Directive (Article 34(3)): "Ability of supervisory authority to obtain information necessary to conduct the supervision of from the undertaking." This comment also applies to 4.3.34.	Noted. Please see amended text from 2.3.12 onwards
160.	CRO	2.3.14.	There is overlap between this point and the last bullet point of 2.3.12 creating potential duplication. We suggest that the each bullet point in 2.3.12 is expanded to address the types of powers supervisors should have and the obligations that should apply to firms to avoid unnecessary repetition and duplication.	Noted. Please see amended text from 2.3.12 onwards
161.	GDV	2.3.14.		
162.	Group of North	2.3.14.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of	Please see 148

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	American Insurance Enterprises, Inc		compliance.	
163.	XL Capital Ltd	2.3.14.	This section should be incorporated within 2.3.12 "Existence / extent of powers in respect of Financial supervision"	Noted. Please see amended text from 2.3.12 onwards
164.	CEA	2.3.15.	<p>While we believe it is appropriate for CEIOPS to consider the powers of a third country's supervisory authority, it should be ensured that a third country supervisory authority would not be required to meet more stringent conditions than EEA supervisory authorities in this respect. Therefore in order to ensure that CP78 does not go beyond Article 62 we propose the following wording: "... Such measures may consist, for example, of injunctions, penalties against directors and managers, or suspension of the exercise of the voting rights attaching to the shares held by the shareholders or members in question...).</p> <p>This comment also applies to 4.3.35.</p>	Noted. Please see amended text of 2.3.15.
165.	FFSA	2.3.15.	<p>6. In order to be in line with the article 62 in the Level 1 Solvency II Directive, the wording should be:</p> <p>7. "Existence of powers in respect of:</p> <p>8. Persons (natural/legal) whose actual/proposed qualifying holding may operate against prudent/sound management, for example:</p> <ul style="list-style-type: none"> <li>- Injunctions</li> <li>- Penalties against directors/managers</li> </ul>	Noted. Please see amended text of 2.3.15.

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			<ul style="list-style-type: none"> <li>- Suspension of voting rights attaching to shares held by relevant shareholders/members</li> <li>- Nullity of votes cast / possibility of annulment</li> </ul> <p>9. Qualifying holding acquired despite opposition of supervisory authority:</p> <p>10. Suspension of voting rights</p> <p>11. Nullity of votes cast / possibility of annulment".</p> <p>These powers do not exist in all European jurisdictions. As a result, the FFSA suggest to not include this indicator in the list of indicators to assess the powers and the responsibilities of the third country supervisory authority.</p>	
166.	GDV	2.3.15.	<p>While we believe it is appropriate for CEIOPS to consider the powers of a third country's supervisory authority, it should be ensured that a third country supervisory authority would not be required to meet more stringent conditions than EEA supervisory authorities in this respect. Therefore in order to ensure that CP78 does not go beyond Article 62 we propose the following wording: "... Such measures may consist, for example, of injunctions, penalties against directors and managers, or suspension of the exercise of the voting rights attaching to the shares held by the shareholders or members in question...).</p> <p>This comment also applies to 4.3.35</p>	Noted. Please see amended text of 2.3.15.
167.	Group of North American	2.3.15.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	Please see 148.

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	Insurance Enterprises, Inc			
168.	Swiss Financial Market Supervisory Authority, FINM	2.3.15.	See General Comment 2: Suspension of voting rights and nullity of votes cast/possibility of annulment to be deleted twice as indicators under the first and second bullets (other mechanisms may be available).	Noted. Please see amended text of 2.3.15.
169.	Swiss Insurance Association (SIA)	2.3.15.	Need for a holistic view instead of "ticking boxes" Second bullet: the suspension of voting rights and nullity of votes cast / possibility of annulment might not be given in this manner in third countries. Alternative supervisory measures should be allowed for. Same comment applies to 4.3.35.	Noted. Please see amended text of 2.3.15.
170.	Group of North American Insurance Enterprises, Inc	2.3.16.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	Please see 148
171.	ABI	2.3.17.	Overlap with 2.3.12	Noted. Please see amended text
172.	CRO	2.3.17.	2.3.17 - This point overlaps with the first bullet of 2.3.12.	Noted. Please see amended text
173.	XL Capital Ltd	2.3.17.	This section should be incorporated within 2.3.12 "Existence / extent of powers in respect of Financial supervision"	Noted. Please see amended text of 2.3.15.
174.	ABI	2.3.18.	"Indicator - Enforcement" Cooperation sounds more appropriate	Cooperation among supervisors is an underlining principle of SII and is linked to art. 34 par. 8.

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			"Ability to cooperate in respect of enforcement action" Which article of the level1 text does this indicator relates to.	
175.	Cayman Islands Monetary Authority	2.3.18.		
176.	CRO	2.3.18.	It is not clear which Article in Solvency 2 this is referring to. This overlaps with Principle 6 in paragraph 2.3.57 (which also refers to supervisory powers)	Please see 174
177.	Swiss Financial Market Supervisory Authority, FINM	2.3.18.	Please clarify who is supposed to have the ability to cooperate.	Noted: Please see redraft
178.	Cayman Islands Monetary Authority	2.3.19.	We recognize that an objective of Principle 2 is to protect policyholder interests whereby a primary insurance carrier has ceded to a reinsurance carrier. However, it should be recognized that the nature of a reinsurance contract allows for processes which recognize the expertise inherent in both the insurer and reinsurer. The broad scope of reinsurance contracts themselves likely always include arbitration clauses for disputes and cut-through endorsements for the protection of the policyholder in the event of insurer insolvency. Recognizing that the purpose of Consultation #78 is to establish protection in the event of reinsurer insolvency, it should be clarified here that regulation of reinsurers is directly protecting the insurer and only indirectly protecting the policyholder and beneficiaries.	CEIOPS recognises a continuum of policy holder protection.
179.	Swiss	2.3.19.	It is unclear what the word "continuous" means in practice. A more	Please see L1 text – art. 29 par.1

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	Insurance Association (SIA)		general statement to the principle would be preferred.	
180.	US National Association of Insurance Commissioners	2.3.19.	U.S. regulators agree with the objective in Principle No. 2- Authorization Requirements. However, we believe the requirements of articles 14-26, and 41-50 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Please see 116 and note that equivalence assessment is to be pursued in relation to principles and objectives only.
181.	American Insurance Association	2.3.2.	We strongly support the focus on confidentiality protection in this section.	Noted
182.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.2.	Again as stated above, ensuring privacy of confidential data amongst the cooperating regulators of the group is essential and to that end we would recommend that the IAIS MMOU should be the benchmark as to whether this goal is met.	Please see 148.
183.	Bermuda Monetary Authority	2.3.2.	We support the need for information exchange to assist in dealing with cross-border issues. We believe that CEIOPS should take into account, in its equivalency assessment, the fact that third countries have demonstrated exchange of information including formal agreements and participation in the IAIS MMoU. We would recommend using the IAIS MMoU as one of the key considerations in the equivalency assessment.	Please see 148
184.	Association of Bermuda Insurers and	2.3.21.	We would suggest an additional clause to be added as follows, the new language is underlined: "Head office of the undertaking to be situated in the same country as its registered office. With regard to	Please see L1 text – art.21

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	Reinsurers (AB)		groups with head offices outside of the EEA, if the head office is not in the same country as the registered office, this indicator will not be deemed to be material if the head office or the registered office, when not in the same country, are located within the EEA or another third country found to be equivalent."	
185.	Bermuda Monetary Authority	2.3.21.	We are of the opinion that the objective of the second bullet point regarding the head office of an undertaking being situated in the same country as its registered office can be achieved by having the head office or the registered office (if not in the same country) being located in the EU, or another third country deemed to be equivalent. Under these circumstances, we would expect appropriate levels of information exchange and coordination among the respective supervisors in the affected jurisdictions.	Please see L1 text – art.21
186.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.22.	With regard to the second dot point we would suggest the following addition to be consistent with the previous references with regard to the so-called "mixed insurers": "Limitation to insurance and reinsurance operations arising directly there from for insurance companies."	Noted, please see redraft 2.3.21
187.	Deloitte	2.3.22.	We welcome the proposed standards in relation to 'operations' and believe that they represent useful criteria to be considered during the authorisation process. We note however, that despite the requirement to produce forecasts and estimates for the first three years, there is no explicit requirement to do so with reference to 'stressed' situations. Furthermore, the reference to 'financial resources' only relates to 'set-up costs' and does not appear to address the need to provide a buffer against future shocks or stresses.  Whilst indicator 2.3.51 (Capital Requirements) within Principle 5 Solvency Assessment, makes reference to the need to have capacity to absorb significant losses, we would welcome CEIOPS	Noted. Please see L1 text - art. 23 par.2

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			view on whether such considerations should also form an element of the assessment criteria at the pre-authorisation stage.	
188.	DIMA (Dublin International Insurance & Management)	2.3.22.	The limitation of insurance to an insurance company is neither consistent with current practice nor with commercial considerations (particularly of those groups transacting global business, insurance and reinsurance), nor is it consistent with application of the three pillar framework of Solvency II that combines a coherent framework of reserving & capital requirements (Pillar 1), corporate governance & risk management (Pillar 2) and disclosure (Pillar 3).	Please see 186 and redraft.
189.	Guernsey Insurance Company Management Association	2.3.22.	Our understanding is that equivalence criteria will not necessarily include a minimum capital amount, but clarification of this point would be appreciated	CEIOPS would expect to see a clearly defined minimum capital requirement but not lay day a specific amount.
190.	IOMCA	2.3.22.	It would be helpful to confirm that the equivalence criteria are to have a minimum capital requirement and that there is no specification as to what this should be on a quantitative basis.	Please see 189.
191.	KPMG ELLP	2.3.22.	In some jurisdictions, the limitations suggested in the first two bullets may not apply. We do not believe this should prevent recognition as an equivalent regime, provided it is clear that appropriate regulatory safeguards exist to mitigate any resultant risk to policyholders and beneficiaries.	Please see amended text and L1 text - art. 18.
192.	SII Legal Group	2.3.22.	CEIOPS proposes a limitation to reinsurance and related operations for pure reinsurance  Companies and a limitation to insurance and operations arising directly therefrom for insurance companies. These limitations have been grandfathered word for word from the Solvency I regime and have not been considered as a matter of policy or cost benefit analysis as part of the Solvency II project. In particular there is no	Noted. Please see amended text.

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			<p>apparent reason why the restriction applicable to reinsurers should be less stringent than the restriction applicable to direct/mixed insurers (especially when they are writing reinsurance business). In any event these restrictions are interpreted in such widely differing ways in different member states of the EU that no real harmonised practice can be discerned.</p> <p>An alternative approach might be for (re)insurers to be required to manage and provide in capital modelling for internal contagion risk arising from non (re)insurance operations.</p>	
193.	Sun Life (IE)	2.3.22.	The limitation of insurance to an insurance company is neither consistent with current practice nor with commercial considerations (particularly of those groups transacting global business, insurance and reinsurance) nor is it consistent with application of the three pillar framework of Sol II that combines a coherent framework of reserving & capital requirements (Pillar 1), corporate governance & risk management (Pillar 2) and disclosure (Pillar 3).	Noted. Please see amended text.
194.	Swiss Financial Market Supervisory Authority, FINM	2.3.22.	See General Comment 2: Estimates regarding Minimum Solvency Requirement to be deleted as indicator under the third bullet.	CEIOPS would expect to see a clearly defined minimum capital requirement but not lay day a specific amount.
195.	Swiss Insurance Association (SIA)	2.3.22.	<p>Solvency II language may not directly apply to requirements in third countries; need for a holistic view</p> <p>Third bullet: we suggest a new wording "... estimates regarding for example future Solvency Capital Requirements, Minimum Capital Requirements, the financial recourses intended to cover technical provisions and capital requirements"</p>	Please see amended text.

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196.	Deloitte	2.3.23.	<p>(a) Is there a requirement to identify shareholders / members with qualifying holdings beyond the 'registered keeper' stage? In cases where holdings are registered in nominee accounts, is there a requirement to ascertain 'beneficial ownership'?</p> <p>(b) Does the assessment of 'reputation' referred to, also extend to cover 'suitability' with respect to the owner / acquirer of a regulated institution?</p>	<p>Please see L1 text – art. 24.</p> <p>Yes, in line with L1 text – art. 26</p>
197.	Bermuda Monetary Authority	2.3.24.	See General Comment 6: The term "continuous" should be clarified in the context of this indicator.	Noted.
198.	Swiss Financial Market Supervisory Authority, FINM	2.3.24.	See General Comment 2: Indicator under first bullet to be clarified.	Please see amended text
199.	Swiss Insurance Association (SIA)	2.3.24.	It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred.	Please see amended text
200.	US National Association of Insurance Commissioners	2.3.24.	The term "close links" may not be used or commonly understood in third countries. Perhaps the indicator should be expanded, as third countries may have adequate supervisory systems to address related concerns; however, the standards/laws may not specifically align with the EU definition of "close links".	Please see amended text
201.	Swiss Financial	2.3.25.	See General Comment 2: Indicator under last bullet to be clarified.	Noted

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	Market Supervisory Authority, FINM			
202.	Swiss Insurance Association (SIA)	2.3.25.	Third bullet: we suggest deleting this bullet as it has no legal basis in the Solvency II framework.	Please see L1 text – art.19 and 24
203.	Swiss Financial Market Supervisory Authority, FINM	2.3.26.	Last bullet: Should it not relate to “reinsurance activities of undertakings” in accordance with 2.1.6.	Noted. Please see new text inserted as to use and limits of application for the proportionality principle
204.	US National Association of Insurance Commissioners	2.3.26.	U.S. regulators agree with the objective in Principle No. 3-System of Governance. However, we believe the indicators are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Noted
205.	ABI	2.3.27.	<p>“The establishment and maintenance of adequate risk management, compliance, internal audit and actuarial functions is expected.”</p> <p>Does not seem to take into account the principle of proportionality for smaller firms in particular.</p> <p>Unclear how this is compatible with outsourcing.</p>	Please see amended text – 2.3.9.
206.	Bermuda	2.3.27.		

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	Monetary Authority			
207.	Cayman Islands Monetary Authority	2.3.27.	Principle 3. (System of Governance) and specifically Section 2.3.27, clearly recognizes the nature of the risks inherent to the business of an insurance or reinsurance undertaking. It is both reasonable and prudent to reflect the difference in risk characteristics (insurance, operating and financial) based on class of company and size considerations. However, the paper seems to infer that such an approach can be implemented but makes no reference to the "principle of proportionality". As noted in earlier comments, this would be competitively detrimental, without further guidance, to small and mid-sized insurance carriers.	Please see amended text – 2.3.9.
208.	CRO	2.3.27.	The statement 'is expected' makes this principle an indicator. We refer to our general comment 78C & 78D. This paragraph is an example where the criteria definition is too prescriptive and equivalent assessment needs to apply a pragmatic approach. It shall not be required to establish "functions" in order to be equivalent. The same objective can be achieved, if a 3rd country regime requires companies to have a risk management system in place and to ensure compliance with laws and regulation. This does not necessarily require a single department or unit in one company's organization.	Please see amended text – 2.3.9.
209.	Guernsey Insurance Company Management Association	2.3.27.	As we set out in our response to CP79, the role of the Captive Manager is key to many captives and will assist many captives in having the resource and technical expertise to meet equivalence where required.	Please see L1 text – Article 49 and the amended text – 2.3.9.
210.	IOMCA	2.3.27.	In the case of captive insurance/reinsurance companies a number of these functions are outsourced to professional insurance managers. It would be helpful to recognise that the outsourcing of	Please see L1 text - Article 49 and the amended text – 2.3.9.

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			these functions does not impact upon equivalence.	
211.	KPMG ELLP	2.3.27.	The wording of this paragraph could be read as meaning that the required functions under Solvency II must feature in the third country regulatory regime. We believe that alternative methods of governance and risk management should not be discounted and the wording here should not refer to expectations.	Please see amended text – 2.3.9.
212.	SII Legal Group	2.3.27.	Third country reinsurers should not necessarily be expected to have actuaries for non-life business. IAIS has noted that “the requirement to have a responsible actuary in non-life insurance is less prevalent than for life business” and in some third countries there may be no pool of qualified non-life actuaries. In this respect the objectives to be achieved by the governance functions should be expressed in terms which do not require the function to be performed by an individual described as an “actuary”.	Please see L1 text – Article 48
213.	Swiss Financial Market Supervisory Authority, FINM	2.3.27.	See General Comment 1: Risk management, compliance and internal audit may be assured by separate functions or activities of various organisational units in an insurance undertaking. Same scope and impact may be reached differently. Thus no need to meet the requirement of separate FUNCTIONS as set out in this objective.	Please see amended text – 2.3.9.
214.	Swiss Insurance Association (SIA)	2.3.27.	Need for a holistic view instead of “ticking boxes” Risk management, compliance and internal audit may be assured by separate functions or activities of various organisational units in an insurance undertaking. Therefore we do not see any need to meet the requirement of separate functions as long as the objective is assured.	Please see amended text – 2.3.9.
215.	ABI	2.3.28.	“Insurance and reinsurance undertakings shall be committed to disclose publicly a report of their financial performance.” In our view this is a rule/requirement but neither a principle nor as	Noted and please see amended text.

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			an objective.  "transparency" This is an objective.	
216.	Bermuda Monetary Authority	2.3.28.	See General Comment 4: The principles/objectives/indicators need to be both streamlined and consistently applied across all three assessments.	Noted.
217.	CRO	2.3.28.	Similar to our comments on public disclosure made in the consultation on CP58 as well as in the CRO-Forum paper on "Public risk disclosure under Solvency II" we consider that this requirement can be met at Group level. In particular this requirement does not have to be met by regulatory requirements but can also be met by accounting or public listing requirements.  The statement "the establishment and maintenance of adequate risk management, compliance, internal audit functions is expected" is an indicator and not a principle or objective and does not take account of proportionality.	Please see CP 58  Please see amended text – 2.3.9.
218.	Deloitte	2.3.28.	Is the disclosure of the financial performance report referred to here, the same disclosure of 'solvency and financial conditions (SFCR)' referred to in 2.3.36, which goes beyond simple financial performance?	Yes as the two are linked.
219.	Guernsey Insurance Company Management Association	2.3.28.	We believe transparency should apply to policyholders not necessarily members of the general public. So where the policyholder is also the shareholder, disclosure to the shareholder would be sufficient. Other key stakeholders (such as fronting insurers) will be able to obtain disclosure they require through the normal commercial process without disclosure being a matter of regulation or statute.	Noted. We believe transparency is important for market discipline.

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220.	Heritage Insurance Management Limited (Guernsey)	2.3.28.	See 2.3.36	See 2.3.36
221.	IOMCA	2.3.28.	In the case of captive insurance/reinsurance companies the policyholder is usually also the shareholder hence there should be no need to disclose publicly a report of financial performance. Transparency is to be supported however there needs to be proportionality.	Please see 219.
222.	KPMG ELLP	2.3.28.	We agree that some form of disclosure of the financial strength and performance should be required, but the level and form of disclosure should be considered further. As drafted, the indicators in 2.3.36 suggest that CEIOPS is seeking something akin to the level of disclosure in the Solvency and Financial Condition Report (although perhaps to a lower standard), and we would suggest that the level of additional regulatory disclosure required should be assessed against the background of other public disclosures made (such as in the financial statements and other filings).	Please see amended text – 2.3.9.
223.	Swiss Financial Market Supervisory Authority, FINM	2.3.28.	Is this objective met by the publication of annual financial statements?	Reply depends on the content and structure of the financial statements.
225.	XL Capital Ltd	2.3.28.	“Insurance and reinsurance undertakings shall be committed to disclose publicly a report of their financial performance.”  We do not view this as an “objective”.	Please see amended text

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			Also it is not clear whether this report of financial performance would require the same rigor as the SFCR.	
226.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.3.	Consistent with previous comments, we would suggest adding the following clause which is underlined: "For each principle and objective the 'indicators' of equivalency are also outlined – namely, those factors which provide guidance in determining whether the relevant principles and objectives are achieved. It is not required that all indicators be met as a condition of meeting the principle or objective."	Please see redraft – 2.3.7 tbd
227.	Bermuda Monetary Authority	2.3.3.	See General 3, 4 and 5: While appreciating what CEIOPS hopes to achieve under each principle/objective, the assessment should be risk-based and more focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. The assessment should primarily seek to ensure that jurisdictions effectively meet the desired supervisory outcomes (i.e. comparable levels of protection for policyholders in the European Union).	Proportionality – tbd and reference to 2.3.7.
228.	KPMG ELLP	2.3.3.	We welcome the inclusion of 'indicators' provided they do not become used as a prescriptive checklist for equivalence in practice. For this reason, we would prefer these to be removed from the formal Advice and included only in the white text.	Please see above.
229.	Swiss Financial Market Supervisory Authority, FINM	2.3.3.	See General Comment 1: Equivalence/equivalence testing in regards of scope and impact, no need to meet every single aspect of objectives and even less so of every indicator.	Noted.
230.	US National	2.3.3.	To the extent that these "principles" or "indicators" focus on	Noted

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	Association of Insurance Commissioners		outcomes as opposed to practices or procedures, U.S. regulators would generally agree.	
231.	ABI	2.3.30.	<p>"Effective and well integrated Risk Management System to identify measure, monitor, manage and report (on a continuous basis)"</p> <p>Does not appear to be in line with the directive according to which capital requirement must only be monitored continuously.</p>	Advice reflects L1 text - art. 44
232.	American Insurance Association	2.3.30.	<p>While some countries recognize "fit and proper" standards, others do not. We believe that proper is the appropriate global minimum standard and that fitness is so broadly defined that it gives many opportunities for arbitrary, even abusive intervention by supervisors. It should be sufficient to require certain "proper" standards such as non-involvement in criminal, fraudulent or unsound businesses. The market should determine through performance who is "fit". An exception would be for positions, such as auditor or actuary, which require specific technical credentials.</p>	Please see 148
233.	Bermuda Monetary Authority	2.3.30.	<p>See General Comment 6: The term "continuous" should be clarified in the context of this indicator.</p>	Please see above – Level 1 text - art. 44.
234.	CRO	2.3.30.	<p>As a general comment applying to the following sections, we would like to draw CEIOPS' attention to the fact that compliance with the different functions shall not imply in practice the requirement to establish single departments or units in one company's organization. Each company shall have the possibility to set up their organizational structure in the most efficient way to comply with the Directive's requirements.</p> <p>We suggest deleting the reference to the own risk and solvency assessment (ORSA) in the 3rd bullet point, as this is a reference to</p>	<p>Proportionality principle has been included in the revised advice</p> <p>We highlight "comparable" in</p>

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			a very specific element of Solvency II. Also, details on the ORSA are still to be developed, probably at Level 3 Guidance.	front of the reference to ORSA
235.	Group of North American Insurance Enterprises, Inc	2.3.30.	Many jurisdictions do not adopt fit and proper requirements, but do have requirements for management personnel. We would suggest a broader indicator should be used.	Noted. Please see redraft.
236.	Guernsey Insurance Company Management Association	2.3.30.	Please refer to 2.3.27	Please see 2.3.27
237.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.30.	Regarding bullet point 3, we suggest that, in relation to the existence of effective, well integrated and documented risk management systems, third countries may well achieve Solvency II equivalent outcomes with a great variety of different approaches and requirements. We suggest that the criteria should expressly indicate that the focus should be on equivalent outcomes and not methodologies and specific requirements.	Noted. Please see redraft on 2.3.7
238.	IOMCA	2.3.30.	In the case of captive insurance/reinsurance companies a number of these functions are outsourced to professional insurance managers. It would be helpful to recognise that the outsourcing of these functions does not impact upon equivalence.	Outsourcing does not impact equivalence as long as adequately supervised.
239.	KPMG ELLP	2.3.30.	Bullet 3 is an example of very clear linkage with the Level 1 text, and we would suggest dropping the term own risk and solvency assessment, leaving this more generic.  The penultimate bullet refers to written administrative and accounting procedures. Given the high documentation standards	Noted.  CEIOPS cannot prescribe a certain

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			set out in the Level 1 text and other CEIOPS Advice, it may be helpful if CEIOPS were to provide an indication of the level of documentation it might expect to see in practice.	level of documentation but it does expect written procedures to be proportional and adequate for the organization using them.
240.	Swiss Financial Market Supervisory Authority, FINM	2.3.30.	See General Comment 2: Sound written administrative/accounting procedures to be deleted as indicator since subject of accounting standards (bullet six).	Please see 239
241.	Swiss Insurance Association (SIA)	2.3.30.	It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred.	Please see above
243.	DIMA (Dublin International Insurance & Management	2.3.31.	It is recommended that 'reinsurance undertaking' be changed to 'reinsurance activity' unless, for instance, 'reinsurance undertaking' can be taken to mean the reinsurance branch of a third country insurance undertaking.	Please see redraft.
244.	Heritage Insurance Management Limited (Guernsey)	2.3.31.	For captive (re)insurers, which underwrite a single policy, or small number of policies, on behalf of their parent/policyholder group, the involvement of an actuarial assessment of current and future claims may not provide any additional clarity in respect of ultimate liabilities. In fact, the application of standard actuarial formulae or assumptions to those bespoke risks insured by the captive might even create a misleading understanding of the financial position of the company.	Noted
245.	INTERNATIO	2.3.31.	It is important that reinsurers should be able to draw on actuarial	Noted. L1 text does not require

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	NAL UNDERWRIT ING ASSOCIATIO N OF LONDON		expertise in a manner that is suitable to them. In-house actuaries are not necessarily required for all actuarial needs to be met and technicians can very adequately fulfil some functions. We suggest that the criteria should specifically include an indication that the actuarial function may be fulfilled in any suitable manner, provided that adequate standards are met.	an in house actuary.
246.	SII Legal Group	2.3.31.	See comment under 2.3.27 above.	Please see 2.3.37
247.	Sun Life (IE)	2.3.31.	Change 'reinsurance undertaking' to 'reinsurance activity' unless, for instance, 'reinsurance undertaking' can be taken to mean the reinsurance branch of a 3rd country insurance undertaking. This comment can be taken as one which is applicable to CP78 overall (see General Comments).	Please see redraft
249.	Bermuda Monetary Authority	2.3.32.	See General Comment 6: The term "continuous" should be clarified in the context of this indicator.	Please see above
250.	CRO	2.3.32.	We believe that the explanation accompanying the indicator could be clarified, in particular by aligning it with the requirements laid down in Art. 38 of the Solvency II Directive.	Noted.
251.	Swiss Insurance Association (SIA)	2.3.32.	It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred. We suggest "Supervision of outsourced functions or activities equivalent to the referred EU obligations."	Please see above
252.	Swiss Financial Market Supervisory Authority,	2.3.33.	See General Comment 1 and Comment regarding 2.3.27.	Please see reply to 2.3.27

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	FINM			
253.	CRO	2.3.35.	The materiality principle should be considered in relation to the Auditors' duty to report and therefore we suggest to reword the first 2 bullet points to state: 'material breach of laws' and 'material issues'.	Noted.
254.	Deloitte	2.3.35.	It is not clear why "existence of a ladder of intervention" is included as an indicator in paragraph 4.3.73 but not in paragraph 2.3.35.	▪ Noted. Removed
255.	IOMCA	2.3.35.	It would help to confirm that the Auditor's duty to report non compliance with Solvency and Minimum Capital Requirements is an ongoing requirement or at a specified point in time.	Ongoing.
256.	Swiss Financial Market Supervisory Authority, FINM	2.3.35.	See General Comment 2: Addressing non-compliance with Solvency and Minimum Capital Requirement by auditors to be deleted as an indicator (fourth bullet).	Noted. Please see L1 text – art.72
257.	Swiss Insurance Association (SIA)	2.3.35.	First bullet: only material breach of laws	Please see 253.
258.	CRO	2.3.36.	We believe that this indicator shall be assessed very pragmatically, taking into account disclosure requirements currently set by the IFRS, public listing requirements as well possible best practices applied in the 3rd country's market. These elements should be fully factored in the assessment of the existence/extent of provisions in respect of public disclosure. Again we consider that the objective of this indicator is met by disclosure at Group level only.	Noted
259.	Deloitte	2.3.36.	Other than where paragraph 4.3.72 refers to issues specific to an insurance group it is not clear why the matters specified for this	▪ Noted.

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			indicator should differ between paragraph 2.3.36 and paragraph 4.3.72.	
260.	Guernsey Financial Services Commission	2.3.36.	If captive reinsurance undertakings that only insure the risks of their owner are exempted from public disclosure in line with the exemptions available under the IAIS Standards on Disclosure, this should not prevent the achievement of the public disclosure indicator provided it is met in respect of non-captive insurers and reinsurers.	Please see CEIOPS Advice – CP 52
261.	Heritage Insurance Management Limited (Guernsey)	2.3.36.	For captive (re)insurers there is no benefit in public disclosure as the policyholder is also the parent undertaking.	Please see CEIOPS Advice – CP 52
262.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.36.	We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	Noted
263.	IOMCA	2.3.36.	These provisions should include a degree of proportionality in respect of captive insurance and reinsurance companies. The recommended disclosures appear to match those required by Financial Statements prepared in accordance with International Financial Reporting Standards and this fact should be confirmed.	Please see CEIOPS Advice – CP 52
264.	KPMG ELLP	2.3.36.	See 2.3.28	Please see 2.3.28
265.	Swiss Financial	2.3.36.	See General Comment 2: Requirement of ONE report and public disclosure to be deleted as an indicator (there may be several	Please see redraft

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	Market Supervisory Authority, FINM		reports to the supervisory authority, not to the public, which are examined thoroughly by the supervisory authority).	
266.	Swiss Insurance Association (SIA)	2.3.36.	The requirement for one report should be deleted as there may be different reports to reach the objective for disclosure.	Please see redraft
268.	XL Capital Ltd	2.3.36.	"Existence / extent of provisions in respect of – Public disclosure of a report of solvency and financial conditions on an annual basis". We would like more clarity as to what CEIOPS expects here. The term "report of solvency and financial condition" is very much specific Solvency II terminology and implies that a Solvency II style SFCR will be required. Is that the intention? We believe that the objectives could be met in other ways, and that the format of the reporting should remain unspecified.	Noted.
269.	ABI	2.3.37.	"acceptability" Appropriateness sounds more a correct.	Noted
270.	Association of Bermuda Insurers and Reinsurers (AB	2.3.37.	We recommend inserting the word "material" into this objective statement so that the sentence would read as follows: "To ensure the acceptability of any proposed material changes to the business from an operational, management and supervisory perspective." We believe this change is consistent with the following indicators – all of which are focused on material change.	Noted
271.	Bermuda Monetary Authority	2.3.37.	See General Comment 4 and 6: The principles/objectives/indicators need to be both streamlined and consistently applied across all three assessments. Additionally, this requirement appears to be overly burdensome and we recommend that the only "material"	Please 2.3.7

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			changes be presented to the supervisor for notification or approval.	
272.	US National Association of Insurance Commissioners	2.3.37.	U.S. regulators agree with the objective in Principle No. 4-Business Change Assessment. However, we believe the indicators are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Noted. Also please see 2.3.7.
273.	American Insurance Association	2.3.39.	If authority is granted to supervisors to approve, it should be limited to well-defined "major" circumstances.	Please see EU law on M&A.
274.	CRO	2.3.39.	The second bullet "right of supervisory authority to oppose proposed acquisition" is a supervisory power and should be captured in the principle on supervisory powers. See our comment and suggestion on paragraph 2.3.8	Noted
275.	Swiss Insurance Association (SIA)	2.3.39.	The reference to IFRS is not necessary and should therefore be deleted.	N/A
276.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.4.	In this paragraph, CEIOPS shows that it recognises that more than one supervisory regime may exist in a third country. The dividing lines between such regimes may be geographical or administrative as by class of undertaking. The consultation paper should indicate that more than one such regime in a third country may be assessed and recognised as equivalent.	Noted
277.	Cayman Islands Monetary Authority	2.3.4.	This paragraph implies that partial equivalency could be obtained, should a 3rd country prove equivalence for one class of reinsurance over another class of reinsurance. If this is the case, then some further clarification as to the relative weighting and importance of the indicators would be welcome.	Noted

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278.	Groupe Consultatif	2.3.4.	It is mentioned that equivalence could be achieved by one class of undertakings in a jurisdiction but not for other classes of undertaking. It is important that this point is clarified and accepted as many third countries will have specific supervisory regimes applying to, for example, small domestic insurers or captive insurers where there is little or no relationship with EU insurers, and introducing measures to achieve equivalence would be onerous and disproportionate.	Noted
279.	Guernsey Financial Services Commission	2.3.4.	It is important that the position regarding different classes of undertakings is clarified in respect of both reinsurance and group supervision. In particular confirmation is required that the existence of classes of undertakings where the supervisory regime does not meet the equivalence criteria would not prevent other classes of business where the criteria is met from being deemed equivalent.	Noted
280.	Guernsey Insurance Company Management Association	2.3.4.	This approach to allow certain classes of insurers/reinsurers to be equivalent within a domicile is supported. This does seem to contradict the comments made in 2.1.1 where equivalence is based upon the domicile rather than the class of insurers/reinsurers.	Noted.
281.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.4.	In this paragraph, CEIOPS shows that it recognises that more than one supervisory regime may exist in a third country. The dividing lines between such regimes may be geographical or administrative as well as by class of undertaking. The consultation paper should indicate that more than one regime in a third country may be assessed and recognised as equivalent.	Noted
282.	KPMG ELLP	2.3.4.	We note CEIOPS advice in relation to different classes of regulatory regime. We welcome this, but would ask that CEIOPS clarify whether this will apply only to current arrangements in third countries or whether they perceive this as being capable of	Noted

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			extension in the future. Whilst there may be difficulties in applying a two tier regulatory regime, this does seem to offer the opportunity for third country supervisors to assess whether there is any merit in having different approaches for those firms writing significant business with EEA (re)insurance undertakings and those that do not.	
283.	US National Association of Insurance Commissioners	2.3.4.	"Classes of Undertakings" – Please clarify the reference to "classes of undertakings", as nowhere within the Solvency II Directive are such "classes" defined. Should this reference be to classes of "insurance", as various classes of life and non-life "insurance" are provided within Annex I and II? Or is this referring to insurers that assume reinsurance business vs. pure reinsurers?	Noted
284.	ABI	2.3.42.	"Notification prior to outsourcing of critical or important functions or activities as well as material subsequent developments"  In our view firms should be free to outsource as long as they follow certain rules. A preapproval process should not be a precondition.	Only for critical and important functions.
285.	American Insurance Association	2.3.42.	We believe that mandates to notify supervisors of outsourcing is too much of an intrusion into the operations of private sector entities. As a matter of law, outsourcing does not immunize the insurer from liability resulting from the outsourced function. That should be sufficient.	See 284
286.	Groupe Consultatif	2.3.42.	- The requirement for 'continuous' is open to extreme interpretations. It would be better to use regular, timely or ongoing and  - This refers to prior approval of outsourcing. We suggest this may be overly restrictive and unnecessary. It could be sufficient to have a prompt notification requirement.	N/A  Please see 284
287.	Swiss Financial	2.3.42.	See General Comment 2: Indicator to be expanded to include prior or simultaneously.	Noted.

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	Market Supervisory Authority, FINM			
288.	XL Capital Ltd	2.3.42.	<p>"Notification prior to outsourcing of critical or important functions." This appears to be a direct lift from Solvency II, when actually a third country regime may well be able to manage outsourcing risks sufficiently without requiring prior approval. The focus should be on the outcome rather than the method.</p>	Notification is not approval. Also please see 284
289.	Swiss Financial Market Supervisory Authority, FINM	2.3.43.	See General Comment 2: Portfolio transfer of reinsurance contracts to be deleted as an indicator (can be effected by a transfer of individual contracts).	Noted
290.	ABI	2.3.44.	<p>This is a rule/requirement but neither a principle nor as an objective.</p> <p>Should emphasis on the purpose of the solvency calculation.</p>	Noted. TPs are at the basis of SII
291.	Cayman Islands Monetary Authority	2.3.44.	<p>There is an inference that capital adequacy should be tested on an individual line of business basis. Such an approach fails to recognize the benefits of diversification achieved by a multi-line insurer and the fact that capital backs the insurance, financial and operating risks of the entity.</p> <p>To determine capital adequacy on an individual line of business basis (counter-intuitive to the principle of proportionality) could lead to inappropriate and unnecessary capital requirements. Similarly, such an approach fails to recognize the potential for risk reduction a mono-line special purpose insurance or reinsurance vehicle may achieve by effective risk management procedures</p>	Noted, 2.3.44 covers TPs

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			implemented by the parent. However, there is subsequent commentary regarding recognizing the benefits of diversification, so there is some inconsistency and ambiguity of intention and application in the consultation paper.	
292.	CRO	2.3.44.	The purpose of the Solvency Assessment should be emphasised in this principle.	Noted
293.	Deloitte	2.3.44.	<p>We recommend that the wording of this paragraph be changed so that reference to the 'ceding undertaking' is only made in the context of Reinsurance undertakings. We would suggest amending as the paragraph as follows:</p> <p>"Reinsurance undertakings shall establish technical provisions (TP) with respect to all reinsurance obligations that are calculated in a way that enables them to meet their reinsurance obligations towards the ceding undertaking."</p> <p>OR</p> <p>"(Re)insurance undertakings shall establish technical provisions (TP) with respect to all (re)insurance obligations that are calculated in a way that enables them to meet their (re)insurance obligations."</p>	Noted.
294.	US National Association of Insurance Commissioners	2.3.44.	<p>U.S. regulators agree with the objective in Principle No. 5-Solvency. However, we believe the indicators are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.</p> <p>In addition, U.S. regulators disagree with many of the indicators, as</p>	Noted

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			noted in the following.	
295.	XL Capital Ltd	2.3.44.	This appears to be more of a rule than an "objective"	Noted
296.	ABI	2.3.45.	This is a rule/requirement but neither a principle nor as an objective.	Noted.
297.	Deloitte	2.3.45.		
298.	XL Capital Ltd	2.3.45.	This appears to be more of a rule than an "objective"	Noted
299.	ABI	2.3.46.	This is a rule/requirement but neither a principle nor as an objective.	Noted
300.	Deloitte	2.3.46.	<p>We believe that the wording of this paragraph is vague and could lead to different interpretations.</p> <p>In our view the ambiguity is given by the use of phrases such as "own funds of sufficient quality", "undertakings are able to absorb significant losses" and "gives reasonable assurance". It is unclear what sufficient, significant and reasonable might mean in practice. Examples of what are considered "sound economic principles" would also be useful.</p> <p>Additionally, we note that capital requirements do not "reflect" a level of own funds but normally "are covered" by own funds.</p>	Noted

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301.	KPMG ELLP	2.3.46.	This refers to the need for capital requirements to be based on sound economic principles. Coupled with 2.3.49's reference to an economic valuation of the whole balance sheet and references to IFRS, this appears to pre-suppose that the absence of a Solvency II-type economic approach would render a regime non-equivalent. However, we believe consideration should again be made of the purpose of the equivalence assessment (protection of EEA policyholders and beneficiaries). If the third country regime is more prudent than Solvency II's economic approach, then policyholders will not be adversely affected. Provided an assessment is made regarding the question of policyholder protection, including an assessment of the risk management framework and governance, we do not believe the absence of an economic approach to the setting of capital requirements should automatically render a third country regime as non-equivalent.	Noted
302.	XL Capital Ltd	2.3.46.	This appears to be more of a rule than an "objective". This paragraph makes reference to "own funds of sufficient quality". Will the targets for third country entities in an equivalent regime be the same as for member state entities, such as Tier 1 for the MCR?	(Re)insurance undertakings should be subject to a supervisory regime that enables them to absorb significant losses and that gives reasonable assurance to policy holders and beneficiaries that payments will be made as they fall due.
303.	ABI	2.3.48.	"Indicator - Existence/extent of provisions in respect of - Financial supervision"  Seem very similar to Principle no. 1 - Powers and responsibilities of the supervisory authority 2.3.8	See amended text
304.	Bermuda	2.3.48.		Noted

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	Monetary Authority			
305.	Cayman Islands Monetary Authority	2.3.48.		Noted
306.	CRO	2.3.48.	Please see our comment on paragraph 2.3.8 and the powers of the supervisor.	Please see amended text
307.	XL Capital Ltd	2.3.48.	This section should be included within Principle 1	Please see amended text
308.	American Insurance Association	2.3.49.	More flexibility should be allowed here, as there are not-yet-agreed to international accounting standards for insurance contracts. As we mentioned in our comment to paragraph 1.5, it is pre-mature to link supervisory objectives, which should be based on solvency, to international accounting standards; nor is it necessary to create such linkage. Also, there is no certainty that there will ever be one international accounting standard for insurance contracts. Thus, the better approach for supervisory purposes is to seek a valuation that reflects economic reality, given the particular legal and business constraints that apply to the market in which the insurance product is offered.	Noted
309.	Association of Bermuda Insurers and Reinsurers (AB	2.3.49.	We would recommend that this indicator be rewritten to be less specific. The uncertainty with regard to international accounting standards for insurance assets and liabilities argues for a more flexible approach in this indicator. The objective should still be met, but this indicator is far too specific and is likely wholly unique to the EEA. Time tested solvency regulation systems demonstrate that	Noted

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			other accounting measures have met the test in meeting customer insurance and reinsurance obligations.	
310.	Bermuda Monetary Authority	2.3.49.	<p>See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment should be risks-based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets.</p> <p>The principles of economic valuation are highly desirable. It should be appreciated that a number of assumptions and uncertainties underpin economic valuations, particularly in the absence of deep and liquid markets. Jurisdictions have approached this in a variety of ways from adding conservatism (e.g. prohibiting discounting) to using measures thought to be more reliable under certain circumstances. Given that the primary goal should be protection of policyholders in the European Union, we believe that conservatism and reliability should be given appropriate recognition. The area of valuation should be viewed in its broadest sense, and in the context of acceptable international practice.</p>	Please see Level 1 text – Article 76
311.	Cayman Islands Monetary Authority	2.3.49.	There is commentary that valuation of assets and liabilities should be based on arms length commercial transactions. It appears that the intention is to support fair value initiatives underway with respect to international accounting standards. However, it must be recognized that implementation of such has been slowed down by the lack of an active commercial market for insurance liabilities and the consequent inability to mark insurance liabilities to market. This could pose a challenge with respect to satisfying the required indicator without further guidance by CEIOPS.	Noted
312.	Group of	2.3.49.	Exact compliance with this indicator should not be required for a	Noted

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	North American Insurance Enterprises, Inc		<p>finding that the objective in paragraph 2.3.44 is "fully observed". No other jurisdiction requires use of "current exit value" for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system.</p> <p>The same comment applies with regard to consistency "with international accounting standards, to the extent possible." Those standards have not yet been developed. A finding of compliance with this objective should be based upon the jurisdiction's overall effectiveness in protecting policyholders and beneficiaries.</p>	
313.	Groupe Consultatif	2.3.49.	(the same comment at more line numbers for other lines) Reference to IFRS is not necessary	Noted
314.	Guernsey Insurance Company Management Association	2.3.49.	In Guernsey a variety of accounting standards are used reflecting the international nature of our business. We would like Guernsey as a domicile to continue to be able to accept a variety of international accounting standards and believe this flexibility should be allowed as a part of equivalence.	Noted
315.	Heritage Insurance Management Limited (Guernsey)	2.3.49.	Liabilities in a captive insurer should be valued at an amount consistent with the level that a third party insurer would value them at, however it may not be economic to demonstrate this, partly because the captive will have greater access to the policyholder's risk management systems and controls by being part of the same group.	Noted
316.	IOMCA	2.3.49.	Whilst this requirement is logical to improve consistency it should be recognised that local domicile requirements may require or permit different accounting standards to be used and hence this requirement may need to be related to regulatory reporting as opposed to audited financial statements.	Noted

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317.	KPMG ELLP	2.3.49.	See 2.3.46	Please see 2.3.46
318.	Property Casualty Insurers Association of America	2.3.49.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 2.3.44 is “fully observed”. No other jurisdiction requires use of “current exit value” for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system. The same is true with regard to consistency “with international accounting standards, to the extent possible.” Those standards have not yet been developed. A finding with regard to compliance with this objective should be based upon the jurisdiction’s overall effectiveness in protecting policyholders and beneficiaries.</p> <p>This comment also applies to paragraphs 2.3.50, 4.3.55 and 4.3.56.</p>	Please see 312
319.	Reinsurance Association of America	2.3.49.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 2.3.44 is “fully observed”. No other jurisdiction requires use of “current exit value” for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system. The same is true with regard to consistency “with international accounting standards, to the extent possible.” Those standards have not yet been developed. A finding with regard to compliance with this objective should be based upon the jurisdiction’s overall effectiveness in protecting policyholders and beneficiaries.</p>	Please see 312
320.	Swiss Financial Market	2.3.49.	See General Comments 1 and 2: Indicator under second bullet to be modified as follows: Assets and liabilities to be valued according to economic principles.	Please see Level 1 text – Article 76

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	Supervisory Authority, FINM			
321.	Swiss Insurance Association (SIA)	2.3.49.	Stringent requirements for third countries as for EEA Second bullet: we suggest a more balanced wording "Assets and liabilities should be valued according to economic principles." Same comment applies to 3.3.10.	Please see Level 1 text – Article 76
322.	The General Insurance Association of Japan (GIAJ)	2.3.49.	The assessment of the valuation scheme of assets and liabilities should be flexible and should take into account the status of each country's accounting standards, as long as those standards are deemed comparable to the IFRS (same comments for 3.3.10 and 4.3.55).	Noted
323.	US National Association of Insurance Commissioners	2.3.49.	U.S. regulators are confused by the requirement that "the valuation of assets and liabilities should be based on an economic valuation of the whole balance sheet" and further that the "assets and liabilities be valued at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction" when the following is also included in 2.3.49 "valuation standards for supervisory purposes should be consistent with international accounting standards to the extent possible."  U.S. regulators utilize the NAIC Accounting Practices and Procedures Manual, whose three volume text provides a comprehensive basis of statutory accounting that is based upon the concepts of conservatism, consistency and recognition. The manual utilizes US GAAP as its framework, but given the need by regulators for specific disclosures and information not inherent to US GAAP, it differs from U.S. GAAP in those places where deemed appropriate. U.S. regulators have an extensive process dedicated to consider	Noted

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			adopting, modifying, or rejecting U.S. GAAP into its Manual. US regulators suggest that if the EU desires to have valuation of accounting consistent with international accounting, but with some modifications, the EU should develop a similar process to clarify what the requirements of the EU are, especially given the recently adopted IFRS 9 doesn't appear to be consistent with the EU requirements to be market based.	
324.	Association of Bermuda Insurers and Reinsurers (AB	2.3.5.	We support the proportionality principle as applied here, but we think the sentence is a bit cumbersome. We suggest the following revision with the new language underlined: "CEIOPS considers that the existence of a proportionality principle in the application of regulatory provisions in third country jurisdictions is contingent upon the nature, scale and complexity of the risks inherent in the business of all undertakings that are part of the group and to the cross-border dimension of this business. The existence of different supervisory regimes applied to different classes of undertakings is neither an obstacle nor a prerequisite to the recognition of equivalence."	Please see amended text
325.	Bermuda Monetary Authority	2.3.5.	We support the proportionality principle. We suggest that, even within classes of insurers, there may be differences in nature, scale and complexity among insurers of a particular class, and as such, the proportionality principle should exist even within classes of insurers.	Noted
326.	Cayman Islands Monetary Authority	2.3.5.	As noted by CEIOPS, consideration is given to the existence of the proportionality principle in the application of regulatory provisions and is contingent on the size, scale and complexity of the risks inherent.  However, as noted in comments 2.3.27, 2.3.44 and 2.3.54 and in general, it appears that the principles outlined are most applicable to large insurance and reinsurance holding company structures	Noted

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			<p>where there would be concern with inappropriate movement (or recognition) of assets/liabilities for purposes of disguising possible solvency concerns that could jeopardize stakeholder interests. Therefore, there seems to be confusion as to the application of the principle of proportionality.</p> <p>Applying the equivalency criteria to small monoline insurance carrier would have very little positive impact with respect to the expressed intended purpose (protection of policyholders and beneficiaries), while simultaneously the onerous requirements would be counterproductive to the growth and ultimately stability of the alternative risk transfer industry / marketplace.</p>	
327.	DIMA (Dublin International Insurance & Management	2.3.5.	DIMA suggests that this statement be clarified as its meaning is ambiguous.	Please see amended text
328.	Guernsey Insurance Company Management Association	2.3.5.	Captive insurance, which is the bulk of a domicile such as Guernsey's book of business requires effective use of proportionality as we set out in our response to CP79. We believe domiciles where there is a preponderance of captive business must be allowed to apply proportionality within an equivalent regime for the equivalence to be effective.	Noted
329.	INTERNATIO NAL UNDERWRIT ING ASSOCIATIO N OF LONDON	2.3.5.	For clarity, we suggest the insertion of "that" between "third country jurisdiction" and "is contingent".	Please see amended text
330.	IOMCA	2.3.5.	A proportionality principle is to be supported, especially when	Noted

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			dealing with captive insurance/reinsurance companies.	
331.	ABI	2.3.50.	<p>"prudent"</p> <p>We would welcome some assurance that the word prudent should be read in its sensible rather than conservative sense.</p> <p>"The supervisor should be able to require the undertaking to raise the amount of technical provisions if they do not comply with the requirements"</p> <p>In our view this relates to Principle no. 1 – Powers and responsibilities of the supervisory authority 2.3.8</p>	Noted
332.	American Insurance Association	2.3.50.	<p>We disagree with the third bullet point because insurance liabilities generally cannot be transferred and therefore, there is no marketplace for reliably measuring the value. For property/casualty insurance carriers, the insurance liability is ultimately settled with the policyholder. The suggested transfer value indicated in this section is not likely to reflect the ultimate settlement value to the policyholder. As stated earlier, the accounting issues are currently under discussion and so far, there is not a broad consensus on all the relevant issues.</p>	Please see Level 1 text – Article 76
333.	Association of Bermuda Insurers and Reinsurers (AB)	2.3.50.	<p>We would recommend that the third dot point be amended consistent with our comments in 2.3.49. There are multiple measures of what is an acceptable requirement for technical provisions and this language should not be married to a specific measure as long as the principle can be met.</p> <p>With regard to the fifth dot point, we'd also recommend a less specific reference to segmentation of reinsurance obligations. It is not common on non proportional (excess of loss) reinsurance for the reinsurance line obligations to be sorted by the underlying lines</p>	<p>Please see Level 1 text – Article 76</p> <p>Please see Level 1 text – Article 80</p>

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			of business from which risk was assumed. With regard to proportional business this segmentation is possible.	
334.	Bermuda Monetary Authority	2.3.50.	See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment should be risk-based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. Some jurisdictions take a more conservative approach, allowing discounting only under limited circumstances, which would not be market consistent, but would afford an appropriate level of policyholder protection.	Noted
335.	DIMA (Dublin International Insurance & Management)	2.3.50.	The existence of reinsurance of the so-called type "Modified Co-insurance" (Modco) in the US would arguably lead to a 'Not observed' categorisation for US States. (See comment on 2.3.7 and A1.14.)	Noted
336.	Group of North American Insurance Enterprises, Inc	2.3.50.	See comments regarding paragraph 2.3.49.	Please see 312
337.	Groupe Consultatif	2.3.50.	Is this segmentation for Technical provisions really necessary?	Please see Level 1 text – Article 80
338.	Property Casualty Insurers Association	2.3.50.	See comments regarding paragraph 2.3.49.	Please see 318

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	of America			
339.	Reinsurance Association of America	2.3.50.	See comments regarding paragraph 2.3.49.	Please see 319
340.	Swiss Financial Market Supervisory Authority, FINM	2.3.50.	See General Comments 1 and 2: Indicator under third bullet to be expanded as follows: "or the level of Technical Provisions is the sum of the Best Estimate and Market Value Margin. The Market Value Margin also provides for the costs of the capital necessary to cover the run off risk."	Noted
341.	The General Insurance Association of Japan (GIAJ)	2.3.50.	A market for transactions of technical provisions (TP) does not ordinarily exist. In terms of valuation of TP, market consistency should not be required too strictly (same comments for 3.3.11 and 4.3.56).	Noted
343.	US National Association of Insurance Commissioners	2.3.50.	This also requires the valuation of technical provisions at an amount that has yet to be determined by IFRS. Again, we suggest the EU develop a comprehensive accounting manual to identify the required accounting, as opposed to this simplified requirement, which may ultimately conflict with IFRS.	Noted
344.	American Insurance Association	2.3.51.	Different insurance lines of business will present different risk profiles, so the 1-in-200 ruin scenarios may not be appropriate in all cases. To refer to a specific scenario, such as 1-in-200 ruin, seems too specific for the nature of this guidance.	Noted
345.	CEA	2.3.51.	3. Second bullet point: The current language used is Solvency II specific: "... The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period ...". The 1 in 200 ruin scenario should not imply to use the	Noted

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			Value at Risk as risk measure. Indeed, other risk measures and calibrations are likely to provide equivalent levels of policyholder protection and these should therefore be recognised. A more appropriate wording would be: "The requirement should enable the undertaking to provide a policyholder protection at least equivalent to withstanding a 1 in 200 ruin scenario over a year period." This comment also applies to 3.3.13 and 4.3.58.	
346.	CRO	2.3.51.	The 2nd bullet point uses specific Solvency II language that we would suggest to broaden in the following way: "The requirement should require an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year period."  3rd countries may use a different approach to quantify the risks and the capital requirements (e.g. use of TailVaR model instead of VaR), and yet achieve an equivalent level of policyholder protection. The definition of the criteria has to allow for different approaches to reach the same objective and deliver an equivalent outcome.	Noted
347.	Deloitte	2.3.51.	We would suggest the following amendments:  1st bullet point: we suggest changing "guarantee" with "ensure". 2nd bullet point: we suggest changing "There is a capital requirement that reflects..." with "There is a capital requirement which is covered...". Also, we recommend changing "...policyholders and beneficiaries receive at least the same level of protection" with "...policyholders and beneficiaries receive at least that level of protection". 3rd bullet point: we believe that it is incorrect to refer to a	Noted

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			<p>"supervisory intervention ladder" when only one supervisory intervention point is mentioned.</p> <p>5th bullet point: it is unclear what would qualify as "appropriate" standards.</p> <p>Also applies to 3.3.13 and 4.3.58</p>	
348.	GDV	2.3.51.	<p>Second bullet point: The current language used is Solvency II specific: "... The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period ...". The 1 in 200 ruin scenario should not imply to use the Value at Risk as risk measure. Indeed, other risk measures are likely to provide equivalent levels of policyholder protection and these should therefore be recognised. A more appropriate wording would be: "The requirement should enable the undertaking to provide a policyholder protection at least equivalent to withstanding a 1 in 200 ruin scenario over a year period."</p>	Noted
349.	Group of North American Insurance Enterprises, Inc	2.3.51.	<p>We also believe that exact compliance with this indicator should not be required. While the EU has chosen a "1 in 200 ruin scenario" as its own minimum level of protection, other jurisdictions may have chosen differently for reasons that make sense given the particular circumstances in their insurance markets. We believe that a broader comparison of a jurisdiction's capital requirements with Solvency II is required, rather than merely comparing them with the 1-in-200 standard.</p>	Noted
350.	Heritage Insurance Management Limited (Guernsey)	2.3.51.	<p>Captive insurers, being financially linked to, and a member of their policyholder's group of companies are able to withstand almost all ruin scenarios where the policyholder's group is financially sound. This is because the captive is a group risk retention vehicle which is designed to be able to call on further financial support from its</p>	Noted

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			parent/policyholder group when needed. As such the 1 in 200 year ruin scenario is not an appropriate measure in respect of the captive insurer itself. However, it is neither appropriate to use the policyholder group's financial strength rating or probability of ruin, as the captive insurer is required to be capitalised with approved/secure assets which means that unavoidable insolvency will only arise when the captive is faced with valid insurance claims of such a magnitude that the policyholder group's solvency itself is jeopardised by the events leading to the insurance claims, rather than by uninsured events which threaten the solvency of the parent group.	
351.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.51.	Second bullet point: We suggest that other risk measures than Value at Risk may deliver equivalent outcomes and that needs to be specified here.	
352.	IOMCA	2.3.51.	This point is noted and presumably the basis of calculation should be consistent with the principles already established under Solvency II?	Noted
353.	KPMG ELLP	2.3.51.	For the avoidance of doubt, we ask that CEIOPS explicitly recognises in this paragraph that there are alternative approaches to determine a 1 in 200 year ruin scenario (for example through the use of tail VaR measures, which would be calibrated to a different probability).	Noted
354.	Property Casualty Insurers Association	2.3.51.	We also believe that exact compliance with this indicator should not be required. While the EU has chosen a "1 in 200 ruin scenario" as its own minimum level of protection, other jurisdictions may have chosen differently for reasons that make sense given the particular	Noted

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	of America		<p>circumstances in their insurance markets. There has also been no experience with the Solvency II capital requirement, so there is no way to determine whether it is inadequate, appropriate or excessive – or whether the standard model will actually produce a 1-in-200 year level. We believe that a broader comparison of a jurisdiction’s capital requirements with Solvency II is required, rather than merely comparing them with the 1-in-200 standard.</p> <p>This comment also applies to paragraph 4.3.58.</p>	
355.	Reinsurance Association of America	2.3.51.	<p>We also believe that exact compliance with this indicator should not be required. While the EU has chosen a “1 in 200 ruin scenario” as its own minimum level of protection, other jurisdictions may have chosen differently for reasons that make sense given the particular circumstances in their insurance markets. We believe that a broader comparison of a jurisdiction’s capital requirements with Solvency II is required, rather than merely comparing them with the 1-in-200 standard.</p>	Noted
356.	Swiss Financial Market Supervisory Authority, FINM	2.3.51.	<p>See General Comments 1 and 2:</p> <p><input type="checkbox"/> Indicator under the second bullet to be modified as follows: Confidence level, risk measurement (e.g VaR or TailVaR) and time horizon should ensure that policyholders and beneficiaries receive a minimum level of protection corresponding to a 1 in 200 ruin scenario with a Value at Risk measurement over a year period.</p> <p>Indicator under last bullet to be expanded to include also an equivalent granular approach.</p>	Noted
357.	Swiss Insurance Association (SIA)	2.3.51.	<p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence</p> <p>Second bullet: “The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year</p>	Noted

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			<p>period ..." is Solvency II language and a Solvency II model calculation and calibration. We would prefer a wording like "The requirement should require an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year period."</p> <p>Third countries may use different calculations, calibrations and models, but afford an equivalent level of policyholder protection. The equivalence tests must be sufficiently broad to allow for different methods to reach the relevant principle.</p>	
358.	The General Insurance Association of Japan (GIAJ)	2.3.51.	The confidence level used for the calculation of capital requirements should be flexible and should be determined by taking into account each market's circumstances. Thus, the indicator "1 in 200 ruin scenario" should not be required too strictly (same comments for 3.3.13 and 4.3.58).	Noted
359.	US National Association of Insurance Commissioners	2.3.51.	See comment to 2.1.7. As noted therein, this paragraph references the Solvency II system for capital and related governance. U.S. regulators do not disagree with the principles associated with capital requirements, but other countries should not be judged based upon the Solvency II requirements, just as the US should not judge other countries based upon the specifics of NAIC Risk Based Capital (RBC) requirements.	Noted
360.	XL Capital Ltd	2.3.51.	"Where a significant risk is not captured in the capital requirements, some mechanism should be applied to guarantee that capital requirements adequately reflect such risks" – We do not feel that "guarantee" is the right word to use. Perhaps "support" would be a more appropriate replacement.	Noted
361.	CEA	2.3.52.	The first bullet point does not recognise the possibility that a third country solvency regime does not make use of a "standard	Please see amended text

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			<p>formula". Therefore the wording needs to be clarified to allow different methods that reach the same objective. We would suggest to change the wording as follows:</p> <p>"Where the reinsurance undertaking uses a full or a partial internal model to calculate its capital requirements, the requirements should provide a level of policyholder protection that is at least equal comparable to withstanding a 1 in 200 ruin scenario over a one year period the "standard formula" based on the local rules (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level as the "standard formula")."</p>	
362.	CRO	2.3.52.	<p>A number of 3rd country regimes require larger companies to use full internal models to calculate regulatory capital requirements (as is the case for the Swiss Solvency Test). In this situation, the internal model may not be compared to the standard approach that is neither used as a benchmark nor as a standard. In line with the formulation proposed under 2.3.52, we therefore suggest broadening the formulation in the 1st bullet and using it only where applicable.</p> <p>The 2nd bullet point must not rule out the existence of transitional regimes, where companies may be allowed to use internal models, even if they are not yet approved.</p> <p>The requirements listed in the 3rd bullet points are very specific to the Solvency II regime and too detailed. Generally an internal model has to be approved by the regulator, which implies a certain standard of documentation and validation.</p>	<p>Please see amended text</p> <p>Noted</p> <p>Noted</p>
363.	Deloitte	2.3.52.		Noted
364.	GDV	2.3.52.	The first bullet point does not recognise the possibility that a third	Please see amended text

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			<p>country solvency regime does not make use of a "standard formula". Therefore the wording needs to be clarified to allow different methods that reach the same objective. We would suggest to change the wording as follows:</p> <p>"Where the reinsurance undertaking uses a full or a partial internal model to calculate its capital requirements, the requirements should provide a level of policyholder protection that is at least equal to withstanding a 1 in 200 ruin scenario over a one year period the "standard formula" based on the local rules (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level as the "standard formula")."</p>	
365.	Guernsey Insurance Company Management Association	2.3.52.	<p>Many insurers and reinsurers, including captive insurance companies will wish to make use of the internal model process rather than the standard model. For captive insurers this is especially important because of the unique nature of their business. Domiciles which apply for and meet the equivalence criteria should be given the same regulatory leeway to approve internal models as EU county regulators.</p>	Noted
366.	Heritage Insurance Management Limited (Guernsey)	2.3.52.	<p>Internal models are very unlikely to be appropriate for captive insurance vehicles themselves. The policyholder group may utilise internal models to assess and manage risks, some of which are insured by their group captive, however the captive will simply be a tool within the internal model of the policyholder group, rather than having their own internal model. As such, third country jurisdictions in which almost all insurers are captives will not benefit from promoting or being able to assess internal models as such models will not be cost efficient for the insurers themselves.</p>	Noted
367.	INTERNATIO	2.3.52.	<p>First bullet point: We suggest that an equivalent regime would not</p>	Please see amended text

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	NAL UNDERWRIT ING ASSOCIATIO N OF LONDON		necessarily adopt a standard formula in the same way as Solvency II. We suggest the sentence be reworded, as follows:  "Where the reinsurance undertaking uses a full or partial internal model to calculate its capital requirements, the requirements should provide a level of policyholder protection that is at least equal to the standard that would be required under the local rules if no model were used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level).  Third bullet point: We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	Noted
368.	IOMCA	2.3.52.	It is appropriate to require Regulators to have a process for approving internal models.	Noted
369.	KPMG ELLP	2.3.52.	2.3.52 will only apply where an Internal Model regime is in place in the third country.  Bullet 1 - it may be the case that not all countries that have an internal model approach will also have some form of "standard formula".  Bullet 3 - by replicating Solvency II's requirements for internal model approval, this implies a high level of work by both firms and regulators. It is unclear whether a third country internal model approval process that is not performed to the same rigour as Solvency II's internal model approval process would meet CEIOPS	Noted  Noted

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			<p>expectations. In practice, we expect that a degree of pragmatism will be needed in assessing the internal model approval process.</p>	
370.	Swiss Insurance Association (SIA)	2.3.52.	<p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence</p> <p>First bullet: Third countries may not distinguish between a standard formula and internal models. The language must be broadened to allow for different methods to reach the principle. The wording should be "... uses a full or a partial internal model ..., the requirements should provide a level of policyholder protection equivalent to withstanding a 1 in 200 ruin scenario over a year period."</p>	Please see amended text
371.	XL Capital Ltd	2.3.52.	<p>We request greater clarity on the first bullet point.</p> <p>From the current wording of the first bullet point it appears that CEIOPS require a Solvency II style standard formula. We believe that this is inappropriate and would make it practically impossible to gain equivalence without effectively adopting Solvency II. We do not believe that this is CEIOPS' intention, and suggest that the paragraph be reworded to clarify.</p>	Please see amended text
372.	CEA	2.3.53.	<p>The requirement of subordination is missing.</p> <p>Third bullet point: The distinction should be made between paid in-capital items and non paid in-capital items. The accounting treatment of own funds (on or off balance sheet) seems less relevant and depends on the standards applied.</p> <p>Fifth bullet point: Clarification and eligibility of own funds should be assessed together. It would be inappropriate to consider only the (non-) absence of quantitative limits, without assessing the other requirements on regulatory own funds.</p>	<p>Please see amended text</p> <p>Noted</p>

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			Same comment applies to 3.3.12 and 4.3.57.	
373.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.53.	Third bullet point: The distinction should instead be made between paid-in capital items and non paid-in capital items.  Fifth bullet point: This paragraph appears overly prescriptive. We suggest it should be reworded as follows:  "Own funds covering the capital requirements should be of appropriate quality."	Please see amended text  Noted
374.	KPMG ELLP	2.3.53.	The objectives in 2.3.44 to 2.3.46 do not cover Own Funds, so it is unclear why this level of detail is provided. It is unclear the extent to which off balance sheet/contingent capital would be deemed acceptable for the purpose of equivalence. It is also unclear whether CEIOPS expects to see some form of tiering of the capital. [see also comment on 4.3.11]	Noted
375.	Swiss Financial Market Supervisory Authority, FINM	2.3.53.	See General Comment 2: Indicator under third bullet to be modified not to talk about "off-balance sheet own funds" but of "guarantees and similar instruments".	Please see amended text
376.	ABI	2.3.54.	"avoid excessive reliance on any one particular asset, issuer or accumulations of risk; no excessive risk concentration"  This again is too prescriptive in our view. The second part of the sentence should be sufficient: no excessive risk concentration	Noted

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			2.3.54 I would delete the first sentence . I do not think we should be asking CEIOPS to define which function. In general we and ABI argue for flexibility as to who does what.	
377.	Cayman Islands Monetary Authority	2.3.54.	<p>There is again an inference that asset quality should be tested on an individual investment basis. Such an approach, on an individual basis rather than a more appropriate "class of investment basis", fails to recognize the benefits of diversification achieved by insurance entities and moreover, would lead to a lack of competitiveness of smaller and mid-sized insurers. It should be recognized that applying cash flow projections for individual assets would be unduly cumbersome on small and mid-sized insurers. However, applying percentage wise shocks to classes of assets according to maturity /duration would be more appropriate, particularly if the principle of proportionality were applied.</p> <p>Since the goal is to ensure capital adequacy with respect to the overall insurance, operating and financial risk to which an insurer is exposed, that purpose could be achieved by contemplating a simplified set of composite class adjustments for small insurers to address interest rate risk and asset depreciation risk.</p>	Noted
378.	CEA	2.3.54.	<p>CEIOPS seems to suggest indicators on investments without a proper legal basis in the framework directive or any level 2 advice. EEA undertakings are not explicitly required to refrain from investing in derivative instruments.</p> <p>Same comment applies to 3.3.15 &amp; 4.3.60</p>	Please see Level 1 text – Article 132
379.	GDV	2.3.54.	<p>CEIOPS seems to suggest indicators on investments without a proper legal basis in the framework directive or any level 2 advice. EEA undertakings are not explicitly required to refrain from investing in derivative instruments.</p>	Please see Level 1 text – Article 132

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380.	Guernsey Insurance Company Management Association	2.3.54.	We would agree with this except in the case of captives where the policyholder is also the shareholder and therefore the risk of a credit default directly impacting upon members of the public is removed. Captive insurance or reinsurance companies should have no imposed diversification of assets.	Noted
381.	IOMCA	2.3.54.	The issue of avoiding 'excessive reliance on any one particular asset ... no risk concentration' is noted and understood. However the proposed captive simplifications are less restrictive due the underlying business model and this degree of proportionality should be supported.	Noted
382.	SII Legal Group	2.3.54.	<p>The fifth bullet point relating to derivatives misquotes the level 1 text. Article 132(4) of the level 1 text says: "The use of derivative instruments shall be possible insofar as they contribute to a reduction of risks or facilitate efficient portfolio management." The CP78 version of this has, following the wording of the the existing Life Directive and the Third Non-Life Directive, inserted "investment" before "risk".</p> <p>There is no level 2 power to apply this gloss to the level 1 text and the word "investment" should be removed.</p> <p>Apart from this article 132(4)'s reference to derivatives is a classic example of a requirement applying at a detailed level which should not be imposed on third countries. Other ways of managing risks arising from the use of derivatives may be achieved. IAIS has commented: "Some jurisdictions may restrict the use of derivatives to the reduction of investment risk or efficient portfolio management, or may restrict the use of derivatives by the general investment rules relating to assets covering the technical provisions. Other jurisdictions allow a full range of use."</p>	Please see amended text
383.	Swiss	2.3.54.	Stringent requirements for third countries as for EEA	Please see Level 1 text – Article

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	Insurance Association (SIA)		There seems to be no legal basis for indicators on investments neither in the Solvency II framework directive nor in the implementing measures. EEA undertakings are not explicitly required to refrain from investing in derivative instruments. We suggest deleting the fifth bullet.  Comment applies as well to 3.3.15 and 4.3.60	132
384.	XL Capital Ltd	2.3.54.	The term "Annual Solvency and financial condition report" is very much specific Solvency II terminology and implies that a Solvency II style SFCR will be required. Is that the intention? We believe that the objectives could be met in other ways, and that the format of the reporting should remain unspecified.	Noted
385.	Deloitte	2.3.55.	We recommend that these indicators relating to liquidity management should be included as indicators relevant to the solvency assessment for the purpose of determining equivalence in relation to the deduction and aggregation method set out in section 3 of the CP.  See comment at 3.3.8	Please see amended text – Principle no. 3
386.	Property Casualty Insurers Association of America	2.3.55.	Compliance here should be based upon whether insurers are broadly required to use sound liquidity management processes that are proportionate to the size of the company and the nature of its business. A strict requirement that all insurers conduct stress tests and scenario analyses should not be mandatory for a finding of equivalence.	Noted
387.	ABI	2.3.56.	"Annual Solvency and financial condition report"  This is too narrow. In our view the text should focus on what the	Please see amended text

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			solvency reporting must achieve rather than its form.	
388.	Cayman Islands Monetary Authority	2.3.56.		Noted
389.	Deloitte	2.3.56.	<p>We recommend that information regarding the strategy of the undertaking also be available to supervisors.</p> <p>We recommend that these indicators relating to information obtainable from the undertaking should be included as indicators relevant to the solvency assessment for the purpose of determining equivalence in relation to the deduction and aggregation method in section 3 of the CP.</p> <p>See comment at 3.3.8</p>	Noted
390.	Swiss Financial Market Supervisory Authority, FINM	2.3.56.	See General Comment 2: Indicator under the first bullet to be modified to provide for several separate reports.	Please see amended text
391.	Swiss Insurance Association (SIA)	2.3.56.	First bullet: the annual solvency and the financial condition report may be published in two separate reports.	Please see amended text
392.	ABI	2.3.57.	As a general remarque on Principle 6 - exchange of information we noted that nothing was set regarding the language to be used.	Noted

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393.	Cayman Islands Monetary Authority	2.3.57.	<p>The International Association of Insurance Supervisors has adopted a multilateral memorandum of understanding on cooperation (“MMoU”) and exchange of information to which all IAIS members, including EU members states, are encouraged to seek adoption. Included in the MMoU application process is a full review of the powers and responsibilities of the supervisory authority. There is overlap in these processes and indeed, a number of EU member states have already adopted the IAIS MMoU.</p> <p>We feel that recognition of the IAIS MMoU process and adoption by CEIOPS would be beneficial to the extent that compliance with the IAIS MMoU would provide automatic equivalency under Principle 1 (Powers and Responsibilities of the Supervisory Authority) and Principle 6 (Supervisory Cooperation, Exchange of Information and Professional Secrecy).</p> <p>Recognition by CEIOPS of the IAIS MMoU process would further avoid any situation whereby inconsistencies by EU member states arise in the application of both Principle 1 and Principle 6.</p>	The assessments are undertaken on the basis of SII.
394.	CRO	2.3.57.	“Annual solvency and financial condition report” is a Solvency 2 concept and too narrow. In our view the indicator should set out what the report must achieve rather than its form.	Please see amended text
395.	US National Association of Insurance Commissioners	2.3.57.	U.S. regulators agree with the objective in Principle No. 6- Supervisory Cooperation, Exchange of Information and Professional Secrecy. However, we believe the indicators in 2.3.58-2.3.63 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Noted
396.	CEA	2.3.59.	The third bullet point refers to “suitability assessments” without any	Please see amended text

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			<p>further explanation. We do not understand what suitability assessments mean in the context of an indicator on "practical cooperation". It should be deleted, because it is in clear contradiction with the fourth bullet point (which refers to ability and willingness to cooperate in respect of the assessment of shareholder suitability and reputation/experience of directors). Inside colleges of supervisors suitability assessment should not be any considered measure.</p> <p>Same comment applies to 3.3.18 and 4.3.47</p> <p>4.</p>	
397.	CRO	2.3.59.	<p>We would welcome clarifications on the meaning and implications of 'suitability assessments'; in particular as we believe that this element is not specifically defined in the Solvency II Framework Directive.</p> <p>Requirements in respect of the principle 6 are very high and examples of the criteria supporting the indicators should not be overly complex.</p>	Please see amended text
398.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	2.3.59.	<p>Third bullet point: We do not understand what is meant by suitability assessments.</p>	Please see amended text
399.	Swiss Financial	2.3.59.	<p>See General Comment 2: Modify indicator under the third bullet regarding the term "suitability assessments" to clearly define whose</p>	Please see amended text

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	Market Supervisory Authority, FINM		suitability is under review.	
400.	Swiss Insurance Association (SIA)	2.3.59.	Stringent requirements for third countries as for EEA  Third bullet: What is meant by suitability assessments? We do not believe that there should be any assessments of third country supervisory authorities or insurance undertakings in addition to the decision of equivalence. The standard set for equivalence testing is already extremely high. There is no need to introduce additional requirements to third countries and certainly not requirements that can be used in an arbitrary fashion. This bullet should therefore be deleted. The idea of suitability assessments is in clear contradiction to the ability and willingness of cooperation (fourth and fifth bullet).  Same applies to 3.3.18 and 4.3.47	Please see amended text
402.	American Insurance Association	2.3.6.	Corporate governance is not legally treated the same way in all countries. Therefore, only high level principles should be used, such as the joint papers of the OECD and IAIS.	The assessments are undertaken on the basis of SII.
403.	ABI	2.3.60.	We do not see why the basis governing the exchange of information between regulators should be different in case of a crisis. If so and how a crisis should be defined and what could trigger the use of "crisis communication procedure".	Noted
404.	Bermuda Monetary Authority	2.3.61.		Noted
405.	Swiss Financial	2.3.61.	See General Comment 2: Modify indicator under the seventh bullet to clarify who is meant by the "Competent Authority".	Noted

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	Market Supervisory Authority, FINM			
406.	Swiss Insurance Association (SIA)	2.3.61.	It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred.	Noted
407.	Swiss Financial Market Supervisory Authority, FINM	2.3.62.	See General Comment 2: Modify indicators to clarify exceptions to be addressed.	Noted
408.	SII Legal Group	2.3.63.	<p>1. This states "Provisions in national law in respect of the breach of professional secrecy (offences, penalties, enforcement)".</p> <p>Whilst the level 1 text requires professionals secrecy to be protected, it does not require the imposition of criminal sanctions. The due process requirements in criminal proceedings (including in common law jurisdictions the requirement to prove the case beyond reasonable doubt) will generally be disproportionate. It may be sufficient for the person in breach of a professional secrecy requirement to lose his job, be banned from working in the financial sector or be exposed to civil liability.</p>	Please see Level 1 text – Article 64
409.	XL Capital Ltd	2.3.63.	"Provisions in national law" will automatically exclude the US where law is at state level.	Noted
410.	Association of Bermuda Insurers and	2.3.7.	As discussed above we suggest the addition of this sentence at the end of the paragraph: "It is not required that all indicators be met as a condition of meeting the principle or objective."	Please see amended text – 1. Introduction

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	Reinsurers (AB)			
411.	Bermuda Monetary Authority	2.3.7.	See General Comments 3, 4 and 5: While appreciating what CEIOPS hopes to achieve under each principle/objective, the assessment should be risk-based and more focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. The assessment should primarily seek to ensure that jurisdictions effectively meet the desired supervisory outcomes (i.e. comparable levels of protection for policyholders in the European Union). The indicators are secondary and less important.	Please see 410
412.	CRO	2.3.7.	<p>In line with our comments for section 1.3, we suggest to change this section to: 'In order to be considered equivalent, a 3rd country regime will have to meet each of the principles and objectives laid in this advice. For each principle and objectives, the advice provides examples as guidance for assessing whether the relevant principles and objectives are achieved. The existence of any of these indicators in a jurisdiction should assist but are not necessary for an assessment of equivalence. An assessment of equivalence needs to be pragmatic and take into consideration the general objectives of the 3rd country's regime as well as its outcome – which is the adequate protection of policyholders'.</p> <p>We also suggest the Level 2 text provides for grandfathering arrangements as explained in our general comment 78E.</p>	<p>Please see 410</p> <p>No legal basis in Level 1 text</p>
413.	Deloitte	2.3.7.	It is unclear how the 'indicators' of equivalence will apply? For example, will countries be required to meet all of them or only some? Also, are some indicators more important than others in determining equivalence?	Please see 410

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			Also 3.3.7 and 4.3.26	
414.	DIMA (Dublin International Insurance & Management)	2.3.7.	<p>2.3.7 states "In order to be considered equivalent, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives laid in this advice." If "have to meet" means the absence of 'Not observed' (and it is difficult to interpret these words any more flexibly than that) then it is difficult to see how any regime would gain equivalence based on the principles and objectives outlined.</p> <p>In essence, CP78 is silent on the question of how to take the set of assessments made up of each assessment against each principle/objective in order to reach a conclusion as to whether a regime is equivalent or not. DIMA suggests that the final advice should address this point in some detail. The language in 2.3.7, 3.3.7 and 4.3.26 is not sufficiently broad enough to permit such an overall assessment and would therefore not be making full use of the concept of categorisations as outlined in A1.14.</p> <p>(See general comment above, "Relevant and realistic criteria to achieve equivalence recognition" and comments on 3.3.7, 4.3.26 and A1.10.)</p>	Please see 410
415.	Group of North American Insurance Enterprises, Inc	2.3.7.	We suggest the deletion of the words "each of" in the first sentence.	CEIOPS disagrees with this suggestion. The solvency regime of a third country can only be found equivalent to that laid down in Title I of SII-Directive if all principles and objectives are observed
416.	KPMG ELLP	2.3.7.	See 1.3. We prefer deletion of the words "each of".	Please see 415

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417.	Reinsurance Association of America	2.3.7.	We suggest the deletion of the words "each of" in the first sentence.	Please see 415
418.	SII Legal Group	2.3.7.	It is suggested here that the "indicators" provide "guidance in determining whether [emphasis supplied] the relevant principles and objectives are achieved". We consider that this expression takes insufficient account of the fact that high level objectives may be achieved otherwise than through compliance with the indicators. A better way of describing the relationship between the objectives and the indicators might be to state that (i) the indicators provide evidence that the objectives may have been achieved (ii) evidence that the objectives may have been achieved by some other means will also be considered.  Some of our comments below illustrate the point that specific objectives may be achieved without compliance with specific indicators.	Please see 410
419.	Swiss Financial Market Supervisory Authority, FINM	2.3.7.	See General Comment 1: Equivalence/equivalence testing in regards of scope and impact, no need to meet every single aspect of objectives and even less so of every indicator.	Please see 410 and 415
420.	Swiss Insurance Association (SIA)	2.3.7.	Need for a holistic view instead of "ticking boxes"  The original text states that "In order to be considered equivalent, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives laid in this advice." We suggest a new wording: "In order to be considered equivalent, CEIOPS considers that a third country regime will have to largely meet the following principles and objectives laid in this advice."	Please see 415

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421.	XL Capital Ltd	2.3.7.	While we agree that the principles and objectives must be met, we are not in favour of the listing alongside of detailed "indicators" which provide guidance in determining whether the relevant principles and objective are achieved.	Noted
422.	ABI	2.3.8.	"Objective - Supervisory Authorities must be provided with the necessary means and have the relevant expertise, capacity and mandate to achieve the main objectives of supervision, namely the protection of policyholders and beneficiaries regardless of their nationality or residence. They have to have the resources to fulfil their objectives which include in particular financial and human resources."  In our view this is more a principle than an objective.	Noted
423.	American Insurance Association	2.3.8.	Same comment as for 2.3.1. The OECD recommendations, guidance and checklist on effective and efficient financial regulation should be specifically mentioned.	The assessments are undertaken on the basis of SII.
424.	Cayman Islands Monetary Authority	2.3.8.	The International Association of Insurance Supervisors has adopted a multilateral memorandum of understanding on cooperation ("MMoU") and exchange of information to which all IAIS members, including EU members states, are encouraged to seek adoption. Included in the MMoU application process is a full review of the powers and responsibilities of the supervisory authority. There is overlap in these processes and indeed, a number of EU member states have already adopted the IAIS MMoU.  We feel that recognition of the IAIS MMoU process and adoption by CEIOPS would be beneficial to the extent that compliance with the IAIS MMoU would provide automatic equivalency under Principle 1 (Powers and Responsibilities of the Supervisory Authority) and Principle 6 (Supervisory Cooperation, Exchange of Information and	The assessments are undertaken on the basis of SII.

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			Professional Secrecy). Recognition by CEIOPS of the IAIS MMoU process would further avoid any situation whereby inconsistencies by EU member states arise in the application of both Principle 1 and Principle 6.	
425.	CRO	2.3.8.	Powers and responsibilities of the supervisory authorities should include the ability to cooperate set out in Principle 6 paragraph 2.3.57. We suggest that this principle is expanded to capture the need for supervisors to have the power to cooperate and exchange information while being bound by confidentiality.	Noted
426.	US National Association of Insurance Commissioners	2.3.8.	U.S. regulators agree with the objective in Principle No. 1-Powers and Responsibilities of the Supervisory Authority. U.S. regulators agree that regulators must have the means and experience to achieve protection of policyholders.	Noted
427.	American Insurance Association	2.3.9.	To "effective" should be added: "efficient".	Noted
428.	Deloitte	2.3.9.	We support CEIOPS view in that, to be effective, a supervisory authority should be fully empowered to carry out its supervisory responsibilities, have a range of enforcement or sanctions measures available within its toolkit, and have access to judicial channels to enforce measures where required.  Also applies to 4.3.28.	Noted
429.	METLIFE	3.	We would refer again here to our opening remarks on Section 2.	Noted
430.	Property Casualty Insurers Association	3.	We have no comments on equivalence under Article 227.	Noted

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	of America			
431.	CEA	3.1.	We would like to emphasize that the Solvency II Framework Directive defines the consolidation method as the default method to calculate the group solvency. Only where the exclusive application of the consolidation method would not be appropriate, the group supervisors may allow using the deduction and aggregation method or a combination of the methods. This should be appropriately reflected in this chapter.	Agree. Advice clarified
432.	GDV	3.1.	We would like to emphasize that the Solvency II Framework Directive defines the consolidation method as the default method to calculate the group solvency. Only where the exclusive application of the consolidation method would not be appropriate, the group supervisors may allow using the deduction and aggregation method or a combination of the methods. This should be appropriately reflected in this chapter.	Agreed. Advice clarified
433.	ABI	3.1.1.	The Solvency II Framework Directive defines the consolidation method as the default method to calculate the group solvency. Requiring the application of the he Deduction and Aggregation method in all situations when there exists a participating entity in a non-equivalent country goes in our view against the principle of the directive.	This is not the intent of the advice. Article 220 covers the decision to apply method 2.
434.	CRO	3.1.1.	We understand that the scope of Section 3 is limited to art. 227 in relation to the use of the 'deduction and aggregation' method to calculate group solvency requirements. However, it is our interpretation that a positive equivalence recognition under art. 227 will also have an impact beyond Pillar I on supervisory coordination, and in particular on the constitution of colleges of supervision.	Noted

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			Also, we believe it is useful at this place to reiterate our general comment in 78A. For the accounting consolidation method groups apply Solvency II standards to all the data used for the calculation of the capital requirement and equivalence is therefore not applicable. More specifically, using the accounting-consolidation method must not be conditioned to a positive equivalence recognition, nor to any form of cooperation between supervisory authorities of an EU/EEA country with the 3rd country.	Agree. Advice clarified
435.	Association of Bermuda Insurers and Reinsurers (AB	3.1.2.	If a regime is found to be equivalent then the group's solvency calculation should be done in accordance with the jurisdiction's rules. This section implies as written that such deference to the equivalent jurisdiction's rules is optional. That runs counter to the whole goal of the equivalency process and international standard setting.	The intention is to note that the assessment is done at the request of a firm or the group supervisor's own initiative.
436.	CEA	3.1.2.	<p>One of the very purposes of granting equivalence is that it allows EEA groups to use a third country subsidiary's local capital requirements and eligible own funds, and we therefore see no reason why this should be an option given to supervisors once equivalence is granted.</p> <p>CEIOPS interprets Article 227(1) as if it would include an "option" giving Member States the possibility to allow (or not) for the use of the local capital requirement and eligible own funds of participating undertakings as determined in an equivalent third country.</p> <p>The consequence of CEIOPS' interpretation would be that a positive equivalence decision by either the group supervisor or even the European Commission would have no effect at all on the ability of a EEA group (that is required to use the alternative method) to use the local requirements when it would be based in a Member State</p>	Disagree. The Level 1 text is clear it is a Member State option to provide for the use of local rules. Hence a decision by the Commission does not require a Member State to apply Article 227 where it is not been implemented in that Member State.

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			<p>that would not have implemented this option. Furthermore, in spite of a European Commission decision, the situation could arise that groups with operations in the same equivalent third country but are based in certain Member States may be allowed to use local requirements, while others would be required to recalculate the SCR and eligible own funds on a Solvency II basis. We see no rationale for supervisor to have this option when equivalence has already been granted.</p> <p>Moreover, we believe that CEIOPS' interpretation of the equivalence process under the 227 is not in line with the spirit and objective of the Solvency II Directive Framework. Indeed, recital 116 states that: "In order to ensure a harmonised approach to the determination and assessment of equivalence of third-country insurance and reinsurance supervision, provision should be made for the Commission to make a binding decision regarding the equivalence of third-country solvency regimes."</p>	
437.	GDV	3.1.2.	<p>One of the very purposes of granting equivalence is that it allows EEA groups to use a third country subsidiary's local capital requirements and eligible own funds, and we therefore see no reason why this should be an option given to supervisors once equivalence is granted.</p> <p>CEIOPS interprets Article 227(1) as if it would include an "option" giving Member States the possibility to allow (or not) for the use of the local capital requirement and eligible own funds of participating undertakings as determined in an equivalent third country.</p> <p>The consequence of CEIOPS' interpretation would be that a positive equivalence decision by either the group supervisor or even the European Commission would have no effect at all on the ability of a EEA group (that is required to use the alternative method) to use</p>	<p>Disagree. The Level 1 text is clear it is a Member State option to provide for the use of local rules. Hence a decision by the Commission does not require a Member State to apply Article 227 where it is not been implemented in that Member State.</p>

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			<p>the local requirements when it would be based in a Member State that would not have implemented this option. Furthermore, in spite of a European Commission decision, the situation could arise that groups with operations in the same equivalent third country but are based in certain Member States may be allowed to use local requirements, while others would be required to recalculate the SCR and eligible own funds on a Solvency II basis. We see no rationale for supervisor to have this option when equivalence has already been granted.</p> <p>Moreover, we believe that CEIOPS' interpretation of the equivalence process under the 227 is not in line with the spirit and objective of the Solvency II Directive Framework. Indeed, recital 116 states that: "In order to ensure a harmonised approach to the determination and assessment of equivalence of third-country insurance and reinsurance supervision, provision should be made for the Commission to make a binding decision regarding the equivalence of third-country solvency regimes."</p>	
438.	US National Association of Insurance Commissioners	3.1.2.	<p>See comment to 2.1.7 and 2.3.51.</p> <p>U.S. regulators understand the desire to have all international insurers utilize the same accounting basis, although the U.S. questions if that is possible, particularly given that the current EU position will likely differ from IFRS. However, we question the need to require the use of the same capital model. We believe it is impractical to believe that this will occur, and we are opposed to this section which attempts to require such, as opposed to meeting a principle.</p>	CEIOPS has not advised for the same capital model, but rather indicators that would deliver an equivalent level of policyholder protection.
439.	American Insurance Association	3.1.3.	We believe that it is probably appropriate to exclude a country's insurance authorization process from the scope of equivalency determination.	Noted

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440.	Association of Bermuda Insurers and Reinsurers (AB)	3.1.3.	We agree with the view that the equivalence of the authorisation regime may be excluded from the scope of the equivalence determination.	Noted
441.	Deloitte	3.1.3.	Article 227 only refers to equivalence with Title 1 Chapter 6. Therefore we agree that it is appropriate to exclude authorisation and the other considerations under Article 172 in determining equivalence under Article 227.	Noted
442.	METLIFE	3.1.3.		
443.	XL Capital Ltd	3.1.3.	We are surprised that the authorisation regime may be excluded from the scope of the equivalence determination.	Authorisation is not covered by Title I, Chapter VI
444.	ABI	3.1.4.	When the decision lies with member states we would like some assurance that two member states will not be able to: <ul style="list-style-type: none"> <li>- take contradictory decision on equivalence</li> <li>- impose different set of measure to the same third country (In case of non equivalence).</li> </ul>	Noted
445.	Bermuda Monetary Authority	3.1.4.		
446.	CEA	3.1.4.	The last sentence "The Commission is required to take into account the adopted criteria but is not bound to take decisions solely on the basis of the criteria" is unclear. The Commission's decision should be based on clear and objective criteria, in particular the criteria in the implementing measures, if adopted. Therefore, we would recommend deleting this sentence.	Sentence deleted.

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			Furthermore, we wonder why this clarification is specifically included in this chapter dealing with equivalence under Article 227, as the statement appears to be equally relevant to equivalence under article 172 and 260.	
447.	CRO	3.1.4.	<p>As mentioned in its general comments, we are concerned about negative implications on the competitiveness of EU/EEA-based groups active internationally of a negative equivalence assessment of certain 3rd countries (i.e. in cases where a solvency regime cannot be deemed 'at least equivalent' to Solvency II).</p> <p>In reference to the last sentence, we would therefore encourage CEIOPS and the European Commission to explicitly consider commercial implications in their equivalence assessment. We suggest reformulating this sentence accordingly.</p> <p>Grandfathering agreements as well as transitional measures are required to offer a solution to guarantee the level playing field.</p>	<p>Noted</p> <p>Sentence deleted.</p> <p>Noted</p>
448.	DIMA (Dublin International Insurance & Management	3.1.4.	<p>The final advice states 'The Commission is required to take into account the adopted criteria but is not bound to take decisions solely on the basis of the criteria'. DIMA welcomes this comment but believes the advice should also state that (a) the use of any additional criteria must be made public, and (b) the use of additional criteria should be uniformly applied across all assessments and not be applied in an arbitrary way.</p> <p>Also, DIMA believes that this clarification should be included in the</p>	Sentence deleted.

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		chapters dealing with equivalence under Articles 172 and 260.		
449.	GDV	3.1.4.	<p>The last sentence "The Commission is required to take into account the adopted criteria but is not bound to take decisions solely on the basis of the criteria" is unclear. The Commission's decision should be based on clear and objective criteria, in particular the criteria in the implementing measures, if adopted. Therefore, we would recommend deleting the sentence.</p> <p>"The Commission is required to take into account the adopted criteria but is not bound to take decisions solely on the basis of the criteria."</p> <p>Furthermore, we wonder why this clarification is specifically included in this chapter dealing with equivalence under Article 227, as the statement appears to be equally relevant to equivalence under article 172 and 260.</p>	Sentence deleted.
450.	KPMG ELLP	3.1.4.	<p>We believe that CEIOPS should give additional information on what instances it foresees where the Commission would not be bound to take decisions solely on the basis of the adopted criteria. We believe that any other considerations (which could include consideration of the impact on the EEA insurance industry) should be transparent.</p>	Sentence deleted.
451.	Swiss Insurance Association (SIA)	3.1.4.	<p>Need for clear assessment procedure</p> <p>It is unclear what is meant by the last sentence "The Commission is required to take into account the adopted criteria but is not bound to take decisions solely on the basis of the criteria."</p> <p>This is contradictory in itself and should be deleted.</p>	Sentence deleted.

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452.	ABI	3.1.5.	Some form of centralisation at EU level would be suitable in order to avoid multiple assessments request from Member States to regulators of non-equivalent countries.	Noted
453.	CEA	3.1.5.	The language at the end of the paragraph should be strengthened to make clear that implementing measures, if adopted, are binding for the group supervisor in its equivalence verification and have to be applied (see A1.3).	Text clarified
454.	DIMA (Dublin International Insurance & Management	3.1.5.	<p>For absolute clarity, add the following words to the final sentence "...but not to the exclusion of any other criteria that the Group Supervisor deems to be relevant." So that the full sentence becomes:</p> <p>"Where the Commission has adopted criteria for the assessment of equivalence, it is anticipated that these will need to be utilised by the Group Supervisor in any equivalence determination (in the absence of any Commission decision of equivalence in respect of the third country concerned), but not to the exclusion of any other criteria that the Group Supervisor deems to be relevant."</p> <p>DIMA believes that this clarification should be included in the chapters dealing with equivalence under Articles 172 and 260.</p> <p>The advice should also state that (a) the use of any additional criteria must be made public, and (b) the use of additional criteria should be uniformly applied across all assessments and not be applied in an arbitrary way.</p>	Text clarified
455.	GDV	3.1.5.	The language at the end of the paragraph should be strengthened to make clear that implementing measures, if adopted, are binding for the group supervisor in its equivalence verification and have to be applied (see A1.3).	Text clarified

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456.	Guernsey Insurance Company Management Association	3.1.5.	See 2.1.5 above.	Noted
457.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	3.1.5.	The last sentence suggests that it is only expected that the Group Supervisor will use the criteria. It should be stipulated that it must use them. Otherwise, there would be too much scope for confusion and disagreement.	Noted
458.	KPMG ELLP	3.1.5.	Whilst CEIOPS recognises elsewhere that allowing Member States to make its own assessment of equivalence could give rise to different assessments throughout the EEA, we believe that this risk should be minimised. As mentioned in 1.6, we would therefore encourage guidance to be provided in the Level 3 papers to ensure a consistent approach is adopted.	Noted
459.	METLIFE	3.1.5.	We note the considerable powers given to the Group Supervisor in the case of the absence of a Commission decision on a third country's equivalence. We welcome what seems to be an interim scenario for companies from third countries where no decision on equivalence has yet been made. Transferring the responsibility for an equivalence decision on a third country to the Group Supervisor might be less than optimum in terms of consistency across the EU but it does at least enable entities from equivalent third countries to participate in the full group solvency assessment as set down in Solvency II provided that this is agreed with the Group Supervisor.	Noted

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460.	KPMG ELLP	3.3.1.	We specifically agree with the final sentence – that the contribution “needs to be based on a similar standard” to that applying to EEA (re)insurance undertakings.	Noted
461.	METLIFE	3.3.1.	Paragraph 3.3.1 calls for the equivalence assessment to take into account the need for adequate information sharing between supervisory authorities. Globalisation has led to a need for a much broader and more communicative view of solvency among country regulators and insurance companies. These needs will gain momentum as globalisation continues; the needs will not be relaxed going forward. Regulators, industry, professional, academic and trade groups should work together on educational and standards development on the solvency front. Global solvency convergence will occur over time but there are still major hurdles to be addressed (e.g., equivalence, group supervision, etc.)	Noted
462.	American Insurance Association	3.3.10.	The requirement for consistency with international accounting standards “if possible” seems premature in that they are very much unresolved and under current discussion. See our comments at paragraphs 1.5 and 2. 3. 49.	CEIOPS notes international accounting standards are subject to change. The principle is to strive for consistency where possible.
463.	Association of Bermuda Insurers and Reinsurers (AB	3.3.10.	Restated from 2.3.49. We would recommend that this indicator be rewritten to be less specific. The uncertainty with regard to international accounting standards for insurance assets and liabilities argues for a more flexible approach in this indicator. The objective should still be met, but this indicator is far too specific and is likely wholly unique to the EEA. Time tested solvency regulation systems demonstrate that other accounting measures have met the test in meeting customer insurance and reinsurance obligations.	CEIOPS notes international accounting standards are subject to change. The principle is to strive for consistency where possible.
464.	Bermuda Monetary	3.3.10.	See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment	Agreed

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	Authority		<p>should be risk based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets.</p> <p>The principles of economic valuation are highly desirable. It should be appreciated that a number of assumptions and uncertainties underpin economic valuations, particularly in the absence of deep and liquid markets. Jurisdictions have approached this in a variety of ways from adding conservatism (e.g. prohibiting discounting) to using measures thought to be more reliable under certain circumstances. Given that the primary goal should be protection of policyholders in the European Union, we believe that conservatism and reliability should be given appropriate recognition. The area of valuation should be viewed in its broadest sense, and in the context of acceptable international practice.</p>	Noted
465.	DIMA (Dublin International Insurance & Management)	3.3.10.	This is an acute example of where application of the criteria would be impractical.	Noted
466.	Swiss Financial Market Supervisory Authority, FINM	3.3.10.	See General Comment 2: Indicator to be modified to say that valuation should occur according to economic principles.	Noted
467.	Swiss Insurance Association (SIA)	3.3.10.	<p>Stringent requirements for third countries as for EEA</p> <p>Second bullet: we suggest a more balanced wording "Assets and liabilities should be valued according to economic principles."</p>	Noted

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468.	The General Insurance Association of Japan (GIAJ)	3.3.10.	The assessment of the valuation scheme of assets and liabilities should be flexible and should take into account the status of each country's accounting standards, as long as those standards are deemed comparable to the IFRS (same comments for 2.3.49 and 4.3.55).	Noted
469.	US National Association of Insurance Commissioners	3.3.10.	See comments to 2.3.49.	Noted
470.	Association of Bermuda Insurers and Reinsurers (AB	3.3.11.	Restated from. 2.3.50. We would recommend that the third and forth dot point be amended consistent with our comments above. There are multiple measures of what is an acceptable requirement for technical provisions and this language should not be married to a specific measure as long as the principle can be met.  With regard to the fifth dot point, we'd also recommend a less specific reference to segmentation of reinsurance obligations. It is not common on non proportional (excess of loss) reinsurance for the reinsurance line obligations to be sorted by the underlying lines of business from which risk was assumed. With regard to proportional business this segmentation is possible.	Noted. See amendments to advice on TP.
471.	Bermuda Monetary Authority	3.3.11.	See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment should be risk based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. Some jurisdictions take a more conservative approach, allowing discounting only under limited circumstances, which would not be market consistent, but would afford an appropriate level of policyholder protection.	Noted

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472.	DIMA (Dublin International Insurance & Management	3.3.11.	This is an acute example of where application of the criteria would be impractical.	Noted
473.	The General Insurance Association of Japan (GIAJ)	3.3.11.	A market for transactions of technical provisions (TP) does not ordinarily exist. In terms of valuation of TP, market consistency should not be required too strictly (same comments for 2.3.50 and 4.3.56).	Noted
474.	US National Association of Insurance Commission ers	3.3.11.	See comments to 2.3.50	Noted
475.	Association of Bermuda Insurers and Reinsurers (AB	3.3.12.	In the sixth dot point we suggest some clarifying changes that do not alter the substance of the sentence. The new language is underlined. "The group supervisor should have sufficient information to ensure elimination of double gearing and to avoid the internal creation of capital."	Sentence deleted
476.	CEA	3.3.12.	Six and seventh bullet: We ask for the deletion of these two bullet points as the legal basis is lacking in the Solvency II Directive.	Agreed
477.	CRO	3.3.12.	The deduction and aggregation method by construction rules out double gearing and does not allow for diversification effects. Therefore the assessment of fungibility, transferability and double gearing are not necessary.	Reference moved to section on supervisory cooperation.
478.	DIMA (Dublin International	3.3.12.	This is an acute example of where application of the criteria would be impractical.	Noted

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	Insurance & Management			
479.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	3.3.12.	Third bullet point: The distinction should instead be made between paid-in capital items and non paid-in capital items.  Fifth bullet point: This paragraph appears overly prescriptive. We suggest that it be reworded as follows:  "Own funds covering the capital requirements should be of appropriate quality."	Noted
480.	KPMG ELLP	3.3.12.	The deduction and aggregation method is designed to eliminate double gearing, so it is not clear why this is included here, unless this suggests that third country (re)insurance groups could be considered on a consolidated (rather than entity by entity) basis. Clarification on this point would be welcomed, as this was not our expectation of the treatment to be applied.	Sentence deleted
481.	Swiss Financial Market Supervisory Authority, FINM	3.3.12.	See General Comment 2:  <input type="checkbox"/> The indicator under the third bullet should be modified to include "own funds on the balance sheet" and "guarantees and the like instruments".  <input type="checkbox"/> The indicator under the sixth bullet "internal creation of capital" should be complemented by "unless so assessed from an economic perspective".	Noted  Sentence deleted
482.	CEA	3.3.13.	See our comment to 2.3.51.	Noted
483.	CRO	3.3.13.	The 2nd bullet point uses specific Solvency II language that we would suggest to broaden in the following way: "The requirement should require an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year"	Noted

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			period.” 3rd countries may use a different approach to quantify the risks and the capital requirements (e.g. use of TailVaR model instead of VaR), and yet achieve an equivalent level of policyholder protection. The definition of the criteria has to allow for different approaches to reach the same objective and deliver an equivalent outcome.	Agreed. CEIOPS is focusing on equivalent outcomes.
484.	Deloitte	3.3.13.	As per 2.3.51	Noted
485.	DIMA (Dublin International Insurance & Management	3.3.13.	This is an acute example of where application of the criteria would be impractical.	Noted
486.	INTERNATIO NAL UNDERWRIT ING ASSOCIATIO N OF LONDON	3.3.13.	Second bullet point: We suggest that other risk measures than Value at Risk may deliver equivalent outcomes and that needs to be specified here.	Noted
487.	KPMG ELLP	3.3.13.	See 2.3.51	Noted
488.	Swiss Financial Market Supervisory Authority, FINM	3.3.13.	See General Comments 1 and 2: <input type="checkbox"/> Indicator under the second bullet to be modified as follows: Confidence level, risk measurement (e.g VaR or TailVaR) and time horizon should ensure that policyholders and beneficiaries receive a minimum level of protection corresponding to a 1 in 200 ruin scenario with a Value at Risk measurement over a year period. <input type="checkbox"/> Indicator under last bullet to be expanded to include also an	Disagree. An explicit reference to VaR models is too explicit.  Noted

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			equivalent granular approach.	
489.	Swiss Insurance Association (SIA)	3.3.13.	<p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence</p> <p>Second bullet: "The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period ..." is Solvency II language and a Solvency II model calculation and calibration. We suggest: "The requirement should require an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year period."</p> <p>Third countries may use different calculations, calibrations and models, but afford an equivalent level of policyholder protection. The equivalence tests must be sufficiently broad to allow for different methods to reach the relevant principle.</p>	<p>Noted</p> <p>Noted</p> <p>Agreed</p>
490.	The General Insurance Association of Japan (GIAJ)	3.3.13.	The confidence level used for the calculation of capital requirements should be flexible and should be determined by taking into account each market's circumstances. Thus, the indicator "1 in 200 ruin scenario" should not be required too strictly (same comments for 2.3.51 and 4.3.58).	Noted
491.	US National Association of Insurance Commissioners	3.3.13.	The indicators in sections 3.3.13-3.3.15 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Noted
492.	XL Capital Ltd	3.3.13.	See comments at 2.3.51	Noted
493.	CEA	3.3.14.	See our comment to 2.3.52	Noted

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494.	CRO	3.3.14.	<p>A number of 3rd country regimes require larger companies to use full internal models to calculate regulatory capital requirements (as is the case for the Swiss Solvency Test). In this situation, the internal model may not be compared to the standard approach that is neither used as a benchmark nor as a standard. In line with the formulation proposed under 2.3.52, we therefore suggest broadening the formulation in the 1st bullet and using it only where applicable.</p> <p>The 2nd bullet point must not rule out the existence of transitional regimes, where companies may be allowed to use internal models, even if they are not yet approved.</p> <p>The requirements listed in the 3rd bullet points are very specific to the Solvency II regime and too detailed. Generally an internal model has to be approved by the regulator, which implies a certain standard of documentation and validation.</p>	<p>No intention to make the standard approach a benchmark. Point is the internal model must deliver an equivalent standard of policyholder protection.</p> <p>Noted</p> <p>Noted</p>
495.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	3.3.14.	<p>First bullet point: We suggest that an equivalent regime would not necessarily adopt a standard formula in the same way as Solvency II. We suggest rewording of the sentence, as follows:</p> <p>“Where the reinsurance undertaking uses a full or partial internal model to calculate its capital requirements, the requirements should provide a level of policyholder protection that is at least equal to the standard that would be required under the local rules if no model were used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level).</p> <p>Third bullet point: We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting</p>	<p>Text clarified</p> <p>Noted</p>

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			requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	
496.	KPMG ELLP	3.3.14.	See 2.3.52	Noted
497.	Swiss Financial Market Supervisory Authority, FINM	3.3.14.	See General Comment 2: Indicator under third bullet to be reduced by deleting "profit and loss attribution".	Disagree. Profit and loss attribution falls within the scope of the assessment.
498.	XL Capital Ltd	3.3.14.	See comments at 2.3.52	Noted
499.	CEA	3.3.15.	See our comment to 2.3.54	Noted
500.	Swiss Insurance Association (SIA)	3.3.15.	Stringent requirements for third countries as for EEA Fifth bullet: There seems to be no legal basis for indicators on investments neither in the Solvency II framework directive nor in the implementing measures. EEA undertakings are not explicitly required to refrain from investing in derivative instruments. We suggest deleting this bullet.	Disagree. The provisions on investments fall within Title I, Chapter VI.
501.	CEA	3.3.16.	See our comment to 3.3.2.	Noted
502.	CRO	3.3.16.	See our comment to 3.3.2	Noted
503.	INTERNATIONAL UNDERWRITING ASSOCIATION OF	3.3.16.	We recognise that "cooperation and information sharing" between a non-EEA group supervisor and EEA supervisory authorities may be considered during the equivalence assessment under Article 227, but they should not be determinative criteria (prerequisites) and are outside the scope of the Solvency II Directive.	Noted

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	LONDON			
504.	KPMG ELLP	3.3.16.	See 3.3.4	Noted
505.	US National Association of Insurance Commissioners	3.3.16.	U.S. regulators agree with the objective in Principle No. 2- Supervisory Cooperation, Exchange of Information and Professional Secrecy. However, we believe the indicators in 3.3.16-3.3.22 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Noted
506.	CEA	3.3.18.	See our comment to 2.3.59	Noted
507.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	3.3.18.	Third bullet point: We do not understand what is meant by suitability assessments.	Text amended. The bullets beneath are the indicators of suitability.
508.	Swiss Financial Market Supervisory Authority, FINM	3.3.18.	See General Comment 2: Indicator under third bullet regarding "Suitability Assessments" to be clarified.	Text amended. The bullets beneath are the indicators of suitability.
509.	Swiss Insurance Association (SIA)	3.3.18.	Stringent requirements for third countries as for EEA Third bullet: What is meant by suitability assessments? We do not believe that there should be any assessments of third country supervisory authorities or insurance undertakings in addition to the	Text amended. The bullets beneath are the indicators of suitability.

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			decision of equivalence. The standard set for equivalence testing is already extremely high. There is no need to introduce additional requirements to third countries and certainly not requirements that can be used in an arbitrary fashion. This bullet should therefore be deleted. The idea of suitability assessments is in clear contradiction to the ability and willingness of cooperation (fourth and fifth bullet).	
510.	CEA	3.3.2.	<p>We agree with extending the scope of equivalence assessments under Article 227 to include criteria in relation to "cooperation and information sharing between supervisory authorities" on a legally non-binding basis but we do not agree with extending the scope to include the assessment of fungibility and transferability of capital as we believe that this should be assessed as part of the total available own funds assessment performed at group level on a case by case basis.</p> <p>While we acknowledge that "cooperation and information sharing" between a non-EEA group supervisor and EEA supervisory authorities are important considerations during the equivalence assessment under Article 227, but this should not constitute a determinative criteria as this is not foreseen by the Directive. The ability of the group supervisor to assess the fungibility and transferability of own funds are also out of the scope of the respective assessments of "cooperation and information sharing" articles in the Directive and should not be included within this principle. Indeed, any restriction of transferability and fungibility of capital should be assessed on a case by case basis as part of the assessment of the overall own funds available at group level and should not be a prerequisite for granting equivalence as such.</p>	<p>Text amended.</p> <p>Noted. CEIOPS considers that the communication of information on fungibility is an important indicator.</p>
511.	CRO	3.3.2.	We disagree with extending the scope to include cooperation and information sharing between supervisory authorities for Art. 227.	Noted

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			We also emphasises that as diversification effects are explicitly ruled out in the deduction and aggregation method, the question of fungibility and transferability is far less pronounced than under approaches that allow for diversification effects and not requiring of particular attention by the group supervisor.	Agree
512.	GDV	3.3.2.	<p>We agree with extending the scope of the scope of equivalence assessments under Article 227 to include criteria in relation to "cooperation and information sharing between supervisory authorities" on a legally non-binding basis but we do not agree with extending the scope to include the assessment of fungibility and transferability of capital as we believe that this should be assessed as part of the total available own funds assessment performed at group level on a case by case basis.</p> <p>While we acknowledge that "cooperation and information sharing" between a non-EEA group supervisor and EEA supervisory authorities are important considerations during the equivalence assessment under Article 227, but this should not constitute a determinative criteria as this is not foreseen by the Directive. The ability of the group supervisor to assess the fungibility and transferability of own funds are also out of the scope of the respective assessments of "cooperation and information sharing" articles in the Directive and should not be included within this principle. Indeed, any restriction of transferability and fungibility of capital should be assessed on a case by case basis as part of the assessment of the overall own funds available at group level and should not be a prerequisite for granting equivalent as such.</p>	Noted. CEIOPS considers that the communication of information on fungibility is an important indicator.
513.	INTERNATIO	3.3.2.	We recognise that "cooperation and information sharing" between a	Noted

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	NAL UNDERWRITING ASSOCIATION OF LONDON		non-EEA group supervisor and EEA supervisory authorities may be considered during the equivalence assessment under Article 227, but they should not be determinative criteria (prerequisites) and are outside the scope of the Solvency II Directive.	
514.	KPMG ELLP	3.3.2.	It is unclear why consistency with the advice regarding Article 260 is required. Chapter 3 only deals with the deduction and aggregation approach, so diversification benefits would exclude any related to the third country. While we agree that supervisory co-operation is still important, there does not seem to need to be the same degree of rigour as would apply in relation to groups that are lead regulated by the third country supervisory authority.	The assessment of available group own funds is still relevant for the deduction & aggregation method.
515.	Swiss Insurance Association (SIA)	3.3.2.	Cooperation agreements between supervisors are vital, but no need for extending the scope to own funds requirements  Cooperation and information sharing between supervisors is not in the legal scope of Article 227. We understand and agree that this is a crucial element for CEIOPS to grant equivalence. But the assessment of fungibility and transferability of capital inside a group needs a clear case by case assessment as part of the total available own funds at group level. It should not constitute a determinative criteria or prerequisite for granting equivalence. We suggest deleting the last sentence of 3.3.2.	Noted  Text amended.
516.	US National Association of Insurance Commissioners	3.3.2.	This paragraph references the requirement to "pay attention to any limits on the fungibility and transferability of surplus capital in the third country undertaking."  The U.S. is strongly opposed to any notion of fungibility of surplus capital. The entire U.S. legal system (not just insurance) is built	Text amended.  Noted

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			upon the premise that a corporation can only be held accountable for its direct liabilities, as well as any other contractual requirements that are not recorded in its financial statements because of accounting standards (e.g. guarantees). Consequently, the U.S. system is primarily focused on the legal entity and on any transaction between the legal entity and other parties, while also considering the indirect impact the non insurers could have on the insurer.	
517.	American Insurance Association	3.3.20.	We strongly support the language on confidentiality.	Noted
518.	Swiss Financial Market Supervisory Authority, FINM	3.3.20.	See General Comment 2: Indicator under last bullet to be clarified regarding term "Competent Authority".	Noted
519.	Swiss Insurance Association (SIA)	3.3.20.	It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred.	It means the obligations towards professional secrecy is a continuous rather than static obligation.
520.	Swiss Financial Market Supervisory Authority, FINM	3.3.21.	See General Comment 2: Indicator to be clarified.	Noted
521.	SII Legal Group	3.3.22.	See 2.3.63 above	Noted

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522.	XL Capital Ltd	3.3.22.	See comment at 2.3.63	Noted
523.	American Insurance Association	3.3.3.	We strongly support the inclusion of the concept of proportionality.	Noted
524.	Association of Bermuda Insurers and Reinsurers (AB	3.3.3.	As stated in 2.3.5. We support the proportionality principle as applied here, but we think the sentence is a bit cumbersome. We suggest the following revision with the new language underlined: "CEIOPS considers that the existence of a proportionality principle in the application of regulatory provisions in third country jurisdictions is contingent upon the nature, scale and complexity of the risks inherent in the business of all undertakings that are part of the group and to the cross-border dimension of this business. The existence of different supervisory regimes applied to different classes of undertakings is neither an obstacle nor a prerequisite to the recognition of equivalence."	Noted
525.	Bermuda Monetary Authority	3.3.3.	We support the proportionality principle.	Noted
526.	American Insurance Association	3.3.4.	Although we are not entirely clear what is called for here, we repeat our general comments with regard to transparency and process going forward both with respect to determining the criteria for equivalence and for the process of actually determining equivalence of specific third countries. With regard to the process moving forward, the OECD work on effective and efficient financial regulation should be followed. We reserve the right to comment later on the powers and authority of the supervisory authority in assessing equivalence.	Noted
527.	CEA	3.3.4.	We acknowledge that powers and responsibilities of the third	Noted

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			country supervisory authority frame the equivalence assessment under Article 227, but should not be determinative criteria (prerequisites) as they are out of the scope as defined by the Solvency II Directive.	
528.	CRO	3.3.4.	<p>We refer to our general comment 78A.</p> <p>In general, we believe that the equivalence assessment shall strike the balance between a comprehensive assessment and a pragmatic approach taking into account the objectives of Solvency II and 3rd country's regulatory context.</p> <p>However for the inclusion of a 3rd countries solvency assessment in the context of the deduction and aggregation method, the local powers of the supervisor are not directly relevant or necessary. As the corresponding solvency figures will be reflected at Group level, they can be enforced by the Group supervisor, if necessary, through the EU parent company.</p>	Noted. CEIOPS considers that indicators on cooperation and professional secrecy are relevant to Article 227.
529.	Deloitte	3.3.4.	Article 227 refers specifically to chapter 6 of the Solvency II Directive. Therefore we do not consider it necessary to assess the powers and responsibilities of the supervisor for the purpose of determining equivalence for the purpose of Article 227 as the powers and responsibilities of the supervisor are covered in other parts of the Solvency II Directive and not relevant to Chapter 6 of the Solvency II Directive.	Noted. CEIOPS considers that indicators on cooperation and professional secrecy are relevant to Article 227
530.	GDV	3.3.4.	We acknowledge that powers and responsibilities of the third country supervisory authority frame the equivalence assessment under Article 227, but should not be determinative criteria (prerequisites) as they are out of the scope as defined by the Solvency II Directive.	Noted
531.	INTERNATIO	3.3.4.	We disagree, as it could create a potential unnecessary obstacle to	Noted. CEIOPS considers that

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	NAL UNDERWRIT ING ASSOCIATIO N OF LONDON		equivalence under Article 227 and is outside the scope of the Solvency II Directive.	indicators on cooperation and professional secrecy are relevant to Article 227.
532.	KPMG ELLP	3.3.4.	<p>We do not believe that the objectives and indicators which are set out in relation to the Principle of 'powers and responsibilities of the supervisory authority' are relevant in the context of inclusion of a third country (re)insurance undertaking within the group solvency assessment.</p> <p>Whilst some of the aspects discussed in paragraphs 2.3.8 to 2.3.18 are relevant (for example in relation to ensuring compliance with the governance and risk management requirements), from a group capital perspective, the main consideration is whether all of the excess of capital over requirements is available and transferable for the purposes of the group solvency assessment. The quality of the supervisory review process over the assessment of this number is far more important than the enforceability of its maintenance.</p>	Noted. CEIOPS considers that indicators on cooperation and professional secrecy are relevant to Article 227.
533.	Swiss Financial Market Supervisory Authority, FINM	3.3.4.	An expansion of the testing on "powers and responsibilities of the supervisory authority" seems to be disproportionate given the scope of this Article 227.	Noted
534.	Swiss Insurance Association (SIA)	3.3.4.	<p>Equivalent third countries' group supervisors should be able to act like EEA supervisors</p> <p>The third country supervisory authority must prove under an equivalence testing that it possesses powers and responsibilities equivalent to an EU supervisory authority. It is our understanding</p>	Noted. A non-EEA supervisor can not participate in the college in exactly the same way as the supervisory authority of a Member State regardless of

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			that once this test is fulfilled and once equivalence has been decided, the third country supervisor will be able to act as any EU supervisor under the Solvency II directive. This will include integration in the Colleges of supervisors taking over the role as group supervisor under the directive (see 4.1.3.). Going forward, this will also require integration into EIOPA, at least in such matters relevant for a group over which the third country supervisor acts as group supervisor.	equivalence (e.g. mediation processes). However, CEIOPS encourages the participation of non-EEA supervisors in the college of supervisors.
535.	Association of Bermuda Insurers and Reinsurers (AB	3.3.7.	As we stated in 1.3, we suggest additional language be added. To make sure this is not viewed by others as a "box ticking exercise", and sentence such as this should be added: "A jurisdiction can be found to meet the principles and the objectives without having met all the indicators. Indicators are not conclusive proof of the objective or principles having been met."	Noted
536.	Bermuda Monetary Authority	3.3.7.	See General Comments 3, 4 and 5: While appreciating what CEIOPS hopes to achieve under each principle/objective, the assessment should be risk-based and more focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. The assessment should primarily seek to ensure that jurisdictions effectively meet the desired supervisory outcomes (i.e. comparable levels of protection for policyholders in the European Union). The indicators are secondary and less important.	Noted
537.	CRO	3.3.7.	In line with our comments for section 1.3, we suggest to change this section to: "..., a 3rd country regime will have to meet each of the following principles and objectives laid in this advice. For each principle and objectives, the advice provides a list of indicators provide examples as guidance for assessing whether the relevant principles and objectives are achieved. The existence of any of these indicators in a jurisdiction should assist but are not necessary	Text amended

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			<p>for an assessment of equivalence. An assessment of equivalence needs to be pragmatic and take into consideration the general objectives of the 3rd country's regime as well as its outcome – which is the adequate protection of policyholders'.</p> <p>We also suggest the Level 2 text to provide for grandfathering arrangements for countries, where applicable, but may not be assessed as equivalent under Solvency II.</p>	Noted
538.	Deloitte	3.3.7.	As per 2.3.7	Noted
539.	DIMA (Dublin International Insurance & Management)	3.3.7.	<p>3.3.7 states: "In order to be considered equivalent, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives laid in this advice." If "have to meet" means the absence of 'Not observed' (and it is difficult to interpret these words any more flexibly than that) then it is difficult to see how any regime would gain equivalence based on the principles and objectives outlined.</p> <p>In essence, CP78 is silent on the question of how to take the set of assessments made up of each assessment against each principle/objective in order to reach a conclusion as to whether a regime is equivalent or not. DIMA suggests that the final advice should address this point in some detail. The language in 2.3.7, 3.3.7 and 4.3.26 is not sufficiently broad enough to perform such an overall assessment and would therefore not be making full use of the concept of categorisations as outlined in A1.14.</p> <p>(See general comment above, "Relevant and realistic criteria to achieve equivalence recognition" and comments on 2.3.7, 4.3.26 and A1.10.)</p>	<p>Text amended</p> <p>Each of the chapters are designed to be stand alone.</p>
540.	Group of North	3.3.7.	We suggest the deletion of the words "each of" in the first sentence.	Noted

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	American Insurance Enterprises, Inc			
541.	KPMG ELLP	3.3.7.	Please refer to our comments in relation to paragraph 2.3.3 and 2.3.11.	Noted
542.	SII Legal Group	3.3.7.	See comments under 2.3.7	Noted
543.	Swiss Financial Market Supervisory Authority, FINM	3.3.7.	See General Comments 1 and 2: No need to meet every part of the objectives and even less so of the indicators if equivalence in regards of scope and impact is tested.	Noted
544.	CEA	3.3.8.	The footnote of "Principle no. 1 – Solvency Assessment" only refers to Article 75 (Valuation of assets and liabilities), which seems to be too limited considering more extensive scope of the articles referred to in paragraph 3.3.9 (Articles – 51, 53-55, 72, 76, 77-135, 222).	The principle applies to all the indicators not just to valuation.
545.	Deloitte	3.3.8.	We recommend that the indicators noted in paragraph 2.3.55 and 2.3.56 relating to liquidity management, and information obtainable from the undertaking respectively, should be included as indicators relevant to the solvency assessment for the purpose of determining equivalence in relation to the deduction and aggregation method in section 3 of the CP.	Noted
546.	GDV	3.3.8.	The footnote of "Principle no. 1 – Solvency Assessment" only refers to Article 75 (Valuation of assets and liabilities), which seems to be too limited considering more extensive scope of the articles	The principle applies to all the indicators not just to valuation

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			referred to in paragraph 3.3.9 (Articles – 51, 53-55, 72, 76, 77-135, 222).	
547.	Group of North American Insurance Enterprises, Inc	3.3.8.	The objective language in the Reinsurance Section 2.3.44-46 is clearer language for a solvency objective than this wording. We believe the language of the objectives should be consistent.	Noted
548.	US National Association of Insurance Commissioners	3.3.8.	U.S. regulators agree with the objective that the system being evaluated should “ensure that the assessment of the financial position of the undertaking is based on sound economic principles.” However, US regulators are opposed to the rest of this paragraph, especially the provision that “this implies in particular that all investments are required to be managed in line with the prudent person approach.” U.S. regulators recognize that defining limits on certain types of investments (e.g., equities, investments in a single issuer, etc.) is much stronger than a prudent person approach. U.S. regulators further note that the EU approach on this appears to be inconsistent with the IAIS standard that allows either approach.	Text amended
549.	Swiss Financial Market Supervisory Authority, FINM	3.3.9.	See General Comment 1 and 3.3.7: No need to meet every aspects of the objectives and even less so of the indicators if equivalence in regards of scope and impact is tested.	Noted
550.	Bermuda Monetary Authority	4.1.2.	While the text says that, minimally, the jurisdiction where the head of the group resides should be at least equivalent, it does not indicate what a ‘positive’ equivalence assessment might look like, (e.g. is it necessary for all the indicators related to achieving an	Noted The assessment methodology has not been revised following

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			objective to be met?) It would be helpful if CEIOPS clarifies the definition of and the relationship between "largely observed", "partially observed" and meeting an objective/principle. Currently there are no clear criteria for what these broad categories mean or how they relate to a positive equivalence. Outside of "Observed" and "Not observed", it is unclear what the other categories mean in terms of whether a principle/objective is met in order to pass the equivalence assessment. It would be helpful if CEIOPS provided more clarity surrounding the ratings and an equivalence determination. For example, what is the relationship of "largely observed" and "partially observed" in terms of meeting a principle/objective?	the consultation period. The text below provides an outline of the methodology to be employed in the future by CEIOPS. It constitutes work in progress which once revised will be subject to consultation.
551.	CEA	4.1.2.	We welcome the recognition of the importance of group supervision in this paragraph in achieving the objective of best policyholders' protection.	Agreed.
552.	GDV	4.1.2.	We welcome the recognition of the importance of group supervision in this paragraph in achieving the objective of best policyholders' protection.	Agreed.
553.	KPMG ELLP	4.1.2.	This paragraph suggests that where there is a third country group with equivalent group supervision, there will be no supervision at an EEA level. Is this in fact the case, or is it the case that there is supervision at this level, but it is performed using information derived from the third country overall group supervision. This is a question we also asked in relation to CP 60, but note that there is still confusion in this regard.	Agreed, in line with article 261 of the level 1 text, there will be no group supervision at EEA level in case of equivalence under article 260.
554.	Swiss Insurance	4.1.2.	Effective group supervision is a fundamental feature of any prudential regime	Agreed.

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	Association (SIA)		We welcome this passage, because it shows the great importance of group supervision in order to fully achieve the principles of best policyholders' protection.	
555.	CEA	4.1.3.	The CEA acknowledges the importance of ensuring that appropriate cooperation arrangements between EEA and non-EEA supervisors are put in place and supports the establishment of colleges of supervisors that include equivalent third country supervisory authorities.	Agreed - CEIOPS is in favour of establishing appropriate cooperation arrangements between EEA and Non-EEA supervisors.
556.	CRO	4.1.3.	We recognize the importance of cooperation arrangements with 3rd country supervisors and we would like to encourage all efforts done by the CEIOPS and local supervisory authorities to pursue the conclusion of such arrangements.	See comment 555
557.	GDV	4.1.3.	The GDV acknowledges the importance of ensuring that appropriate cooperation arrangements between EEA and non-EEA supervisors are put in place and supports the establishment of colleges of supervisors that include equivalent third country supervisory authorities in an appropriate manner.	See comment 555
558.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.1.3.	We are supportive of good coordination of supervision of international groups and believe that the development of colleges of supervisors will be essential for it to be achieved.	See comment 555
559.	KPMG ELLP	4.1.3.	We welcome clarification that where Member States rely on equivalent group supervision, it is anticipated that EEA supervisors	Ensuring equivalence of group supervision should allow EEA

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			will play an important role within Colleges of Supervisors, thereby ensuring EEA policyholder interests are considered as part of group supervision in general. This paragraph seems to conflict with the exemption from EEA supervision mentioned in the previous paragraph. Paragraph 4.1.3 is more how we would envisage this working.	supervisors to rely on the third country group supervision while fully playing their role in the third country cooperation arrangements.
560.	Swiss Financial Market Supervisory Authority, FINM	4.1.3.	[EMPTY COMMENT]	
561.	Swiss Insurance Association (SIA)	4.1.3.	Effective group supervision is a fundamental feature of any prudential regime  Cooperation arrangements between supervisors and the establishment of colleges of supervisors between the EU, EEA and equivalent third country supervisory authorities are supported by the Swiss insurance industry.	Agreed
562.	US National Association of Insurance Commissioners	4.1.3.	U.S. regulators agree with the requirement in article 249 that regulators should notify others within the supervisory college when a regulatory capital level has been triggered. However, the article uses the terms solvency capital requirements and minimum capital requirements. U.S. regulators have three different action levels within statutory authority statutes or regulations. As stated previously, the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	Agreed – use of MCR and SCR should be understood here as generic terms to ensure the existence of a ladder of supervisory intervention
563.	Association	4.1.4.	With respect to the concern of the risk of inconsistency in the	In the absence of a determinative

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	of Bermuda Insurers and Reinsurers (AB		treatment of third country regimes in the absence of a determinative decision on equivalence by the European Commission regarding solvency requirements (which could be caused by either a delay due to resources or timing, i.e. beyond the control of the third country), what recourses would be available to the firms to remedy that position?	decision on equivalence by the EU COM, the group supervisors have to take the decision after consulting CEIOPS. (Article 260.1)
564.	Bermuda Monetary Authority	4.1.4.	[EMPTY COMMENT]	
565.	CRO	4.1.4.	<p>We generally agree with this comment, which would also be applicable to the equivalence assessment under art. 172 and 227.</p> <p>It is our strong preference that the European Commission makes decision on equivalence in order to maintain consistency across all Member States. Failure to achieve consistency may lead to unlevel playing field.</p> <p>We would therefore suggest to consider a mechanism (e.g. in the form of transitional provisions) that would simplify the application of a positive equivalence decision by a single Member State to all EU/EEA jurisdictions, until the decision is made binding by a decision of the European Commission.</p>	<p>In the absence of a determinative decision on equivalence by the EU COM, the group supervisors have to take the decision after consulting CEIOPS. (Article 260.1)</p> <p>CEIOPS aims at establishing a level playing field if EEA supervisors form their own assessment of equivalence. This is why the directive foresees CEIOPS consultation in such a case to ensure consistency of decisions.</p>
566.	KPMG ELLP	4.1.4.	As stated in 2.1.5, we believe this gives the risk of a non-level playing field if EEA supervisors form their own assessment of equivalence (in the absence of any determination by the Commission). As far as possible, we would like to see only one assessment in respect of each third country regime, with all	See comment 565

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			<p>supervisors across the EEA treating the country in the same way.</p> <p>CEIOPS should further consider what further safeguards can be put in place to prevent different assessments from happening. For example, this could include an assessment of those third countries that are likely to be relevant to several member states, and seeking a college-like group of affected supervisors to perform an initial assessment of the regime, using CEIOPS as arbiter in case of disagreement. Apart from the difficulties for EEA supervisors of dealing with differing assessments, this would also mean that third country supervisory authorities only need to go through the assessment process once and then have clarity regarding how their regime is to be treated.</p>	
567.	METLIFE	4.1.4.	<p>We share CEIOPS' concerns as expressed in paragraph 4.1.4 about the potential for inconsistent approaches by different EU regulators to the same third country. However, we would reiterate the point made earlier that an assessment of a third country's equivalence by the Group Supervisor may be a helpful interim step if no decision on the equivalence of a third country's regime has been made by the Commission.</p> <p>We would like to reiterate our view that the existence of a differently-structured system of regulation such as the state-based system in the US should not constitute a barrier to mutual recognition/equivalence if this system achieves the ultimate aim of protecting policy-holders and beneficiaries which CEIOPS states in paragraph 4.1.4. The US has a long-established system of information exchange and mutual cooperation between regulators which can be extended to cover working with regulators from countries outside the US.</p>	See comment 565
568.	XL Capital Ltd	4.1.4.	"In the absence of a determinative decision on equivalence made by the European Commission, supervisory authorities may come to	See comment 565

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			different equivalence decisions on the same third country regime. This raises the risk of inconsistency in the treatment of third country regimes and the calculation of group solvency in the EEA." We note this raised risk, but do not see within CP 78 a proposal to address it.	
569.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.1.5.	In situations where no decision has been reached by the European Commission, different group supervisors could make differing equivalence assessments of third-country jurisdictions, thereby creating competitive imbalances. Should there not be a mechanism for a ruling to be made to level the playing field in such cases? Perhaps a procedure for assessment by CEIOPS or the Commission should be triggered in such cases?	See comment 565
570.	Swiss Financial Market Supervisory Authority, FINM	4.1.6.	See General Comment 1: No need to meet every aspect of the objectives and even less so of the indicators if equivalence in regards of scope and impact is tested.	Agreed - Each objective consists of a set of indicators. CEIOPS will assess whether these indicators will be partially or largely observed to determine whether an objective is met..
571.	CEA	4.2.1.	"The group supervisor shall be able to require the use of the deduction-aggregation method or a combination of both methods when the default method is not appropriate."  We think that it should be possible for a (re)insurer to have the initiative to propose/request the use of the deduction aggregation method subject to approval.	Agreed - Before the group supervisor will require the use of the deduction-aggregation method, the group itself should have the initiative right to propose this method beforehand. CEIOPS would expect that the group supervisor should only take such a decision after having consulted the College.
572.	US National Association	4.2.11.	U.S. regulators support transparency, and require insurers to disclose in their annual and quarterly statements differences	Not clear to which paragraph this comment makes reference

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	of Insurance Commissioners		between the NAIC basis of accounting and the state's basis of accounting. The US is not opposed to similar disclosure requirements on a national level, with the benchmark being IFRS, however this may have to be limited to international insurers only since many small insurers would not follow IFRS. U.S. regulators are opposed to such a disclosure on required capital as there is no IAIS formulaic model that could be used as a common benchmark.	Transparency is the objective, here for the disclosure of internationally active groups as the ones aimed by the assessment of group supervision equivalence.
573.	ABI	4.2.17.	<p>"The group supervisor shall be able to require the use of the deduction-aggregation method or a combination of both methods when the default method is not appropriate."</p> <p>We think that it should be possible for a (re)insurer to have the initiative to propose/request the use of the deduction aggregation method subject to approval.</p>	See comment 571
574.	XL Capital Ltd	4.2.17.	"The group supervisor shall be able to require the use of the deduction-aggregation method". Here the wording from Article 220 should be used, as this includes reference to "after consulting the other supervisory authorities concerned".	See comment 571
575.	US National Association of Insurance Commissioners	4.2.19.	U.S. regulators agree that the double use of funds should not be allowed. U.S. regulators note they are able to calculate US capital for many groups today when the insurers stack the insurers on top of one another. The NAIC risk-based capital formula requires each insurer to include the risk-based capital requirements of a subsidiary in its own risk-based capital, and given insurers utilize an equity method of accounting in the calculation of available capital; regulators are able to determine the risk-based capital for those groups of companies. When all companies within a group are not stacked on top of each other, U.S. regulators can utilize an aggregation method and information on ownership percentages to determine group capital.	<p>CEIOPS noted that in the U.S. the group capital can be calculated according to the deduction-aggregation method.</p> <p>CEIOPS also wants to highlight the importance of all risks within groups to be taken into account.</p>

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576.	US National Association of Insurance Commissioners	4.2.21.	Article 224 appears to allow the valuation principles of US entities to be utilized for a non-U.S. holding company, but US regulators request clarification.	Article 224 requires the application of the principles of article 75 of the Level 1 text for the valuation of asset and liabilities under SII, including for US subsidiaries of EEA groups.
577.	US National Association of Insurance Commissioners	4.2.6.	U.S. regulators agree in principle, but it should be noted that many states will require deposits to be placed with the state either for the benefit of all policyholders or the benefit of policyholders in a particular state. In some cases these are used as deterrents to potential risk not otherwise mitigated by the insurer. Additionally, other countries should recognize that in the U.S., state guaranty funds are used for most lines of business in order to minimize the impact of insolvency on policyholder funds. Consequently, other countries which do not have similar requirements may not be able to match these differences.	Noted
578.	Bermuda Monetary Authority	4.2.8.	Clarification should be provided as to whether CEIOPS will require jurisdictions seeking assistance in this context to apply its "qualified advice". Regulation is a sovereignty issue and the general principle in terms of group supervision would be that a group supervisor would not direct the activities of a local supervisor. This is also consistent with the IAIS Insurance Core Principle ("ICP") 17, which indicates that group-wide supervisor should supplement solo supervision.	The future EEA concept will regard the group as one single economic unit. The approach of supervising this group will follow that approach. The solo supervisor will definitely not lose any sovereign rights. The economic based group-wide supervision will not replace solo supervision.
579.	US National Association of Insurance Commission	4.2.8.	U.S. regulators suggest that CEIOPS strike the phrase "In the event that supervisors concerned cannot reach an agreement, qualified advice from CEIOPS should be sought to resolve the matter." US regulators have used supervisory colleges for years in what the	The phrase "In the event that supervisors concerned cannot reach agreement, qualified advice from CEIOPS should be sought to

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	ers		NAIC refers to as the lead state approach. Although not common, disagreement can and will occur because interests of each state differ. In the case of a disagreement, regulators work out these differences within the framework of their respective legal authorities and the NAIC has no decision-making authority in such situations; we suggest that CEIOPS take a similar approach. However, this point highlights why it is necessary for each supervisor to be concerned with their company first and foremost, while understanding the impact of decisions at the group level on their legal entity.	resolve the matter.” is part of the Recital 107 of the Solvency II Directive that has been adopted by EU Council and EU Parliament of 27 Member States. CEIOPS can therefore not strike the phrase that is the Level 1 text.
580.	US National Association of Insurance Commissioners	4.2.9.	The focus of analysis at the group wide level should be on assessing group wide risk with appropriate coordination and cooperation mechanisms in place to disseminate information to other regulators.	Agreed. CEIOPS notes that this is one important focus at group supervision level.
581.	American Insurance Association	4.3.1.	To reflect the OECD guidance, we request that “effective and efficient” be inserted before “the “protection of policyholders”. This change would bring in concepts such as transparency and cost/benefit analyses. A reference to the OECD work should be included.	CEIOPS is aware of the OECD guidance, but is required by the Level 1 Solvency II Directive text to assess equivalence towards Solvency II.
582.	Association of Bermuda Insurers and Reinsurers (AB)	4.3.1.	As stated in 2.3.1. We support that the overriding test for assessing a third country supervisory system against the criteria is whether its supervisory system ensures the protection of policyholders and beneficiaries in an equivalent manner under Title 1. In the absence of a system to measure contribution to financial stability it would be difficult to assess. Further, factors relating to contributions to a “fair and stable market” are even more difficult to quantify and therefore are totally subjective dependent on the assessor(s). It is important that the assessment be measured against principles that are clearly understood and measurable.	CEIOPS will develop a detailed assessment methodology in Level 3. All assessors will be put into the position to fully understand all principles.

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583.	Bermuda Monetary Authority	4.3.1.	In our General Comment 3, we reiterate that while we support CEIOPS' desire to ensure that policyholders in the European Union are equally protected regardless of whether purchasing coverage from an insurer based in a third country. We request that CEIOPS also acknowledges in CP 78 that some third country regimes have classes of (re)insurers that operate almost solely outside the European Union, in markets that have laws ensuring high levels of policyholder protection. The regulatory and supervisory frameworks in such countries could account for this and may not require the provisions proposed in Solvency II to achieve the similar levels of policyholder protection.	Noted
584.	Deloitte	4.3.1.	As per 2.3.1.	Noted.
585.	Group of North American Insurance Enterprises, Inc	4.3.1.	As in paragraph 2.3.1, we agree entirely with the first sentence that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.	Agreed. CEIOPS regards as main question to be answered whether the supervisory system of third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I.
586.	KPMG ELLP	4.3.1.	The use of the phrase "in an equivalent manner" again raises the question of whether CEIOPS would anticipate accepting as equivalent alternative methods of group supervision that can be demonstrated give the same level of policyholder protection.  In the context of group supervision where a third country supervisor is the lead supervisor, it would be helpful if CEIOPS	Noted - Groups should be subject to a supervisory regime that enables them to absorb significant losses and that gives reasonable assurance to policy holders and beneficiaries of

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			would clarify whether it perceives "policyholders and beneficiaries" in this context to relate to the entirety of the groups policyholders and beneficiaries or just the EEA policyholders and beneficiaries. Whilst the former seems more appropriate in terms of equivalence assessment, Solvency II is really only interested in the latter. If the assessment is restricted to just consideration of the EEA subset of the group, it may be possible for some alternative measures of group supervision to be considered, similar to the option set out in Article 262(2) in relation to non-equivalent third country group supervision. We would welcome CEIOPS views in this regard.	(re)insurance undertakings part of the group that payments will be made as they fall due.
587.	METLIFE	4.3.1.	We agree with the point that CEIOPS makes in paragraph 4.3.1 that 'the overall objective of solo and group supervision is the adequate protection of policyholders and beneficiaries'. This should be the ultimate aim behind all supervision and should be borne in mind when comparing different supervisory systems. If systems constructed differently achieve the same aim, even with substantial divergences in structure, then supervisors should be able to reach some kind of mutual recognition agreement, even if there is no straightforward 'read-across' between the systems concerned.	See comment 585
588.	Property Casualty Insurers Association of America	4.3.1.	As in paragraph 2.3.1, we agree that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.	See comment 585
589.	US National Association	4.3.10.	U.S. regulators do not believe legislation is appropriate or required to prevent double counting of intra-group capital. Rather, a	Noted - Internal creation of capital and double gearing should

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	of Insurance Commissioners		reference to a publication or requirement through statute or regulation would meet the principle of the expectations.	be avoided. CEIOPS is keen on receiving information whether this is ruled out by legislation, regulation standards, guidelines or statutes
590.	CEA	4.3.11.	We agree that the existence of a tier system for own funds should not be a prerequisite for recognising equivalence.  We believe however that this statement is not a specific issue in relation to equivalence under 260 (group supervision of a non-EEA supervisory regime) and should therefore be equally applicable to equivalence assessments under Article 172 and 227, which also include indicators in relation to own funds (see 2.3.53 and 3.3.12).	Agreed – see indicators of own funds in the three chapter that are consistent
591.	Deloitte	4.3.11.	We would welcome an explanation as to 'why tiering of capital' is not required at group level whilst this is considered as an indicator at solo level. Also, 4.3.57 seems to imply the contrary.	See comment 590
592.	GDV	4.3.11.	We agree that the existence of a tier system for own funds should not be a prerequisite for recognising equivalence.  We believe however that this statement is not a specific issue in relation to equivalence under 260 (group supervision of a non-EEA supervisory regime) and should therefore be equally applicable to equivalence assessments under Article 172 and 227, which also include indicators in relation to own funds (see 2.3.53 and 3.3.12).	See comment 590
593.	KPMG ELLP	4.3.11.	This paragraph says that a tier system for own funds should not be prerequisite for equivalence recognition. However, the wording in paragraph 4.3.57 (also 2.3.53 and 3.3.14) read as if some form of tiering is an indicator ("quantitative limits" and the classification of	See comment 590

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			the first bullet both suggest tiering in all but name). This apparent inconsistency within the text should be clarified.	
594.	CEA	4.3.12.	<p>Clarification is needed with what CEIOPS means by stating that "The calculation methods shall lead to a result at least equivalent to one of the two methods of the Level 1 text ...". Should a methodology be used which is at least similar to the Solvency II consolidation-based method or the deduction-aggregation method? Or, should the outcome (or result) of the group solvency calculation used by a third country be at least equal to the outcome of one of the two group solvency calculations under Solvency II? Indeed, due to acceptable difference in the methodology the result of the group solvency calculations may differ and due to these differences the Solvency II group SCR might not always be higher than the third country's "group SCR" calculation.</p> <p>Furthermore, a combination of the two methods may also be appropriate in certain circumstances. The separation of these two methods might be not so easily done in practice as it seems from a theoretic point of view. This situation is currently not recognised by the indicator while it should as it would be possible for EEA groups.</p>	The outcome (or result) of the group solvency calculation used by the third country should be at least equal to the outcome of one of the two group solvency calculations under Solvency II or a combination of both methods. It is not necessary that in the third country system the same methodologies than under Solvency II will be applied 1:1. Nonetheless CEIOPS would request further information why other methods than a consolidation approach are regarded as risk-based approaches.
595.	GDV	4.3.12.	<p>Clarification is needed with what CEIOPS means by stating that "The calculation methods shall lead to a result at least equivalent to one of the two methods of the Level 1 text ...". Should a methodology be used which is at least similar to the Solvency II consolidation-based method or the deduction-aggregation method? Or, should the outcome (or result) of the group solvency calculation used by a third country be at least equal to the outcome of one of the two group solvency calculations under Solvency II? Indeed, due to acceptable difference in the methodology the result of the group solvency calculations may differ and due to these differences the</p>	See comment 594

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			<p>Solvency II group SCR might not always be higher than the third country's "group SCR" calculation.</p> <p>Furthermore, a combination of the two methods may also be appropriate in certain circumstances. The separation of these two methods might be not so easily done in practice as it seems from a theoretic point of view. This situation is currently not recognised by the indicator while it should as it would be possible for EEA groups.</p>	
596.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.12.	<p>The wording appears overly prescriptive. We suggest the following alternative:</p> <p>"The outcomes of the methodology should be equivalent to one of the two methods of the Level 1 text (accounting consolidation-based method, deduction-aggregation method).</p>	See comment 594
597.	Swiss Insurance Association (SIA)	4.3.12.	<p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence</p> <p>Differences in methodology (calibrations, calculations and models) may result in differences of the group solvency. We understand 4.3.12 that the outcome of supervisory practices in the third country regarding group solvency should result to comparable results of one of the two group solvency calculations under Solvency II. We would emphasise that a combination of the consolidated approach and the deduction and aggregation method or a granular approach can be applied as well in certain cases.</p> <p>This comment applies as well to 4.3.58, seventh bullet.</p>	See comment 594
598.	US National Association	4.3.12.	<p>Again, U.S. regulators request clarification on the methods available to calculate group capital, as existing legal capital</p>	See comment 594

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	of Insurance Commissioners		requirements for each individual insurer (aggregation) should be the baseline for such requirements.	
599.	CEA	4.3.13.	<p>The extent to which diversification benefits of related credit institutions, investment firms, financial institutions may be included in the group calculation is still under debate and upon a final decision by on the Solvency II implementing measures we believe that such a firm statement should not be included at this stage. We suggest a the following change to the wording:</p> <p>“Related credit institutions, investment firms, financial institutions as private pension funds shall be included in the group calculation. The with no allowance of for diversification shall be equivalent to those under the Solvency II framework requirements.”</p>	Related credit institutions, investment firms, financial institutions as private pension funds shall be included in the group calculation according to their sectoral requirements. The recognition of cross-sectoral diversification benefits is therefore not foreseen (Article 228 referring to Annex 1 of the FCD)
600.	GDV	4.3.13.	<p>The extent to which diversification benefits of related credit institutions, investment firms, financial institutions may be included in the group calculation is still under debate and upon a final decision by on the Solvency II implementing measures we believe that such a firm statement should not be included at this stage. We suggest a the following change to the wording:</p> <p>“Related credit institutions, investment firms, financial institutions as private pension funds shall be included in the group calculation. The with no allowance of for diversification shall be equivalent to those under the Solvency II framework requirements.”</p>	See comments 599
601.	KPMG ELLP	4.3.13.	There is no discussion concerning the basis on which other financial services undertakings are included within the group solvency assessment. The Advice relating to CP 60 requires these to be included on a regulatory basis, with no allowance for cross-sector	See comments 599

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			<p>diversification. Although this paragraph refers to no diversification, it is silent on the basis of valuation. We would appreciate CEIOPS views regarding the acceptability of valuation approaches in relation to the group solvency assessment.</p> <p>Of a similar nature is the treatment of non-EEA insurance entities that are outside the country of the group supervisor. Where these have been included based on their own country regulatory bases, consideration will need to be given by the EEA supervisors to whether they are happy with this treatment. In particular, additional analysis may need to be undertaken to assess the implications for EEA supervisors if that other third country regime has been assessed as non-equivalent to Solvency II by the Commission.</p>	Local rules can not be used in the case of non equivalence.
602.	Swiss Insurance Association (SIA)	4.3.13.	<p>Stringent requirements for third countries as for EEA</p> <p>At this given time it is not finally decided in the Solvency II implementing measures to what extent diversification benefits may apply to related credit institutions, investment firms, financial institutions etc. Undertakings in equivalent third countries must not be excluded a priori from this potential diversification on this account. We suggest a new wording: "... shall be included in the group calculation. The allowance of diversification shall be equivalent to those under the Solvency II framework requirements."</p>	<p>See comments 599</p> <p>Agreed – see revised introduction to the advice</p>
603.	Bermuda Monetary Authority	4.3.14.	<p>International accounting standards continue to evolve and are requiring additional disclosures to inform and protect stakeholders. In this regard any internationally recognised financial reporting should be acceptable (e.g. US GAAP, IFRS etc.).</p>	CEIOPS would like to receive information how far the supervisory disclosure requirement are in line with internationally recognised financial disclosure requirements.
604.	CEA	4.3.14.	We agree that an equivalent level of supervisory reporting and	Done. See revised text.

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			<p>public disclosure is required. However, we also are of the opinion that other disclosure requirements, e. g. in accounting, could cover these requirements. Therefore, a separate report with the content of the GFSCR should not be mandatory. Indeed, the content might be covered by two or more separate reports. Requiring undertakings to combine information which is already made available in a single report will unnecessarily increase compliance costs.</p> <p>Furthermore, since Pillar 3 requirements are still under discussion, we would suggest the following change:</p> <p>"... Groups shall be required committed to disclose publicly a group report on their solvency and financial position with comparable disclosures to that of the Solvency II framework, the content similar to the Group Solvency and Financial Condition Report (GFSCR)."</p> <p>The comment also applies to 4.3.64</p>	
605.	CRO	4.3.14.	<p>This article makes reference to the Group Solvency and Financial Condition Report, the content thereof will be defined under Level 2 implementing measures. We believe that Level 2 provisions should not constitute the basis for the equivalence assessment and suggest the following wording: Group shall be committed to publicly disclose material information on their solvency and financial position that are equivalent to the Solvency II requirements'. Again the text should stress, that these requirements can be met by IFRS disclosure or public listing requirements and do not necessarily have to be determined by the regulator.</p>	CEIOPS would like to receive information how far the supervisory disclosure requirement are in line with internationally recognised financial disclosure requirements.
606.	GDV	4.3.14.	<p>We agree that an equivalent level of supervisory reporting and public disclosure is required. However, we also are of the opinion that other disclosure requirements, e. g. in accounting, could cover these requirements. Therefore, a separate report with the content</p>	CEIOPS would like to receive information how far the supervisory disclosure requirement are in line with

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			<p>of the GFSCR should not be mandatory. Indeed, the content might be covered by two or more separate reports. Requiring undertakings to combine information which is already made available in a single report will unnecessarily increase compliance costs.</p> <p>Furthermore, since Pillar 3 requirements are still under discussion, we would suggest the following change:</p> <p>"... Groups shall be required committed to disclose publicly a group report on their solvency and financial position with comparable disclosures to that of the Solvency II framework, the content similar to the Group Solvency and Financial Condition Report (GFSCR)."</p> <p>The comment also applies to 4.3.64</p>	<p>internationally recognised financial disclosure requirements.</p> <p>Agreed. See revised text.</p>
607.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.14.	<p>We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.</p>	<p>CEIOPS thinks that the format of documentary requirements of equivalent third-country systems should not be identical to those of Solvency II. Nonetheless, CEIOPS expects, that the content of the third country supervisory regime reporting is similar to the one of Solvency II.</p>
608.	KPMG ELLP	4.3.14.	<p>We agree that where EEA supervisors are to rely on third country group supervision then some form of public disclosure would be helpful. However, we would prefer that reference to the group solvency and financial condition report (GSFCR) is removed, to make it clear that the disclosure could be in a different form and/or to a different level of granularity to that proposed under the Advice relating to CP 58.</p>	<p>See comment 607</p>

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			In this regard, we note that neither the Level 1 text nor the Final Advice relating to CP 58 or CP 60 has clearly articulated what disclosure requirements will apply in the context of worldwide groups. As Article 262(2) allows alternative means of supervising the worldwide group (in a non-equivalent jurisdiction), we believe that clarity regarding the disclosures required at the worldwide level for a non-equivalent group should be ascertained first, and the level of disclosure required in an equivalent regime assessed in this context.	
609.	Property Casualty Insurers Association of America	4.3.14.	As long as group supervision is broadly equivalent, the assessment should not explicitly require a group report like the "Group Solvency and Financial Condition Report (GSFCR)". The assessment should examine whether analogous information is provided in other formats, and should bear in mind that even the EU will not require such a report until 2013.  This comment also applies to paragraphs 4.3.64 and 4.3.72.	See comment 607
610.	Swiss Financial Market Supervisory Authority, FINM	4.3.14.	If the third country supervisory authority examines the reports this may correspond in scope and impact with the EU approach.	See comment 607
611.	Swiss Insurance Association (SIA)	4.3.14.	Stringent requirements for third countries as for EEA  The requirements of Pillar 3 are not fully known at this given time. The requirements for disclosure in the third country must be equivalent to EU obligations. In place of the given last sentence we suggest: "Groups shall be committed to disclose a group report on their solvency and financial position with comparable disclosures to that of the Solvency II framework."	See comment 607

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612.	US National Association of Insurance Commissioners	4.3.14.	See also Comments to 4.2.11 U.S. regulators agree with a strong system of governance within an insurance group, and consider this in the overall supervisory plan of the insurer. However, U.S. regulators believe the disclosure of the Group Solvency and Financial Condition Report may be overly prescriptive.	See comment 607
613.	KPMG ELLP	4.3.15.	We suggest replacement of "within two months" to "within a short timeframe" as it does not appear appropriate for the EEA to be forcing the timeline for submission of recovery plans on overseas regulators.	Agreed. See revised text.
614.	CEA	4.3.17.	The statement in this paragraph that "a system of governance should encompass proportionality aspects", while paragraph 4.3.24 states "that the existence of a proportionality principle ... is neither an obstacle or prerequisite to the re recognition of equivalence", requires some clarification.	CEIOPS does not see a contradiction between those two paragraphs. The assessment on equivalence will follow the proportionality principle on the application of proportionality.
615.	CRO	4.3.17.	We suggest deleting the reference to the own risk and solvency assessment (ORSA), as this is a reference to a very specific element of Solvency II. Also, details on the ORSA are still to be developed, probably in the form of a Level 3 Guidance. We believe that these provisions should be included in the basis for the equivalence assessment.	Since the ORSA is one of the cornerstones of the system of governance already foreseen in the Level 1 text, CEIOPS does not see a need to delete it. See revised text.
616.	KPMG ELLP	4.3.17.	Rather than a reference to the own risk and solvency assessment, we would prefer more generic reference to the system of assessing risks and capital requirements.	Agreed. See revised text.

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617.	Bermuda Monetary Authority	4.3.18.	[EMPTY COMMENT]	
618.	Bermuda Monetary Authority	4.3.19.	Third country authorities have addressed cross-border issues for many years using regulator-to-regulator requests, Memoranda of Understanding ("MoUs"), and other information sharing mechanisms to achieve cooperation between regulators who oversee and regulate the same entity or its branches. As part of the International Association of Insurance Supervisors ("IAIS") ICPs, information sharing and supervisory co-operation are widely encouraged to resolve cross-border issues, including crisis situations. As part of the appointment of the Group Supervisor, it would be appropriate to establish the terms of co-operation, responsibilities of each supervisor and dispute resolution options. Additionally, supervisory colleges have provided a platform for enhanced cooperation and communication between supervisors.	CEIOPS believes, that mechanisms to work out solutions, also in case of emergency and for disagreement between non-EEA group supervisor and any of the EEA supervisory authorities, should be set in place. A submission to binding EU arbitration may however not be available for a third country supervisory authority unless an International Treaty with the EU COM is concluded. CEIOPS will take e.g. CEBS Mediation Protocol 2007 and CP 34 2009 into account when preparing its Level 3 standards for Colleges.
619.	Swiss Financial Market Supervisory Authority, FINM	4.3.19.	Mechanisms to work out solutions, also in case of emergency and for disagreement, should be in place. A submission to binding EU arbitration may however not be available for a third country supervisory authority unless an International Treaty is concluded.	See comment 618
620.	Swiss Insurance Association	4.3.19.	Mediation process between EEA supervisors and equivalent third countries' group supervisors should be in place Cooperation mechanisms are welcome by the Swiss Insurance	See comment 618

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	(SIA)		industry as well for cases of emergency and disagreement. A mutual cooperation agreement can provide the legal basis for such arrangements.	
621.	KPMG ELLP	4.3.20.	We concur with the need for close cooperation between all the supervisors involved.	See comment 618
622.	Swiss Financial Market Supervisory Authority, FINM	4.3.20.	Close cooperation should exist amongst ALL involved countries.	See comment 618.
623.	CRO	4.3.22.	<p>In general, we believe that the equivalence assessment shall apply a holistic approach in line with underlying objectives of Solvency II. Assessment should be contextual and pragmatic, i.e. reaching the necessary balance to get a complete picture on what are the objectives of the 3rd country regime and how strong is the outcome of the supervision.</p> <p>We therefore favour granting flexibility in the definition of the equivalence criteria that should include all relevant elements that would allow demonstrating that the 3rd country supervisory authority applies solid standards that achieve equivalent objectives as Solvency II.</p>	Agreed - See revised text in 1.3 and 4.3.27g
624.	KPMG ELLP	4.3.22.	We agree with the elements relevant to the equivalence assessment outlined here (which we note make no reference to disclosures – see comments in 4.3.14). We welcome the implied need for a pragmatic approach, and agree that there will be occasions where additional matters need to be considered (for example the impact on the EEA (re)insurance market). However,	See comment 623

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			from a third country supervisor perspective, reference to a "non exhaustive list of relevant criteria" is not helpful, and we believe that this should either be changed to "the key criteria to be considered" or an indication of the other considerations should be provided in the interests of transparency.	
625.	Association of Bermuda Insurers and Reinsurers (AB	4.3.26.	As we stated in 1.3 and 3.3.7 we suggest additional language be added. To make sure this is not viewed by others as a "box ticking exercise", and sentence such as this should be added: "A jurisdiction can be found to meet the principles and the objectives without having met all the indicators. Indicators are not conclusive proof of the objective or principles having been met."	Agreed – see revised text The equivalence requirements of CEIOPS do not have to be fulfilled 100%. It is not a box ticking exercise.
626.	CRO	4.3.26.	In line with our comments for section 1.3, we suggest to change this section to: "..., a 3rd country regime will have to meet each of the following principles and objectives laid in this advice. For each principle and objectives, the advice provides a list of indicators that are examples providing guidance in determining whether the relevant principles and objectives are achieved. Fulfilling all indicators is by no mean a condition for achieving equivalence. The Equivalence Assessment shall also take into consideration the general objectives of the 3rd country's regime as well as its outcome in a pragmatic manner'.  We also suggest the Level 2 text to provide for grandfathering arrangements for countries, where applicable, but may not be assessed as equivalent under Solvency II.	See comment 625
627.	Deloitte	4.3.26.	As per 2.3.7	See comment 625
628.	DIMA (Dublin International	4.3.26.	4.3.26 states "In order to be considered equivalent, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives laid in this advice." If "have to	See comment 625

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	Insurance & Management		<p>meet" means the absence of 'Not observed' (and it is difficult to interpret these words any more flexibly than that) then it is difficult to see how any regime would gain equivalence based on the principles and objectives outlined.</p> <p>In essence, CP78 is silent on the question of how to take the set of assessments made up of each assessment against each principle/objective in order to reach a conclusion as to whether a regime is equivalent or not. DIMA suggests that the final advice should address this point in some detail. The language in 2.3.7, 3.3.7 and 4.3.26 is not sufficiently broad enough to perform such an overall assessment and would therefore not be making full use of the concept of categorisations as outlined in A1.14.</p> <p>(See general comment above, "Relevant and realistic criteria to achieve equivalence recognition" and comments on 2.3.7, 3.3.7 and A1.10.)</p>	
629.	Group of North American Insurance Enterprises, Inc	4.3.26.	We suggest the deletion of the words "each of" in the first sentence.	See comment 625
630.	SII Legal Group	4.3.26.	See comments under 2.3.7	Noted.
631.	Swiss Financial Market Supervisory Authority, FINM	4.3.26.	See General Comments 1 and 2: No need to meet every part of the objectives and even less so of the indicators if equivalence in regards of scope and impact is tested.	See comment 625.

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632.	American Insurance Association	4.3.27.	We request the insertion of "effective and efficient" before "protection of policyholders", as a summary way to express the need for transparent and pro-competitive regulation and supervision.	CEIOPS considered that policyholders' protection is the main aim.
633.	US National Association of Insurance Commissioners	4.3.27.	U.S. regulators agree with the objective in Principle No. 1-Powers and responsibilities of a group supervisor. However, we believe the indicators in 4.3.28-4.3.38 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	CEIOPS welcomes that U.S. regulators agree with the objective in Principle No. 1 – Powers and responsibilities of a group supervisor. Most of the indicators mentioned here are common to some of the IAIS standards and OECD guidelines.
634.	Deloitte	4.3.28.	As per 2.3.9.	Noted.
635.	CEA	4.3.31.	See our comment to 2.3.11	See answer to 2.3.11.
636.	Deloitte	4.3.31.	As per 2.3.11.	See answer to 2.3.11.
637.	FFSA	4.3.31.	See 2.3.11.	See answer to 2.3.11.
638.	Group of North American Insurance Enterprises, Inc	4.3.31.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	CEIOPS is aware of the FSAP, but is required by the Level 1 Solvency II Directive text to assess equivalence towards Solvency II.
639.	INTERNATIONAL UNDERWRITING ASSOCIATION OF	4.3.31.	Second bullet point: Instead of identifying specific types of undue interference, it might be simpler and clearer just to refer to "harmful interference". Otherwise, certain forms of interference could be missed, while normal dialogue with government or industry could also be too easily represented as undue.	Please see 141. .It is not the intention to restrict normal dialogue with stakeholders.

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LONDON				
640.	Swiss Insurance Association (SIA)	4.3.31.	Stringent requirements for third countries as for EEA Fourth bullet: EEA supervisory authorities could lack an adequate level of financial and non-financial resources. Therefore this should not be an indicator for equivalence and should apply to the third country supervisory authority. We suggest deleting this bullet.	It is important to ensure that supervisory resources are adequate to the task that has to be carried out.
641.	Group of North American Insurance Enterprises, Inc	4.3.32.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638
642.	Group of North American Insurance Enterprises, Inc	4.3.33.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638
643.	Swiss Financial Market Supervisory Authority, FINM	4.3.33.	See General Comment 2: Clarify indicator by further spelling out what is meant by "administrative" procedures since accounting standards are given.	Administrative procedures mean the procedures taken by the supervisory authority as an administrative act or an administrative circular.
644.	CEA	4.3.34.	See our comment to 2.3.14	See answer to 2.3.14.
645.	Group of North American Insurance	4.3.34.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638

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	Enterprises, Inc			
646.	CEA	4.3.35.	See our comment to 2.3.15	See answer to 2.3.15.
647.	FFSA	4.3.35.	See 2.3.15.	See answer to 2.3.15.
648.	Group of North American Insurance Enterprises, Inc	4.3.35.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638
649.	Swiss Financial Market Supervisory Authority, FINM	4.3.35.	See General Comment 2: Suspension of voting rights and nullity of votes cast/possibility of annulment to be deleted as indicators twice (first and second bullet, there may exist other instruments).	Agreed – see revised text
650.	Swiss Insurance Association (SIA)	4.3.35.	Need for a holistic view instead of “ticking boxes” Second bullet: the suspension of voting rights and nullity of votes cast / possibility of annulment might not be given in this manner in third countries. Alternative supervisory measures should be allowed for.	See comment 649
651.	Group of North American Insurance Enterprises, Inc	4.3.36.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638
652.	Group of	4.3.37.	We believe that most of the indicators here are common to the IAIS	See comment 638

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	North American Insurance Enterprises, Inc		standards and that a positive FSAP report should be an indicator of compliance.	
653.	Group of North American Insurance Enterprises, Inc	4.3.38.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	See comment 638
654.	Swiss Financial Market Supervisory Authority, FINM	4.3.38.	See General Comment 2: Indicator to be clarified regarding whose cooperation is considered.	All involved supervisors, the group supervisor of the third country parent undertaking as well as the concerned national supervisor should discuss possible enforcement actions.
655.	Swiss Insurance Association (SIA)	4.3.38.	Who should cooperate in respect of enforcement action?	See comment 654
656.	CEA	4.3.39.	<p>Delete the reference to "illustration below" (or include illustration). If illustration would be included, our comments to 4.3.4. would apply here as well.</p> <p>In addition to the need to define the scope of group supervision (which entities would fall within the scope), we would expect that the equivalence assessment would also assess whether there is a transparent and objective legal framework that is in place within a third country to determine whether (and potentially by whom) group supervision should be conducted. Indeed, this needs to be</p>	Right. The sentence will be rephrased. The term "illustration below" will be deleted.

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			<p>reviewed as there could be potential conflicts between the mechanism applied under Solvency II and the mechanism applied by the third country. The EEA supervisors and the potentially equivalent non-EEA supervisor(s) need to agree on who should conduct supervision as only a single group supervisor needs to be identified as being responsible for group supervision.</p> <p>See also our comment to 4.3.42.</p>	
657.	GDV	4.3.39.	<p>Delete the reference to "illustration below" (or include illustration).</p> <p>In addition to the need to define the scope of group supervision (which entities would fall within the scope), we would expect that the equivalence assessment would also assess whether there is a transparent and objective legal framework that is in place within a third country to determine whether (and potentially by whom) group supervision should be conducted. This needs to be reviewed as there could be potential conflicts between the mechanism applied under Solvency II and the mechanism applied by the third country. The EEA supervisors and the potentially equivalent non-EEA supervisor(s) need to agree on who should conduct supervision as only a single group supervisor needs to be identified as being responsible for group supervision.</p>	See comment 656
658.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.39.	The illustration has been omitted.	See comment 656
659.	Swiss Insurance Association	4.3.39.	What illustration is referred to?	See comment 656

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	(SIA)			
660.	US National Association of Insurance Commissioners	4.3.39.	U.S. regulators agree with the objective in Principle No. 2-Group Supervision, and U.S. regulators perform such analysis now using SEC filings.	CEIOPS welcomes that U.S. regulators agree with the objective in Principle No. 2 – Group supervision.
661.	XL Capital Ltd	4.3.39.	“The supervisory regime should have a framework for determining which undertakings fall within the scope of supervision at group level. Nonetheless, undertakings controlled (through significant or dominant influence e.g.) by the group shall be included in the scope of group supervision (illustration below).  No illustration has been included.	See comment 656
662.	CEA	4.3.4.	[EMPTY COMMENT]	
663.	GDV	4.3.4.	[EMPTY COMMENT]	
664.	US National Association of Insurance Commissioners	4.3.4.	As stated previously, the focus of analysis at the group wide level should be assessing group wide risk with appropriate coordination and cooperation mechanisms in place to disseminate information to other regulators. However, Non-US supervisors do not have legal regulatory authority over a U.S. domiciled insurer.	CEIOPS recognises that non-US supervisors do not have legal regulatory authority over U.S. domiciled insurer. Solvency II regulation does not interfere in sovereign rights of national supervisors. The group wide level of supervision complements the solo supervision.
665.	US National Association of Insurance Commissioners	4.3.41.	U.S. regulators disagree with the requirement that the group supervision shall be at least at the same level as the level 1 text, as this is overly prescriptive and too specific and as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to adherence to specific indicators.	See revised text in 4.3.26 to 4.3.28

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666.	American Insurance Association	4.3.42.	<p>We support the designation of one group supervisor, if group supervision is to occur. Other supervisors should defer to that group supervisor, and avoid duplicative regulation, with regard to group supervision issues. This provision should be retained. We recognize that the details of group supervision are evolving. For example, there are particularly difficult issues relating to unregulated entities or entities regulated by other regulators. Nonetheless, any group supervision should be both effective and efficient. To achieve effectiveness and efficiency, a competent insurance group supervisor should be designated and other insurance supervisors should defer to the group supervisor on group supervision matters.</p>	<p>CEIOPS welcomes that the American Insurance Association supports the designation of one group supervisor (“one single point of contact”).</p>
667.	CEA	4.3.42.	<p>In addition to pointing out that there should be a single group supervisor (which is an important point), the indicator should refer to the existence of a transparent and objective legal framework to identify the group supervisor, which recognises the possibility that the group supervisor may be based in another country. In such a case, the third country supervisor authority should also be equally able to rely on the group supervision exercised by the supervisory authority in the foreign jurisdiction (see old Article 236a).</p> <p>Indeed, the location of the ultimate parent undertaking may change over time (e.g. due to relocation or merger and acquisitions). As EEA supervisory authorities are required to recognise that group supervision may be conducted by an equivalent non-EEA supervisory authority, the equivalent non-EEA supervisory authority should be equally be able to recognise the group supervision may be conducted by an EEA supervisor.</p> <p>See also our comment to 4.3.39.</p>	<p>Not clear</p> <p>The purpose is here is to assess the equivalence of the third country group supervision.</p>

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668.	GDV	4.3.42.	<p>In addition to pointing out that there should be a single group supervisor (which is an important point), the indicator should refer to the existence of a transparent and objective legal framework to identify the group supervisor, which recognises the possibility that the group supervisor may be based in another country. In such a case, the third country supervisor authority should also be equally able to rely on the group supervision exercised by the supervisory authority in the foreign jurisdiction (see old Article 236a).</p> <p>Indeed, the location of the ultimate parent undertaking may change over time (e.g. due to relocation or merger and acquisitions). As EEA supervisory authorities are required to recognise that group supervision may be conducted by an equivalent non-EEA supervisory authority, the equivalent non-EEA supervisory authority should be equally be able to recognise the group supervision may be conducted by an EEA supervisor.</p>	See comment 667
669.	Property Casualty Insurers Association of America	4.3.42.	See comments regarding paragraph 4.3.6.	See answer to 4.3.6.
670.	Swiss Financial Market Supervisory Authority, FINM	4.3.43.	Please clarify.	If the third country group supervisor would like to perform an onsite inspection within an EEA country, he should be so kind and inform the concerned EEA supervisor in advance.
671.	KPMG ELLP	4.3.44.	We agree that it is important that the third country group supervisor inform the relevant EEA supervisor if an entity it regulates is excluded from the scope of group supervision. However, we believe it would be helpful if CEIOPS could clarify how	If the third country group supervisor would like to exclude EEA entities from the scope of group supervision, he should be

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			<p>it would expect EEA supervisors to react to this (for example, would it anticipate approaches such as in Article 262(2) to be employed, or might there be a different assessment of group risk for the purposes of solo solvency assessment).</p> <p>As well as exclusion of EEA entities, EEA supervisors need to be aware of, and agree with, the exclusion of other financial entities from the scope of group supervision.</p>	so kind and inform the concerned EEA supervisor in advance.
672.	Association of Bermuda Insurers and Reinsurers (AB)	4.3.45.	<p>Either as an amendment to the "objective" or as a specific indicator we'd recommend addition of a phrase such as the following: "For third countries, it is expected that the signing of the IAIS MMOU satisfactorily recognizes that the third country can share information, meet privacy protection standards and meet a test of having a cooperative legal framework in place."</p>	The assessments are undertaken on the basis of SII.
673.	US National Association of Insurance Commissioners	4.3.45.	<p>U.S. regulators agree with the objective in Principle No. 3- Supervisory Cooperation, Exchange of Information and Professional Secrecy. However, we believe the indicators in 4.4.47-4.4.51 are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.</p>	CEIOPS welcomes that U.S. regulators agree with the objective in Principle No. 3 – Supervisory Cooperation, Exchange of Information and Professional Secrecy. The indicators are at least in line with the IAIS standards.
674.	CEA	4.3.46.	<p>Inclusion of Articles 248-255 to principle 3 appears to be incorrect as the principle, objective and indicators are exactly the same as those used for principle 6 in relation to equivalence under Article 172(reinsurance supervision). However, in the latter case only reference is made to Articles 64-70.</p>	Those articles further clarified cooperation in a group context in the level 1 text.
675.	GDV	4.3.46.	<p>Inclusion of Articles 248-255 to principle 3 appears to be incorrect as the principle, objective and indicators are exactly the same as</p>	Those articles further clarified cooperation in a group context in

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			those used for principle 6 in relation to equivalence under Article 172 (reinsurance supervision). However, in the latter case only reference is made to Articles 64-70.	the level 1 text.
676.	CEA	4.3.47.	6. See out comment to 2.3.59.	See answer to 2.3.59.
677.	CRO	4.3.47.	We would welcome clarifications on the meaning and implications of 'suitability assessments'; in particular as we believe that this element is not specifically defined in the Solvency II Framework Directive.  Requirements in respect of the principle 6 are very high and examples of the criteria supporting the indicators should not be overly complex.	See comment 398
678.	GDV	4.3.47.	[EMPTY COMMENT]	
679.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.47.	Third bullet point: We do not understand what is meant by suitability assessments.	See comment 398
680.	Swiss Financial Market Supervisory Authority, FINM	4.3.47.	See General Comment 2: Indicator under third bullet to be clarified regarding suitability assessments.	See comment 399
681.	Swiss	4.3.47.	Stringent requirements for third countries as for EEA	See comment 400

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	Insurance Association (SIA)		Third bullet: What is meant by suitability assessments? We do not believe that there should be any assessments of third country supervisory authorities or insurance undertakings in addition to the decision of equivalence. The standard set for equivalence testing is already extremely high. There is no need to introduce additional requirements to third countries and certainly not requirements that can be used in an arbitrary fashion. This bullet should therefore be deleted. The idea of suitability assessments is in clear contradiction to the ability and willingness of cooperation (fourth and fifth bullet).	
682.	Swiss Financial Market Supervisory Authority, FINM	4.3.49.	See General Comment 2: <input type="checkbox"/> Indicator under sixth bullet to be clarified regarding administrative procedures. <input type="checkbox"/> Indicator under seventh bullet to be clarified regarding Competent Authority.	Administrative procedures means, if the board of directors have set sufficient administrative procedures in place to promote risk-based procedures in the undertakings The competent authorities could be either the group supervisor of the third country parent undertaking or an EEA supervisor concerned.
683.	American Insurance Association	4.3.5.	We strongly support the notion that there should be one group supervisor and urge that this provision be retained. This provision should be retained. We recognize that the details of group supervision are evolving. For example, there are particularly difficult issues relating to unregulated entities or entities regulated by other regulators. Nonetheless, any group supervision should be both effective and efficient. To achieve effectiveness and efficiency, a competent insurance group supervisor should be designated and other insurance supervisors should defer to the group supervisor on group supervision matters.	CEIOPS welcomes the idea of having possibilities available for the US state-based regulators to designate a particular regulator as a single point of contact for the EEA or for the NAIC to act as such a point of contact.

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684.	CRO	4.3.5.	We fully concur with the necessity to define clear responsibility for the exercise of group supervision with one single authority assuming this responsibility. We believe however that the formal existence of similar legal requirements should not preclude equivalence recognition nor the efficient coordination of group supervision. This could be solved in practice by an appropriate supervisory arrangement (e.g. MoU).	Agreed.
685.	KPMG ELLP	4.3.5.	We agree with the need to clearly define the roles and responsibilities of the various supervisors dealing with the group, however we believe that key to the success of any college-type arrangements will be the demonstration of open and timely communication between all the supervisors concerned.	Completely agreed by CEIOPS.
686.	METLIFE	4.3.5.	In paragraph 4.3.5 CEIOPS lays down the 'overall principle' that group supervision in third countries should have a 'central contact point'. We recognise that there may be some ambiguity vis a vis contact with the US regulators because of the state-based system, but we do not in fact see any difficulty with establishing a central point of contact in the US for EEA supervisors. There are already moves to create an Office of Insurance Information in the US which could act as just such a contact point. In addition, there are possibilities available for the US state-based regulators to designate a particular regulator as a single point of contact for the EEA or for the NAIC to act as such a point of contact.	CEIOPS welcomes that METLIFE supports the designation of one group supervisor ("one single point of contact"). It also welcomes the idea of having possibilities available for the US state-based regulators to designate a particular regulator as a single point of contact for the EEA or for the NAIC to act as such a point of contact.
687.	SII Legal Group	4.3.51.	See 2.3.63 above	Noted.
688.	CEA	4.3.52.	We do not think that the objective of "to prevent disorderly failure" can be reached by group capital requirements but relates to the procedures and supervisory tools in crisis situations and finally to winding-up proceedings.	See revised text.

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			We suggest to delete the sentence or amend it as follows: "The supervisory regime shall require that groups shall maintain adequate financial resources in order to prevent disorderly failure. ...."	
689.	KPMG ELLP	4.3.52.	<p>This principle focuses on group supervision in the context of an insurance group. However, additional objectives should be considered in terms of how non-insurance undertakings are considered as part of group supervision and how contagion risk is dealt with by the Third Country group supervisor. See also comments in 4.3.13.</p> <p>In addition, the context of these principles should be about how a Third Country group supervisor fulfils its obligations in relation to the supervision of the group, yet the wording in respect of Principle 4 appears to be focused on supervision of an individual undertaking (e.g. under Technical Provisions and Capital Requirements). We suggest that CEIOPS rephrase the indicators in Principle 4 to reflect the group aspects.</p>	Agreed. See revised text.
690.	Swiss Insurance Association (SIA)	4.3.52.	It should be supervisory practise to oblige undertakings to maintain adequate financial resources with the goal to prevent them from "disorderly failure". We suggest a new wording: "The supervisory regime shall require that groups maintain adequate financial resources."	See revised text.
691.	US National Association of Insurance Commissioners	4.3.52.	U.S. regulators agree with the objective in Principle No. 4-Group Solvency Assessment, but disagree with many of the indicators, as noted in the following.	CEIOPS welcomes that U.S. regulators agree with the objective in Principle No. 4 – Group Solvency Assessment. CEIOPS is further interested in getting to know concrete

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				proposals for indicators in order to operationalise Principle No. 4.
692.	CEA	4.3.53.	See our comments to 4.3.12.	Noted.
693.	American Insurance Association	4.3.55.	It seems premature to require compliance with international accounting standards, when the substance of them has not been decided. Indeed, these issues are being intensively debated. See our previous comments for paragraphs 1.5 and 2.3.49.	CEIOPS believes that a risk-based regulatory regime should be built upon an economic valuation approach. One starting point for this could be the international accounting standards for assets and liabilities, to the extent possible, adapted for regulatory purposes.
694.	Association of Bermuda Insurers and Reinsurers (AB)	4.3.55.	As stated in 3.3.10 and restated from 2.3.49. We would recommend that this indicator be rewritten to be less specific. The uncertainty with regard to international accounting standards for insurance assets and liabilities argues for a more flexible approach in this indicator. The objective should still be met, but this indicator is far too specific and is likely wholly unique to the EEA. Time tested solvency regulation systems demonstrate that other accounting measures have met the test in meeting customer insurance and reinsurance obligations.	See comment 693
695.	Bermuda Monetary Authority	4.3.55.	See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment should be risk-based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets.  The principles of economic valuation are highly desirable. It should	See comment 693

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			be appreciated that a number of assumptions and uncertainties underpin economic valuations, particularly in the absence of deep and liquid markets. Jurisdictions have approached this in a variety of ways from adding conservatism (e.g. prohibiting discounting) to using measures thought to be more reliable under certain circumstances. Given that the primary goal should be protection of policyholders in the European Union, we believe that conservatism and reliability should be given appropriate recognition. The area of valuation should be viewed in its broadest sense, and in the context of acceptable international practice.	
696.	Group of North American Insurance Enterprises, Inc	4.3.55.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 4.3.52 is “fully observed”. No other jurisdiction requires use of “current exit value” for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system.</p> <p>The same comment is true with regard to consistency “with international accounting standards, to the extent possible.” Those standards have not yet been developed. A finding with regard to compliance with this objective should be based upon the jurisdiction’s overall effectiveness in protecting policyholders and beneficiaries.</p>	See comment 693
697.	Property Casualty Insurers Association of America	4.3.55.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 4.3.52 is “fully observed”. No other jurisdiction requires use of “current exit value” for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system. The same is true with regard to consistency “with international accounting standards, to</p>	See comment 693

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			the extent possible." Those standards have not yet been developed. A finding with regard to compliance with this objective should be based upon the jurisdiction's overall effectiveness in protecting policyholders and beneficiaries.	
698.	The General Insurance Association of Japan (GIAJ)	4.3.55.	The assessment of the valuation scheme of assets and liabilities should be flexible and should take into account the status of each country's accounting standards, as long as those standards are deemed comparable to the IFRS (same comments for 2.3.49 and 3.3.10).	See comment 693
699.	US National Association of Insurance Commissioners	4.3.55.	See comments to 2.3.49.	See comment 693
700.	American Insurance Association	4.3.56.	As representatives for property/casualty insurers, we disagree with the notion that valuation of insurance liabilities (technical provisions) should be based on a transfer notion. At least some of the valuation issues are still a matter of international debate. We recommend that this section permit more flexibility. See our comments at paragraph 2. 3. 50.	See resolution 2.3.50 The paper aims at determining criteria to assess equivalence towards SII not another standard
701.	Association of Bermuda Insurers and Reinsurers (AB	4.3.56.	As stated in 2.3.50 and restated in 3.3.11. We would recommend that the third and fourth dot point be amended consistent with our comments above. There are multiple measures of what is an acceptable requirement for technical provisions and this language should not be married to a specific measure as long as the principle can be met.  With regard to the fifth dot point, we'd also recommend a less specific reference to segmentation of reinsurance obligations. It is not common on non proportional (excess of loss) reinsurance for the reinsurance line obligations to be sorted by the underlying lines	See resolution of 2.3.50

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			of business from which risk was assumed. With regard to proportional business this segmentation is possible.	
702.	Bermuda Monetary Authority	4.3.56.	See General Comments 3 and 5: CEIOPS should take into account the distinct characteristics of a third country and the assessment should be risk-based and focused on how jurisdictions achieve comparable supervisory outcomes rather than imposing requirements (or a line-by-line assessment) that may not be suitable for the respective markets. Some jurisdictions take a more conservative approach, allowing discounting only under limited circumstances, which would not be market consistent, but would afford an appropriate level of policyholder protection.	See comment 693
703.	Group of North American Insurance Enterprises, Inc	4.3.56.	See comments regarding paragraph 4.3.55.	See answer to 4.3.55.
704.	Property Casualty Insurers Association of America	4.3.56.	See comments regarding paragraph 4.3.55.	See answer to 4.3.55.
705.	The General Insurance Association of Japan (GIAJ)	4.3.56.	A market for transactions of technical provisions (TP) does not ordinarily exist. In terms of valuation of TP, market consistency should not be required too strictly (same comments for 2.3.50 and 3.3.11).	See answer to 2.3.50
706.	US National Association of Insurance	4.3.56.	See comments to 2.3.50	See answer to 2.3.50.

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707.	CEA	4.3.57.	See our comment on 2.3.53	See answer to 2.3.53.
708.	Deloitte	4.3.57.	We would welcome clarity regarding the requirement for the 'tiering of capital' as it is implied within this section, but is contradictory with 4.3.11  See 4.3.11	CEIOPS does not require a specific tiering of capital 1:1 to the Solvency II Directive text, but is asking for information whether limits for certain own funds held at group level do exist in the third country and whether loss absorbency of own funds is taken into account.
709.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.57.	Third bullet point: The distinction should instead be made between paid-in capital items and non paid-in capital items.  Fifth bullet point: This paragraph appears overly prescriptive. We suggest it be reworded, as follows:  "Own funds covering the capital requirements should be of appropriate quality."	CEIOPS is interested in getting to know whether the quality of specific forms of own funds is accepted as well in third country supervisory regimes.
710.	KPMG ELLP	4.3.57.	See 4.3.11.	See answer to 4.3.11.
711.	Swiss Financial Market Supervisory Authority, FINM	4.3.57.	See General Comments 1 and 2:  <input type="checkbox"/> Indicator under third bullet to be modified to refer to "guarantees and the like instruments" in lieu of " off-balance sheet items".  <input type="checkbox"/> Indicator under sixth bullet after "intra-group creation of capital" to be complemented by "unless economically assessed".  <input type="checkbox"/> Indicator under second to last bullet to be clarified to set out what is to be communicated to whom.	See revised text

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			<input type="checkbox"/> Indicator under last bullet to be modified by the words "or included in a granular assessment of group solvency".	
712.	ABI	4.3.58.	"The calculation methods shall lead to a result at least equivalent to one of the two methods for groups' calculations of the level 1 text." Already stated in 4.3.53	See answer to 4.3.53.
713.	American Insurance Association	4.3.58.	Again, many of these issues are a matter of current debate. We also believe that requiring a "1 in 200 ruin scenario" is too specific for the purposes of this paper.	CEIOPS would like to get to know how and in which ways the confidence level for the protection of policyholders will be set up as a requirement by the third country supervisors.
714.	CEA	4.3.58.	We do not agree with CEIOPS that there are additional risks arising from a group.  Sixth bullet point: We consider that any group risks will be integral to the Pillar I assessment or identified in the ORSA under Pillar II. There is no need for a separate structure to further increase capital requirements.  See also our comment on 2.3.51 (with regard to the second bullet point) and 2.3.53 (with respect to the last bullet point)	Noted.
715.	CRO	4.3.58.	The 2nd bullet point uses specific Solvency II language that we would suggest to broaden in the following way: "The requirement should require an economic strength from the undertakings comparable to withstanding a 1 in 200 ruin scenario over a one-year period."  3rd countries may use a different approach to quantify the risks and the capital requirements (e.g. use of TailVaR model instead of VaR), and yet achieve an equivalent level of policyholder protection. The definition of the criteria has to allow for different	Done. See revised text.

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			approaches to reach the same objective and deliver a similar outcome.	
716.	Deloitte	4.3.58.	As per 2.3.51	See answer to 2.3.51.
717.	GDV	4.3.58.	<p>We do not agree with CEIOPS that there are additional risks arising from a group.</p> <p>Sixth bullet point: We consider that any group risks will be integral to the Pillar I assessment or identified in the ORSA under Pillar II. There is no need for a separate structure to further increase capital requirements.</p> <p>See also our comment on 2.3.51 (with regard to the second bullet point) and 2.3.53 (with respect to the last bullet point)</p>	Noted.
718.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.58.	Second bullet point: We suggest that other risk measures than Value at Risk may deliver equivalent outcomes and that needs to be specified here.	CEIOPS would like to get to know how and in which ways the confidence level for the protection of policyholders will be set up as a requirement by the third country supervisors.
719.	KPMG ELLP	4.3.58.	See 2.3.51.	Noted.
720.	Property Casualty Insurers Association of America	4.3.58.	We also believe that exact compliance with this indicator should not be required. Along with our comments in paragraph 2.3.51 about the 1-in-200 ruin scenario, supervisors in many third countries can take action only with regard to individual insurers that are group members, although those actions will be informed by the capital adequacy of the group. Again, the key should be the supervisory regime's broad effectiveness, not exact compliance.	See comment 718
721.	Swiss Financial	4.3.58.	<p>See General Comments 1 and 2:</p> <p><input type="checkbox"/> Indicator under the second bullet to be modified as follows:</p>	See comment 718

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	Market Supervisory Authority, FINM		<p>Confidence level, risk measurement (e.g VaR or TailVaR) and time horizon should ensure that policyholders and beneficiaries receive a minimum level of protection corresponding to a 1 in 200 ruin scenario with a Value at Risk measurement over a year period.</p> <p><input type="checkbox"/> Indicator under last bullet to be expanded to include also an equivalent granular approach.</p>	
722.	Swiss Insurance Association (SIA)	4.3.58.	<p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence</p> <p>Second bullet: "The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period ..." is Solvency II language and a Solvency II model calculation. We suggest: "The requirement should require an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year period."</p> <p>Third countries may use different calculations, calibrations and models, but afford an equivalent level of policyholder protection. The equivalence tests must be sufficiently broad to allow for different methods to reach the relevant principle.</p> <p>Risk inside a group are dealt with in Pillar I and II and need no further capital increase</p> <p>Sixth bullet point: We consider that any group risks will be integral to the Pillar I assessment or identified in the ORSA under Pillar II. There is no need for a separate structure to further increase capital requirements. This bullet should be deleted.</p> <p>Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate</p>	<p>Done - See revised text.</p> <p>Although the consolidated approach is the approach of first priority, a combination of the consolidated approach and</p>

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			<p>equivalence</p> <p>Seventh bullet: We would emphasise that a combination of the consolidated approach and the deduction and aggregation method or a granular approach can be applied as well in certain cases.</p>	deduction-aggregation method is as well allowed under certain circumstances approved by the supervisory authority.
723.	The General Insurance Association of Japan (GIAJ)	4.3.58.	The confidence level used for the calculation of capital requirements should be flexible and should be determined by taking into account each market's circumstances. Thus, the indicator "1 in 200 ruin scenario" should not be required too strictly (same comments for 2.3.51 and 3.3.13).	CEIOPS is interested in getting to know which comparable indicators are taken into account by third countries in order to reach a similar confidence level.
724.	US National Association of Insurance Commissioners	4.3.58.	See comments to 2.3.51	See comment 723
725.	ABI	4.3.59.	<p>"Possibility of joint inspection as regards group internal models."</p> <p>It is hard to imagine how this would work in practice. Which regulator would have the initiative. On what regulatory basis (EU/local) this review would be performed.</p>	If a group internal model is rolled out world-wide, CEIOPS would expect that the regulatory basis of the parent undertaking should be taken (similar to the requirements set up within the EU). Joint inspections should be possible due to appropriate cooperation arrangements.
726.	CEA	4.3.59.	See our comment to 2.3.52	See 2.3.52
727.	CRO	4.3.59.	A number of 3rd country regimes require larger companies to use full internal models to calculate regulatory capital requirements (as is the case for the Swiss Solvency Test). In this situation, the internal model may not be compared to the standard approach that	CEIOPS is interesting in getting to know whether and to what extent internal models are allowed for the calculation of the regulatory

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			<p>is neither used as a benchmark nor as a standard. In line with the formulation proposed under 2.3.52, we therefore suggest broadening the formulation in the 1st bullet and using it only where applicable.</p> <p>The 2nd bullet point must not rule out the existence of transitional regimes, where companies may be allowed to use internal models, even if they are not yet approved.</p> <p>The requirements listed in the 3rd bullet points are very specific to the Solvency II regime and too detailed. Generally an internal model has to be approved by the regulator, which implies a certain standard of documentation and validation.</p>	capital requirements.
728.	Groupe Consultatif	4.3.59.	<p>We expected a requirement on model approval that mirrored the EU set up re colleges and rights of solo supervisors. This article refers to joint inspection, 4.3.83/84 get stronger, wanting consultation but do not appear to require any powers for the EU supervisors. 4.3.85 wants consensus but finally 4.3.86 wants input on setting up mediation procedures. So it appears that CEIOPS expects EU supervisors to have an active and possibly decisive role, but earlier references are not so clear cut. Some greater clarity is desirable.</p>	CEIOPS expects EEA supervisors to have an active and possibly commonly agreed role within the legal frame of the Solvency II Directive text.
729.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.59.	<p>First bullet point: We suggest that an equivalent regime would not necessarily adopt a standard formula in the same way as Solvency II. We suggest the sentence be reworded as follows:</p> <p>"Where the reinsurance undertaking uses a full or partial internal model to calculate its capital requirements, the requirements should provide a level of policyholder protection that is at least equal to the standard that would be required under the local rules if no model were used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level).</p>	Done. See revised text. CEIOPS does not expect that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II. However, the content of these reports should be similar for gaining equivalence.

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			Third bullet point: We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	
730.	KPMG ELLP	4.3.59.	See 2.3.52.  We agree that joint inspection of group internal models may be required. It is important that EEA supervisors understand the calculation elements of the internal model and any potential risks arising from the governance and risk management arrangements if they are to rely on the internal model and not undertake their own group supervision.	Completely agreed by CEIOPS.
731.	Swiss Financial Market Supervisory Authority, FINM	4.3.59.	See General Comments 1 and 2: Indicator under first bullet to be modified to allow for systems corresponding in regards of scope and impact.	Noted. Different methodologies or approaches are regarded as partially or largely observed equivalent as long as the goal to be reached is in a similar way constructed.
732.	Swiss Insurance Association (SIA)	4.3.59.	Solvency II requirements may not directly apply to requirements in third countries; different methodology should not determinate equivalence.  First bullet: Some third countries may not distinguish between internal models and standard formula. Therefore we suggest following wording: "Where the group uses a full or partial internal model to calculate its capital requirements, the requirements should require an economic strength from the undertakings	Done. See revised text.

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			equivalent to withstanding a 1 in 200 ruin scenario over a year period."	
733.	XL Capital Ltd	4.3.59.	See comments at 2.3.52 Final bullet – we would like clarity as to how “joint inspection as regards group internal models” would be carried out efficiently where numerous regulators are involved, and where some models will be inside the EEA whereas others will be outside the EEA.	CEIOPS believes that the approval of sophisticated internal models could only be done, if all involved parties cooperate in a very close way. Therefore the cooperation arrangements should foreseen in detail how joint onsite inspections inter alia could be carried out.
734.	Group of North American Insurance Enterprises, Inc	4.3.6.	As long as the third country’s group supervision is broadly equivalent to group supervision under Solvency II, the third country’s group supervisor should not be required to have identical powers to the group supervisor under Solvency II.	The world-wide crisis has shown that insurance groups are economic units, that need to be supervised by a good cooperating team of worldwide supervisors. The reasoning behind this statement is not clear to CEIOPS.
735.	METLIFE	4.3.6.	We note that in paragraph 4.3.6 CEIOPS states that third country supervisors should be able to supervise ‘at the level of the group’ of the insurance or reinsurance undertaking. We recognise that at first sight US regulation may appear more diffuse, but the reality is that US insurance companies are subject to intense regulatory scrutiny at group level through a well-developed system of cooperation between state supervisors.  The ultimate decision makers on insurance regulation in the U.S. are the various state legislatures. They delegate execution of regulation to the respective state insurance departments. State insurance departments work together as members of the NAIC to develop solvency and capital standards. The NAIC often taps into other parties such as professional groups (e.g., the American	CEIOPS welcomes these explanations and clarifications about the U.S. regulation. Nonetheless it is not clear at the moment whether the various state legislatures are supervising different parts of one single group and who has got the ultimate decision if two state insurance departments are disagreeing about an group issue.

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			<p>Academy of Actuaries) or trades (e.g., the American Council of Life Insurers) for input on solvency and capital issues.</p> <p>The NAIC sets capital and solvency standards and they are typically the standards employed by each state insurance department. Although uncommon, a particular state insurance department can deviate from the NAIC standards. When states do deviate, it is typically via adjustments with a narrow application that call for additional solvency requirements.</p> <p>In summary, as a practical matter, insurance companies in the U.S, even those with operating insurance entities in various states, have one set of solvency and capital standards to which they much adhere.</p>	
736.	Property Casualty Insurers Association of America	4.3.6.	As long as the third country's group supervision is broadly equivalent to group supervision under Solvency II, the third country's group supervisor should not be required to have identical powers to the group supervisor under Solvency II.	See comment 734.
737.	CEA	4.3.60.	See our comment to 2.3.54	Noted.
738.	Swiss Insurance Association (SIA)	4.3.60.	<p>Stringent requirements for third countries as for EEA</p> <p>Fifth bullet: There seems to be no legal basis for indicators on investments neither in the Solvency II framework directive nor in the implementing measures. EEA undertakings are not explicitly required to refrain from investing in derivative instruments. We suggest deleting this bullet.</p>	These requirements are included either in the Level 1 text or will be implemented in future implementing measures.
739.	CEA	4.3.61.	First bullet point: As Solvency II does not require compliance with the MCR for "each undertaking in the group" this should not be required for third-country equivalence. For example insurance holding companies are not subject to a capital requirement at solo level. In addition, it would be surprising to ask non-regulated	<p>Agreed on the first point so it should be read "financial regulated undertakings"</p> <p>To be discussed and redrafted.</p>

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			<p>entities such as servicing companies within groups to comply with capital requirements at solo level We therefore recommend the deletion of the first bullet point.</p> <p>Second bullet: Drafting error; Group SCR at least equal to or higher than sum solo MCRs. Therefore the bullet point needs to be redrafted as follows:</p> <p>"The group SCR should be below at minimum the sum of the solo minimum capital requirements of each undertakings of the group ..."</p>	
740.	CRO	4.3.61.	<p>The second bullet refers to an element, which has not been finalized yet. We believe that the equivalence assessment shall refer only to elements of the Solvency II Directive and refrain from addressing details of the implementation that are still under discussion. Accordingly, our suggestion would be to adopt a more general wording: "The requirements for the group SCR shall be calculated in a way that guarantees an equivalent outcome to the Solvency II requirements."</p>	See revised introduction 1.7 and 1.8
741.	Deloitte	4.3.61.	<p>2nd bullet point: according to this point "The group SCR should be below the sum of the solo minimum capital requirements of each undertakings of the group..." We would welcome more clarity around this point.</p> <p>Does this mean that the group SCR should be lower than the sum of the MCR? If so, what is the rationale for this?</p> <p>Also, if no diversification benefits are considered, then the group SCR would not necessarily be lower than the sum of the solo SCRs.</p>	Agreed - See revised text.

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			In this case, we believe that the group SCR would be more conservative than when diversification benefits are recognised and we therefore do not understand this point. We believe that the purpose of this point was to ensure that "The group SCR should not be below the sum of the solo minimum capital requirements of the group...." Please clarify.	
742.	GDV	4.3.61.	<p>First bullet point: As Solvency II does not require compliance with the MCR for "each undertaking in the group" this should not be required for third-country equivalence. For example insurance holding companies are not subject to a capital requirement at solo level. In addition, it would be surprising to ask non-regulated entities such as servicing companies within groups to comply with capital requirements at solo level.</p> <p>Second bullet: Drafting error: Group SCR at least equal to or higher than sum solo MCRs. Therefore the bullet point needs to be redrafted as follows:</p> <p>"The group SCR should be below at minimum the sum of the solo minimum capital requirements of each undertakings of the group ..."</p>	See comment 741
743.	Groupe Consultatif	4.3.61.	Not clear how this can be applied to non EEA non home 3rd country subs.	See revised text.
744.	INTERNATIONAL UNDERWRITING ASSOCIATION OF	4.3.61.	There is an error in the wording of the second bullet point.	Agreed- See revised text.

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	LONDON				
745.	KPMG ELLP	4.3.61.	Minimum capital requirements will vary across the world, so we would prefer that the second bullet is rephrased to make the group SCR floor less specific.		See revised text.
746.	Swiss Financial Market Supervisory Authority, FINM	4.3.61.	See General Comment 2: Indicator under second bullet to be rephrased to allow for granular approach.		See revised text.
747.	Swiss Insurance Association (SIA)	4.3.61.	Stringent requirements for third countries as for EEA Second bullet: the calculation of the group SCR has not been finally decided at this given point. As set out above, CP 78 should be worded in a sufficiently broad way to accommodate any final decisions taken under the implementing measures. It should not attempt to fix details that have not yet been finally decided. Suggestion for a more general wording: "The requirements for the group SCR shall be calculated in a comparable way to the Solvency II requirements."		See revised text in 1.7 and 1.8
748.	XL Capital Ltd	4.3.61.	We are confused by the following comment, and do not think that this is possible: "The group SCR should be below the sum of the solo minimum capital requirements of each undertaking of the group, taking into account the proportional share of each undertaking included in the consolidated accounts"		Agreed - See revised text.
749.	US National Association	4.3.62.	U.S. regulators agree that strong governance is important, and we consider it in the overall supervisory plan of the company.		CEIOPS believes that the indicators mentioned under the

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	of Insurance Commissioners		However, we believe the indicators are overly prescriptive and too specific as previously indicated; the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	governance principle are minimum requirements in line with IAIS standards, OECD guidelines and FSAP requirements. See also 4.3.26 and 4.3.28 on the status of indicators
750.	Bermuda Monetary Authority	4.3.63.	[EMPTY COMMENT]	
751.	CRO	4.3.63.	It shall not be required to establish "functions" in order to be equivalent. The same objective can be achieved, if a 3rd country regime requires companies to have a risk management system in place and to ensure compliance with laws and regulation. This does not necessarily require a single departments or units in one company's organization.	It is not the intention to require from supervisory regimes the establishment of a specific system, a unit or a department or another organisational structure towards the group. A function is much more flexible and means that just the task of this function shall be taken over by a responsible person within the group. How this function will be implemented in the group or the parent undertaking is left open to the responsible board of the parent undertaking.
752.	KPMG ELLP	4.3.63.	The governance structures applying within (re)insurance undertakings will vary considerably across the globe. Given Solvency II has clear ideas on the meaning to the required functions listed here, we would prefer that the term "function" is not used – perhaps "departments" would suffice.	The term "department" belongs to an organisational structure. The term "function" does not prescribe a certain organisational structure, and is therefore more flexible.

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753.	SII Legal Group	4.3.63.	See comments on 2.3.27	Noted.
754.	Swiss Financial Market Supervisory Authority, FINM	4.3.63.	See General Comment 1: Risk management, compliance and internal audit may be assured by separate functions or activities of various organisational units in an insurance undertaking. Same scope and impact may be reached differently. Thus no need to meet the requirement of separate FUNCTIONS of this objective.	The impact may be reached in a different way. A function can be designed as organisational unit, as responsibility or activity etc. CEIOPS notes that a function gives the highest flexibility.
755.	American Insurance Association	4.3.64.	This section may require more elaboration of the term "groups". The language of this section, as written, is too dogmatic and does not take into account the wide variety of conglomerates that exist throughout the world. Although an insurer should be required to make regular and public disclosures regarding its solvency and financial position, a similar rationale does not necessarily apply to the group to which the insurer may belong. The other group members may have no insurance-related activities and may operate in jurisdictions far removed from that of the insurance entity, in which case, it may be inappropriate or impossible to subject the non-insurance members to the same insurance regulatory requirements. In addition, not all groups are publicly-traded enterprises and thus, there may be no legal requirement for public disclosure of the group activities.	One important lesson learnt from the crisis was to regard and to supervise a group as one single entity. The term "group" in the context of Solvency II is widely spread and comprises all entities belonging economically to the group. The term "group" in connection with accounting principles is used in a much narrower sense.
756.	CEA	4.3.64.	See our comment to 4.3.14	Noted.
757.	CRO	4.3.64.	Similar to our comments on public disclosure, we consider that this requirement can be met by accounting or public listing requirements.	Parts of these requested information might be met by accounting or public disclosure requirements and are therefore easily to fulfil.
758.	Deloitte	4.3.64.	The provision states for a report with content 'similar' to the Group	CEIOPS intention is to accept

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			Solvency and Financial Condition Report (GFSCR). Is the intention to accept 'comparable information' or does CEIOPS intend defining a minimum standard with respect to content, as specified in 4.3.72?	"comparable" information, similar to the Group Solvency and Financial Condition Report.
759.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.64.	We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	The format does not necessarily follow the Solvency II reporting requirements. More important is whether the content of the supervisory reporting is similar to the one under Solvency II.
760.	KPMG ELLP	4.3.64.	See 4.3.14	Noted.
761.	Property Casualty Insurers Association of America	4.3.64.	See comments regarding paragraph 4.3.14.	Noted.
762.	Swiss Financial Market Supervisory Authority, FINM	4.3.64.	See General Comment 2: Indicator to be modified not to require publication, but supervisory examination.	Each information that will be required to be published will also be required for supervisory reporting and therefore underlies a supervisory examination at first.
763.	American Insurance Association	4.3.66.	We don't think that a proper governance system must have "fit" as well as "proper" standards.	The reason behind this statement is not clear for CEIOPS. Requirements towards a governance system are always requirements towards the board of directors of the undertakings.

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				They have the ultimate responsibility for the functioning of the governance system.
764.	CEA	4.3.66.	Editorial comment: Third bullet: "sec to ensure consistency with 172" should probably have been deleted.	Agreed
765.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.66.	Regarding bullet point 3, we suggest that, in relation to the existence of effective, well integrated and documented risk management systems, third countries may well achieve Solvency II equivalent outcomes with a great variety of different approaches and requirements. We suggest that the criteria should expressly indicate that the focus should be on equivalent outcomes and not methodologies and specific requirements.	Done. See revised text.
766.	Swiss Financial Market Supervisory Authority, FINM	4.3.66.	See General Comment 2: <input type="checkbox"/> Indicator under second to last bullet to be clarified regarding administrative procedures. <input type="checkbox"/> Indicator under last bullet to be deleted.	Following the crisis the requirement in the supervisory regime for undertakings to set up a contingency plan is also a requirement of the G20. Contingency plans are explicitly included in the Solvency II Directive text. It therefore cannot be deleted. Administrative procedures means, if the board of directors have set sufficient administrative procedures in place to promote risk-based procedures in the undertakings.
767.	Swiss Insurance Association (SIA)	4.3.66.	Third bullet: It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred.	All procedures should not only function well in one point in time but on a continuous basis.

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768.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.67.	It is important that reinsurers should be able to draw on actuarial expertise in a manner that is suitable to them. In-house actuaries are not necessarily required for all actuarial needs to be met and technicians can very adequately fulfil some functions. We suggest that the criteria should specifically include an indication that the actuarial function may be fulfilled in any suitable manner, provided that adequate standards are met.	Done. See revised text.
769.	CEA	4.3.68.	We are not clear what "continuous" supervision of outsourced functions or activities would require in practice. Therefore we would suggest to remove "continues" and change the indicator as follows: "Continuous supervision of outsourced functions or activities (meeting of its obligations shall not be affected)"	If an undertaking relies to a large extent to external providers on which functions were outsourced, the supervision of these outsourced activities should be done on a continuous basis in order to evaluate whether the external provider fulfils in complete its tasks or not as well as goes insolvent or not.
770.	CRO	4.3.68.	We believe that the explanation accompanying the indicator could be clarified, in particular by aligning it with the requirements laid down in Art. 39 of the Solvency II Directive.	If an undertaking relies to a large extent to external providers on which functions were outsourced, the supervision of these outsourced activities should be done on a continuous basis in order to evaluate whether the external provider fulfils in complete its tasks or not as well as goes insolvent or not.
771.	KPMG ELLP	4.3.68.	See 4.3.14	If an undertaking relies to a large extent to external providers on which functions were outsourced,

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				the supervision of these outsourced activities should be done on a continuous basis in order to evaluate whether the external provider fulfils in complete its tasks or not as well as goes insolvent or not.
772.	Swiss Insurance Association (SIA)	4.3.68.	Stringent requirements for third countries as for EEA  It is unclear what the word "continuous" means in practice. A more general statement to the principle would be preferred. We suggest "Supervision of outsourced functions or activities equivalent to the referred EU obligations"	Done. See revised text.
773.	Swiss Financial Market Supervisory Authority, FINM	4.3.69.	See General Comments 1 and 2: No need for a specific FUNCTION, but existence of procedures required.	A function could take the form of a procedure or unit or responsibility etc..
774.	CEA	4.3.72.	The objective should be to assess equivalence, not to ensure uniformity of disclosure requirements.  We believe that current list with elements that should be publically disclosed is too detailed for an outcome oriented equivalence assessment. The list of elements should therefore be deleted. In case CEIOPS believes that indicator 4.3.72 should remain to include a detailed listing of disclosure elements, it should be noted that one element currently included does not have a legal basis in Article 51. There is no explicit requirement for EU insurance and reinsurance undertakings to publically disclose "intra-group transactions" (some language however has been suggested in the level 2 text which is still under discussion). The CEA therefore believes this should	See revised text. CEIOPS expects general information on

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			therefore be at least deleted if a detailed list of element is remained (which we believe would be inappropriate).	
775.	CRO	4.3.72.	We believe that this indicator shall be assessed very pragmatically, taking into account disclosure requirements currently set by the IFRS as well possible best practices applied in the 3rd country's market. These elements should be fully factored in the assessment of the existence/extent of provisions in respect of public disclosure. Specifically the reporting on intra-group transactions is not even a Solvency II requirement.	CEIOPS will take into account disclosure requirements of the IFRS, best practices applied in the third country's market and further disclosure elements. The format must not follow 100% the Solvency II disclosure requirement. More important is whether the content of the disclosure requirements is similar and insofar equivalent. An outcome oriented approach is followed.  IFRS can not be taken as indicators as equivalence is assessed to wards SII.
776.	Deloitte	4.3.72.	Other than where paragraph 4.3.72 refers to issues specific to an insurance group it is not clear why the matters specified for this indicator should differ between paragraph 2.3.36 and paragraph 4.3.72.	Agreed –see revised text
777.	GDV	4.3.72.	The objective should be here to assess equivalence, not to the ensure uniformity of disclosure requirements.  Some comments received suggested that the indicator with respect to the group report on solvency and financial conditions should not include any details with regard to the content. However, as long as long as the indicator does not cover more than defined in Level 1	See comment 775

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			<p>(the Solvency II Directive) it is difficult to argue that such level of detail should not be included. Indeed, comparing the indicator with Article 51, the indicator appears to be generally a fair summary of Article 51 (which should be applied mutatis mutandis according to Article 256). However</p> <p>Indicator 4.3.72 includes one aspect which does not seem to have a legal basis in Article 51. Indeed, no explicit requirement for EU insurance and reinsurance undertakings to publically disclose "intra-group transactions" (some language however has been included in the level 2 text). The GDV therefore believes this should be deleted. Indeed, such a public disclosure should not be required since the indicators 4.3.57 which states that "double gearing and the intra-group creation of capital shall be avoided". Paragraph 4.3.84 which already expects from third country supervisors that they are willing "to submit information on intra-group transactions", should be sufficient to ensure that EEA supervisors will be able to develop an understanding of the intra-group transactions within the group.</p>	
778.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	4.3.72.	We suggest that the relevant reporting may well take place adequately in third-country regimes, without all appearing in the same format as under Solvency II. Provided that equivalence in content and transparency of Solvency II reporting requirements is met overall and well-integrated across the board, it should not be expected that the format of documentary requirements of equivalent third-country systems should be identical to those of Solvency II.	See comment 775
779.	Property Casualty Insurers	4.3.72.	See comments regarding paragraph 4.3.14.	Noted.

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	Association of America			
780.	Swiss Financial Market Supervisory Authority, FINM	4.3.72.	See General Comments 1 and 2: <input type="checkbox"/> Indicator under first bullet to be modified not to require ONE report. <input type="checkbox"/> Indicator to be modified not to require public disclosure but regulatory examination.	Agreed, concerning the first bullet point. Regulatory examination will be done as well.
781.	Swiss Insurance Association (SIA)	4.3.72.	Stringent requirements for third countries as for EEA Same principle as above: The elements of the Group Report on solvency and financial position are not finalised in the EU. A detailed listing is therefore not required in CP 78 and should be deleted. We suggest a broader wording: "The elements of the Group Report on solvency and financial position must be comparable to the Solvency II principles."	Agreed. See revised text.
782.	CEA	4.3.73.	Second bullet point: Since not all breaches of laws are of such importance that they should fall under the auditors' duty to report. In accordance with the wording used in Article 72, we would therefore recommend to "material" breaches of laws should require reporting:  <input type="checkbox"/> "Duty to report: - material breach of laws, regulations, administrative provisions - ..."	According to the European international association of auditors (FEE) any breach of laws, regulations, administrative provisions have to be reported. Solvency II is just following their own professional standards.
783.	CRO	4.3.73.	The materiality principle should be considered in relation to the Auditors' duty to report and therefore we suggest to reword the first 2 bullet points to state: 'material breach of laws' and 'material	See comment 782

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			issues'.	
784.	Deloitte	4.3.73.	It is not clear why "existence of a ladder of intervention" is included as an indicator in paragraph 4.3.73 but not in paragraph 2.3.35.	Agreed – see revised text
785.	GDV	4.3.73.	[EMPTY COMMENT]	
786.	Swiss Financial Market Supervisory Authority, FINM	4.3.73.	See General Comment 2: Indicator under second bullet to be modified to include only reports for qualified breaches of law.	See comment 782
787.	Swiss Insurance Association (SIA)	4.3.73.	Second bullet: not any breach of laws must result in an auditors' duty to report. Only breaches of laws which are material shall require a report.	See comment 782
788.	Association of Bermuda Insurers and Reinsurers (AB)	4.3.74.	As stated in 2.3.37 and restated here. We recommend inserting the word "material" into this objective statement so that the sentence would read as follows: "To ensure the acceptability of any proposed material changes to the business from an operational, management and supervisory perspective." We believe this change is consistent with the following indicators – all of which are focused on material change.	Proportionality principle applies in the assessment
789.	Bermuda Monetary Authority	4.3.74.	See General Comment 4 and 6: The principles/objectives/indicators need to be both streamlined and consistently applied across all three assessments. Additionally, this requirement appears to be overly burdensome and we recommend that the only "material" changes be presented to the supervisor for notification or approval.	Proportionality principle applies in the assessment
790.	US National Association of Insurance	4.3.74.	U.S. regulators agree with the objective in Principle No. 6-Business Change Assessment, and have similar requirements in place within the NAIC Holding Company Model Act, which is adopted in all 50	Agreed.

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	Commissioners		states.	
791.	American Insurance Association	4.3.76.	The right to oppose acquisitions should be limited to major acquisitions.	Proportionality principle applies in the assessment
792.	Groupe Consultatif	4.3.79.	- The requirement for 'continuous' is open to extreme interpretations. It would be better to use regular, timely or ongoing and - This refers to prior approval of outsourcing. We suggest this may be overly restrictive and unnecessary. It could be sufficient to have a prompt notification requirement.	Please see 284. Also note that notification is not approval.
793.	Swiss Financial Market Supervisory Authority, FINM	4.3.79.	See General Comment 2: Indicator to be expanded to include prior or simultaneously.	Please see 284
794.	CEA	4.3.80.	Footnote 25 (behind Principle no. 7) is missing	Done. See revised text.
795.	Swiss Financial Market Supervisory Authority, FINM	4.3.80.	See General Comment 2: Indicator under first bullet to be modified to allow for portfolio transfer or transfer of individual contracts (e.g. in the context of reinsurance contracts).	Done. See revised text.
796.	KPMG ELLP	4.3.81.	We believe principle 7 is fundamental if EEA supervisors are to be able to fully rely on the third country supervisor's supervision of the group.	Agreed.
797.	US National	4.3.81.	U.S regulators agree with the objective in Principle No. 7. However,	Agreed. CEIOPS welcomes

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	Association of Insurance Commissioners		we believe the indicators in 4.3.83-4.3.88 are overly prescriptive and too specific as previously indicated, the determination of equivalence should be focused on outcomes achieved by the regulatory system as opposed to specific indicators.	concrete proposals for suitable indicators to be assessed in the context of Principle No. 7.
798.	Groupe Consultatif	4.3.83.	See also 4.3.59	CEIOPS expects EEA supervisors to have an active and possibly commonly agreed role within the legal frame of the Solvency II Directive text.
799.	Swiss Financial Market Supervisory Authority, FINM	4.3.83.	[EMPTY COMMENT]	
800.	ABI	4.3.84.	“Willingness to change the content of written arrangements.” We remain perplex over the need for this criteria. What is the intent?	Cooperation among supervisors assumes mutual trust in normal as in crisis situations. Written arrangements and a good cooperation can only function if all involved parties are really willing to contribute in a positive manner to the process. Solely insisting on someone’s own position as well as ring-fencing behaviour due to national advantages might not always be the best way of cooperation within a supervisory community.

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				It will also not contribute to supervise the group as a whole from an economic perspective. Giving and taking should be balanced for all involved parties during the process.
801.	Groupe Consultatif	4.3.84.	See also 4.3.59	See comment 800
802.	KPMG ELLP	4.3.84.	In relation to the last bullet, it is unclear to what extent such support would remain in stressed situations.	See comment 800
803.	Swiss Financial Market Supervisory Authority, FINM	4.3.84.	See General Comments 1 and 2: Meaning unclear of first bullet third and fourth indent therefore to be deleted.	See comment 800
804.	Groupe Consultatif	4.3.85.	See also 4.3.59	CEIOPS expects EEA supervisors to have an active and possibly commonly agreed role within the legal frame of the Solvency II Directive text.
805.	KPMG ELLP	4.3.85.	The College-type arrangement appears as an indicator, but we ask question whether equivalence could be agreed in the absence of this. As such, we believe this would be better forming part of the objectives and not appearing as an indicator.	Setting up a College might be one type of cooperation arrangement, but not the exclusive one.
806.	American Insurance Association	4.3.86.	We view supervisory colleges as useful in the interim, but not the most efficient way to assure a seamless global regulatory system. Instead, equivalence and forms of mutual recognition should be strengthened, so there are not multiple regulators regulating the	CEIOPS agrees on the usefulness of determine one group supervisor of each group. However, this group supervisor

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			same thing. Ideally, each insurance group would be regulated once and well by a competent regulator.	will never be able on a stand alone basis to evaluate the global business of the whole group solely without being supported by a College, specialized in all national specificities of the entities belonging to the group.
807.	Association of Bermuda Insurers and Reinsurers (AB	4.3.86.	For a group supervision process to work effectively there must be an equivalent regulatory framework, trust, cooperation and deference to the group supervisor. We expect that in the coming decade regulators will learn how to deal effectively with each other in very challenging supervision circumstances. We expect that once the lead supervisor is identified and once that a practice develops with regard to regulatory colleges, that there will still likely need to be a mediation mechanism to resolve some disputes. If there is not trust, cooperation and deference, the insurance industry will become burdened with an inefficient, expensive, slow and contradictory regulatory environment. As a result, any benefits of an efficient regulatory system will become lost to the consumer.	Completely agreed by CEIOPS.
808.	Bermuda Monetary Authority	4.3.86.	Third country authorities have addressed cross-border issues for many years using regulator-to-regulator requests, Memoranda of Understanding ("MoUs"), and other information sharing mechanisms to achieve cooperation between regulators who oversee and regulate the same entity or its branches. As part of the International Association of Insurance Supervisors ("IAIS") ICPs, information sharing and supervisory co-operation are widely encouraged to resolve cross-border issues, including crisis situations. As part of the appointment of the Group Supervisor, it would be appropriate to establish the terms of co-operation, responsibilities of each supervisor and dispute resolution options. Additionally, supervisory colleges have provided a platform for	CEIOPS agrees on the fact that after the appointment of the Group Supervisor, it would be appropriate to establish the terms of co-operation, responsibilities of each supervisor and dispute resolution options. This could be done e.g. in work plans or in further cooperation arrangements (including delegation of tasks). The rights and duties of the group supervisor as well as of the

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			enhanced cooperation and communication between supervisors.	Colleges have been determined in the Solvency II Directive under Article 248 and will be further spelled out in the forthcoming implementing measures.
809.	CEA	4.3.86.	<p>There should be a possibility to confer a mediation processes in case of disagreement between the non-EEA group supervisor and any of the EEA supervisory authorities.</p> <p>Once a third country is deemed to be equivalent the supervisor from this third country should be appropriately involved in the organisation of supervisory colleges. In the case of third country supervisors, mediation will be normally non-binding in contrast to the envisaged binding meditation role of EIOPA. While emphasizing that the negotiations in the EU with regard EIOPA's powers is still ongoing, it is worth noting that it has been proposed that EIOPA would have the possibility to enter into cooperation arrangements with third country supervisory authorities. For those issues that affect groups under supervision by an equivalent third country supervisor, a joint mediation process by EIOPA and the equivalent third country authority, based on such mutual cooperation agreement, could be a viable option.</p>	CEIOPS believes, that mechanisms to work out solutions, also in case of emergency and for disagreement between non-EEA group supervisor and any of the EEA supervisory authorities, should be set in place. A submission to binding EU arbitration may however not be available for a third country supervisory authority unless an International Treaty with the EU COM is concluded.
810.	CRO	4.3.86.	<p>We support the application of a similar mediation process with 3rd country supervisory authorities as for EU/EEA authorities. Also, we would like to point out to the future role of the EIOPA in the new European regulatory architecture. We would favour the adoption of a solution that would grant 3rd country supervisory authorities with equivalent regimes a certain role accompanied by responsibilities to be defined within the EIOPA.</p> <p>As some of these elements are still under development we would</p>	Done. See revised text.

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			propose an open formulation, such as: "There are no impediments to allow the 3rd country supervisor to set up an effective mediation process in case of disagreement with other relevant supervisory authorities."
811.	Deloitte	4.3.86.	<p>We support the development of any mechanism that that would enhance the effectiveness and efficiency of the supervisory process, promote cooperation between supervisors and strengthen supervisory convergence, including dispute resolution.</p> <p>To date, a great deal of work has been undertaken within the banking community in this regard (CP 13 2007, CEBS' Mediation Protocol 2007 and CP 34 2009, currently open for comment until March 2010) and we believe that fundamentally, the guidelines and protocols both in existence, and those more recently proposed via CP 34, provide a sensible platform from which to draw upon lessons learned and model CEIOPS' approach going forward.</p>
812.	GDV	4.3.86.	<p>There should be a possibility to confer a mediation processes in case of disagreement between EEA and non-EEA supervisory authorities.</p> <p>In the case of third country supervisors mediation will be normally non-binding in contrast to the envisaged binding meditation role of EIOPA.</p> <p>We believe that it would be worthwhile to consider if there could be a potential role in this respect of the IAIS in the future However, we are aware that the work at the level of IAIS for setting principles to</p>

CEIOPS believes that mechanisms to work out solutions, also in case of emergency and for disagreement between non-EEA group supervisor and any of the EEA supervisory authorities, should be set in place. A submission to binding EU arbitration may however not be available for a third country supervisory authority unless an International Treaty with the EU COM is concluded. CEIOPS will take e.g. CEBS Meditation Protocol 2007 and CP 34 2009 into account when preparing its Level 3 standards for Colleges.

See comment 811

The participation of a non-EEA group supervisor that will be regarded as equivalent within EIOPA (with equal duties and rights) has to be ruled out in the decree or statue of EIOPA

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			<p>be followed in case of disagreement inside a college of supervisors has only started very recently (beginning of 2010). As this IAIS work stream will not be finalised before 2013 it cannot be included inside the Solvency II equivalence assessment. The European insurance industry therefore is afraid that the discussion on equivalence may be delayed if IAIS is to play a major role in this EU matter under the Solvency II directive.</p> <p>5.</p> <p>6. On the other hand, we are of the opinion that, at least for Article 260 differences, EIOPA would be a much more appropriate forum than the IAIS. If a positive equivalence decision has been made about a third country's supervision (non-EEA), the group supervisor of that third country (non-EEA) should have equal duties and rights like any EEA group supervisor, i.e. full participation in EIOPA. A mediation process based on mutual cooperation agreements could be a viable option.</p>	
813.	Swiss Financial Market Supervisory Authority, FINM	4.3.86.	Mediation in case of discrepancies is welcome, but no EU binding arbitration for third countries, unless there is an international treaty.	See comment 811
814.	Swiss Insurance Association (SIA)	4.3.86.	<p>Mediation process between EEA supervisors and equivalent third countries' group supervisors should be in place</p> <p>The mediation process in case of disagreement with an equivalent third country supervisory authority should be the same as between EU supervisors. A mediation process based on mutual cooperation agreement could be a viable option. The Swiss insurance industry welcomes the possibility of cooperation in EIOPA, which must also be open to third countries which have passed the equivalence test.</p>	<p>See comment 811.</p> <p>The participation of a non-EEA group supervisor that will be regarded as equivalent within EIOPA (with equal duties and rights) has to be ruled out in the decree or statute of EIOPA.</p>

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			We shall make the same comment in the drafts regarding EIOPA, especially relating to its article 61, cooperation with third countries.	
815.	Deloitte	4.3.87.	We support CEIOPS view in that. The exchange of information and cooperation between EEA and third country supervisors should be maintained in a cooperative fashion in going concern circumstances, as well as crisis situations. Such cooperative working practice will, we believe, strengthen the overall effectiveness of group supervision and provide a more cohesive group regulatory regime going forward.	Completely agreed by CEIOPS.
816.	KPMG ELLP	4.3.87.	See 4.3.85	Noted.
817.	KPMG ELLP	4.3.9.	Agreed.	Agreed.
818.	Association of Bermuda Insurers and Reinsurers (AB	A1.10.	ABIR supports a regulatory equivalency assessment process that recognizes it would be unfair to impose a penalty on third country insurers when the lack of regulatory recognition results from a time line or resource constraint on the part of CEIOPS or a member jurisdiction. To the degree that resource or timing constraints will lead to a limited number of equivalency assessments being completed, then third country insurers should not be penalized via collateral, regulatory or capital requirements based on the lack of completion of an assessment. Provisions should be made to grant conditional equivalence based on completion of a MMOU or IMF FSAP until such time an assessment can be completed; or alternatively to delay implementation of regulatory compliance requirements until such an assessment is completed.	Noted The assessment methodology has not been revised following the consultation period. The text below provides an outline of the methodology to be employed in the future by CEIOPS. It constitutes work in progress which once revised will be subject to consultation.
819.	CEA	A1.10.	A more precise wording or clarification on what CEIOPS means with the fact that the process of assessing each principle "requires a judgmental weighing of numerous elements" would be welcomed.	Please see 819
820.	CRO	A1.10.	The reference to a 'judgmental weighing of numerous elements'	Please see 819

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			appears problematic to us and should be clarified. CEIOPS' advices on the equivalence assessment as well as the European Commission will benefit in terms of transparency, credibility and acceptance if the conduct of the assessments follows clearly defined criteria rather than judgments.	
821.	DIMA (Dublin International Insurance & Management	A1.10.	<p>DIMA welcomes the acknowledgement that 'the process of assessing each principle requires a judgemental weighing of numerous elements' and notes that it is consistent with applying categorisation (A1.14). This advice could be broadened to mention 'each principle/objective' and the final advice could be greatly improved by elaborating on how this 'weighing of numerous elements' might be done.</p> <p>A1.10 still leaves CP78 silent on the question of how to take the set of assessments made up of each assessment against each principle/objective and reach a conclusion as to whether a regime is equivalent or not. The final advice should address this point in some detail.</p>	Please see 819
822.	FFSA	A1.10.	<p>13. "The process of assessing each principle requires a judgmental weighing of numerous elements. The assessment will be conducted by CEIOPS and the outcome of the assessment communicated to the European Commission. The European Commission makes the final determination of equivalence having received CEIOPS' advice."</p> <p>14. As European insurers may have a good experience operating in the related third countries, the FFSA would recommend the process to determine the equivalence of a third country supervisory regime includes the consultation of industry representatives.</p> <p>As the decision of equivalence of a third country supervisory regime will have an impact of the calculation of the group solvency of a insurers operating on the related third country, it would be nice if</p>	Please see 819

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			CEIOPS can elaborate more on what "judgemental weighing of numerous elements" means.	
823.	GDV	A1.10.	A more precise wording or clarification on what CEIOPS means with the fact that the process of assessing each principle "requires a judgmental weighing of numerous elements" would be welcomed.	Please see 819
824.	KPMG ELLP	A1.10.	This paragraph should be expanded to also cover the Member State assessments in the context of Article 172, referred to in the second bullet of A1.4.  In addition, we would be grateful if CEIOPS could provide greater clarification on what "a judgemental weighting of numerous outcome" means. It is not clear how this fits in the context of a principles based approach and the need (paragraph 1.3) to meet all of the principles and objectives expressed in this paper.  If other matters are to be considered, there should be transparency regarding what these are.	Please see 819
825.	PricewaterhouseCoopers	A1.10.	It is not clear whether sign-off from the Commission will be necessary even in cases where CEIOPS members undertake an equivalence assessment on their own initiative.	Please see 819
826.	Swiss Financial Market Supervisory Authority, FINM	A1.10.	See General Comment 1.	Please see 819
827.	Swiss Insurance Association	A1.10.	Need for more detail on procedural aspects  What are the criteria for the judgmental weighing of numerous elements? What are the elements which will be taken into account?	Please see 819

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	(SIA)		A more precise wording would be welcomed.	
828.	CEA	A1.11.	See comment to A1.13.	Please see 819
829.	FFSA	A1.11.	15. "When conducting the assessment, assessors will require access to a range of information and persons – as such, the cooperation of the third country supervisory authority is essential." As the decision of equivalence will only have an impact on the scope of application of Solvency II principles, the FFSA would like to emphasize the decision of equivalence should not be based on the willingness of a third country to participate to this process. If there is no sufficient cooperation of the third country supervisory authority, the European insurers operating in the related third country can also provide information to CEIOPS for performing the assessment.	Please see 819
830.	GDV	A1.11.	See comment to A1.13.	Please see 819
831.	Group of North American Insurance Enterprises, Inc	A1.11.	The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not agree to the evaluation, either by the Commission or a group supervisor, it would seem inadvisable to conduct such an evaluation.	Please see 819
832.	PricewaterhouseCoopers	A1.11.	Reflecting our comment about a 'moving target' above (A1.5.), we would appreciate more clarification of the 'cut off' point in terms of undertaking the assessment. Third country regimes may continue	Please see 819

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			to evolve positively while an assessment process is underway. Given the substantive effort required by both parties in undertaking the assessment, this will clearly take considerable time and resources. We would encourage CEIOPS to develop a methodology that does not prohibit third countries from attaining equivalence purely through time and resource shortfalls.	
833.	Group of North American Insurance Enterprises, Inc	A1.12.	Full use should be made of assessments by international bodies such as the IMF or the IAIS MMOU process to increase the efficiency of the review in light of CEIOPS' resources.	Please see 819
834.	CEA	A1.13.	We would like to stress importance to consult the local insurance industry (both third country subsidiaries of EU (re)insurers as well as third country groups operating in the EU) which may be able to provide sufficient information on the solvency regime of a third country to make a decision on equivalence (although probably only in case of Article 172 and 227).	Please see 819
835.	GDV	A1.13.	We would like to stress importance to consult the local insurance industry (both third country subsidiaries of EU (re)insurers as well as third country groups operating in the EU) which may be able to provide sufficient information on the solvency regime of a third country to make a decision on equivalence (although probably only in case of Article 172 and 227).	Please see 819
836.	Swiss Insurance Association (SIA)	A1.13.	Consultation of industry The Swiss insurance industry is ready to contribute its experience and expertise to the equivalence process conducted by CEIOPS. We look forward to the opportunity to further consultation during the equivalence process in particular (re)insurers with subsidiaries in	Please see 819

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			the respective third country or EU subsidiaries of third country (re)insurers.	
837.	Association of Bermuda Insurers and Reinsurers (AB	A1.14.	As we stated in 1.3 and 3.3.7 we suggest additional language be added. To make sure this is not viewed by others as a "box ticking exercise", and sentence such as this should be added: "A jurisdiction can be found to meet the principles and the objectives without having met all the indicators. Indicators are not conclusive proof of the objective or principles having been met."	Please see 819
838.	Bermuda Monetary Authority	A1.14.	The relationship between the degree of "observance" (A1.14-1.15) and "equivalence", and parameters to be used to make a determination of "observed", "largely observed", "partially observed", etc., need to be clearly articulated so that third countries know the level of observance that constitutes equivalence. Clear benchmarks should be established so that third countries are well informed regarding what CEIOPS is looking for to ensure that the assessors judge a third country's level of observance in a consistent manner.	Please see 819
839.	Deloitte	A1.14.	We would welcome further clarity outlining the manner in which the 5 assessment categories for each principle / objective would feed into the equivalence assessment. For example, could equivalence be achieved if the majority of principles / objectives were 'largely observed' or 'partly observed', or are there minimum thresholds that would need to be attained against each principle / objective, before equivalence would be granted for each respective chapter.	Please see 819
840.	DIMA (Dublin International Insurance & Management	A1.14.	The categories (Observed, Largely observed, Partly observed, Not observed and Not Applicable) appear reasonable. The advice could be greatly enhanced by elaborating on how, in practice, these categorisations might be assessed for each criterion. The advice would be further enhanced substantially if it could elaborate on how, having assessed each principle/objective into one of these	Please see 819

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			<p>categories, such combination of categorisations should inform the final decision on equivalence. Apart from 2.3.7 and A1.10, the final advice appears to be completely silent on these critical points.</p> <p>2.3.7 states: "In order to be considered equivalent, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives laid in this advice." If "meet" means the absence of 'Not observed' (and it is difficult to interpret the word 'meet' any more flexibly than that) then it is difficult to see how any regime would gain equivalence based on the principles and objectives outlined. The final advice should contemplate using phraseology other than 'meet'.</p>	
841.	Group of North American Insurance Enterprises, Inc	A1.14.	The assessment should not require uniformity, particularly at the "indicators" level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.	Please see 819
842.	KPMG ELLP	A1.14.	As expressed elsewhere, we would appreciate greater clarity regarding the process and timeline.	Please see 819
843.	Swiss Financial Market Supervisory Authority, FINM	A1.14.	See General Comment 1.	Please see 819
844.	Swiss Insurance Association (SIA)	A1.14.	<p>Need for more detail on procedural aspects</p> <p>What are the benchmarking parameters for observed, largely observed, partly observed etc.?</p>	Please see 819

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845.	ABI	A1.15.	<p>"When the national provisions are not in place at the time of the assessment, proposed improvements can, where appropriate, be noted in the assessment report"</p> <p>The industry is demanding for some transitional measures to be established. This is essential in order to allow enough time for third countries to adapt their regulation without disrupting/damaging the business relationship currently in place.</p>	Please see 819
846.	Bermuda Monetary Authority	A1.15.	<p>We recommend that an equivalence determination be granted "subject to" implementation of future plans in light of the following statement: "When the national provisions are not in place at the time of the assessment, proposed improvements can, where appropriate, be noted in the assessment report." We believe that it would be reasonable to take plans/policy/legislative initiatives into consideration given that some of these indicators have not been implemented in the EU. Otherwise, this could result in a regulatory arbitrage opportunity and an uneven playing field where third countries for a period could potentially be expected to have regulation that is more stringent than the EU. In this regard, and in order to avoid regulatory arbitrage, we believe that credit should be given where there is reasonable evidence that implementation of a given initiative will take place in 2012.</p>	Please see 819
847.	CEA	A1.15.	<p>As some third countries will already be assessed during a phase before Solvency II is required to be implemented in EU Member States, some clarification about the need of the third country supervisor to provide evidence of how the provision are "applied in practice" would be welcomed in respect to those countries that would be assessed in the first wave. Indeed, it would be difficult to require from third countries to implement potential changes to their regulatory regime and prove how these new rules are applied in practice in advance of EU Member States. As several elements of</p>	Please see 819

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			the Solvency II Framework are still developing, compatibility of local rules with Solvency II cannot be fully assessed by third countries. As is the case within the EU, supervisors and industry will need to be given some time to adapt to the new rules and only the principles and objectives should be determinative in the actual equivalence assessment	
848.	CRO	A1.15.	"When the national provisions are not in place at the time of assessment, proposed improvements can, where appropriate, be noted in the assessment" This should be amended to reflect the need for grandfathering and transitional measures as noted in our general comment 78E.	Please see 819
849.	DIMA (Dublin International Insurance & Management	A1.15.	For absolute clarity, add the following words to the final sentence... 'but, in accordance with A1.5, this information must not influence the assessment of equivalence.'	Please see 819
850.	GDV	A1.15.	As some third countries will already be assessed during a phase before Solvency II is required to be implemented in EU Member States, some clarification about the need of the third country supervisor to provide evidence of how the provision are "applied in practice" would be welcomed in respect to those countries that would be assessed in the first wave. Indeed, it would be difficult to require from third countries to implement potential changes to their regulatory regime and prove how these new rules are applied in practice in advance of EU Member States. As several elements of the Solvency II Framework are still debated, compatibility of local rules with Solvency II cannot be fully assessed by third countries and therefore potential changes may be only made shortly before the first wave of assessment will take place. As is the case within the EU, supervisors and industry will need to be given some time to adapt to the new rules.	Please see 819

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			<p>As several elements of the Solvency II Framework are still developing, which form part of several very detailed indicators in this CP, compatibility of local rules with Solvency II cannot be fully assessed by third countries. As is the case within the EU, supervisors and industry will need to be given some time to adapt to the new rules and the actual equivalence assessment should only take into account the principles and objectives as laid out in this CP78.</p> <p>However a review shall take place after a transition period. There shall be no grandfathering for unlimited term.</p>	
851.	Group of North American Insurance Enterprises, Inc	A1.15.	The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.	Please see 819
852.	Guernsey Financial Services Commission	A1.15.	<p>This paragraph states that where national provisions are not in place at the time of the assessment, proposed improvements can be noted in the assessment report. Clarification is required as to whether a timetable for implementation can be agreed as part of formal transitional arrangements or whether non-observance at the time of the assessment will lead to a negative determination of equivalence.</p> <p>This is particularly relevant for jurisdictions seeking to be part of the first wave of applicants to be assessed as the timetable for assessing equivalence does not allow time for emerging Solvency II</p>	Please see 819

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			requirements to be fully incorporated into national provisions and [in particular?] applied in practice.	
853.	INTERNATIONAL UNDERWRITING ASSOCIATION OF LONDON	A1.15.	<p>The definition of national provisions seems to require clarification. In the USA, the provisions vary from State to State. So the national provisions would include those of every State. Would the equivalence of all the States be nullified if just one of them did not meet the Solvency II standard? The same issue could apply to other nations with more than one geographical or administrative jurisdiction.</p> <p>In cases where a third country is prepared to implement changes, or has already done so, but they are not yet fully complied with, an additional category of "on the way to being observed" could be helpful. It would then be possible to envisage provisional recognition of equivalence, pending full implementation and compliance.</p>	Please see 819
854.	PricewaterhouseCoopers	A1.15.	<p>We would welcome additional guidance on how CEIOPS would expect third country supervisors to demonstrate that national provisions are applied in practice (for example, questionnaires completed by or in respect of key insurers in that territory).</p> <p>The last sentence of paragraph A1.15. is somewhat unclear, and does not explain what impact proposed improvements (rather than actual observance) will have on the assessment overall.</p>	Please see 819
855.	Swiss Financial Market Supervisory Authority, FINM	A1.15.	See General Comment 1.	Please see 819
856.	Swiss	A1.15.	Need for pragmatic solutions during a transitional period	Please see 819

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	Insurance Association (SIA)		Proposed improvements should not be a prerequisite for not granting equivalence. If the objectives and principles are largely observed in a third country equivalence testing should come to a positive result. It might be helpful to implement a transitional period for the third country to conduct improvements.	
857.	XL Capital Ltd	A1.15.	"When the national provisions are not in place at the time of the assessment, proposed improvements can, where appropriate be noted in the assessment report". We would request CEIOPS expand on this point to explain how transitional rules can be brought into being to allow third country regimes sufficient time to adopt measures that meet the equivalence requirements.	Please see 819
858.	Group of North American Insurance Enterprises, Inc	A1.1.	A process should be considered for granting temporary equivalence status to jurisdictions which meet international standards, such as having an equivalence accounting system as judged by the EU, being a signatory of the IAIS MMOU, and having a successful rating from the IMF on an FSAP. While these criteria do not duplicate the requirements for equivalence recognition, they would demonstrate the existence of an efficient regulatory framework and would provide a transitional period until a complete assessment can be conducted.	Please see 819
859.	PricewaterhouseCoopers	A1.1.	We welcome the initial outline of the methodology to be applied when assessing the equivalence of a third country supervisory regime set out in Annex 1. We consider the methodology to be applied to be a key element of the assessment of equivalence, and would welcome more detail on how CEIOPS envisages the assessment process will work in practice. In our view, it would be helpful to set out details of the methodology to be applied at Level 2, in order to foster supervisory convergence.	Please see 819

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860.	Association of Bermuda Insurers and Reinsurers (AB)	A1.2.	It would be very helpful to have a time line added to the paper that provides clarity to the process of both selecting jurisdictions for assessments; as well as a timeline that lays out time for the assessment, consultation on the assessment and final action by the Commission.	Please see 819
861.	CEA	A1.2.	<p>The CEA would welcome the inclusion of any additional information that CEIOPS might have received in the meantime with respect to the foreseen consultation on the countries that would be potentially assessed first and the timeframe in which these assessments would take place.</p> <p>In particular, a timeframe should be set for when the EC asks CEIOPS to provide its advice on the assessment of equivalence of a third country.</p>	Please see 819
862.	FFSA	A1.2.	<p>12. "CEIOPS will perform assessments of the equivalence of a third country supervisory regime upon the request of the European Commission or - in the absence of such a request and where appropriate - on its own initiative."</p> <p>The FFSA would like to emphasize the need for getting the confirmation of the list of third country supervisory regime considered as "equivalent" as soon as possible. In that perspective, the FFSA would like to know when CEIOPS will perform this assessment.</p>	Please see 819
863.	GDV	A1.2.	The GDV would welcome the inclusion of any additional information that CEIOPS might have received in the meanwhile with respect to the foreseen consultation on the countries that would be potentially assessed first and the timeframe in which these assessments would take place.	Please see 819

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			In particular, a timeframe should be set for when the EC asks CEIOPS to provide its advice on the assessment of equivalence of a third country.	
864.	Group of North American Insurance Enterprises, Inc	A1.2.	The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not agree to the evaluation, either by the Commission or a group supervisor, it would seem inadvisable to conduct such an evaluation.	Please see 819
865.	Heritage Insurance Management Limited (Guernsey)	A1.3.	See comments under "General Comment" in relation to the appropriateness of assuming that a third country insurance market is comparable to the EU insurance market. It may be the case that Level 2 implementing measures are not appropriate for the third country's insurance market	Please see 819
866.	KPMG ELLP	A1.3.	See A1.6.	Please see 819
867.	ABI	A1.4.	We would like to see further details on a possible arbitration procedure in case of disagreement between regulators.	Please see 819
868.	CEA	A1.4.	Timeframes should be defined for:  7. What are the requirements concerning the timeframe for CEIOPS to perform an assessment?  In absence of a decision by the European Commission, what is the maximum time given to the group supervisor to decide on equivalence?	Please see 819
869.	Deloitte	A1.4.	(a) It would be helpful to understand the circumstances /	Please see 819

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			<p>criteria that would result in the European Union, rather than CEIOPS or Member States, taking decisions on 3rd country equivalence.</p> <p>(b) Could the assessments of equivalence of different Member States differ? If so, how does CEIOPS propose to ensure that there is a level playing field across the EU? Does this mean that a third country supervisory authority will have to submit the required information several times?</p>	
870.	GDV	A1.4.	<p>Timeframes should be defined for:</p> <p>7. What are the requirements concerning the timeframe for CEIOPS to perform an assessment?</p> <p>In absence of a decision by the European Commission, what is the maximum time given to the group supervisor to decide on equivalence?</p>	Please see 819
871.	Group of North American Insurance Enterprises, Inc	A1.4.	The process should clarify that a ruling by a group regulator regarding equivalence of a third country regime should apply universally to the supervision of all entities in the jurisdiction	Please see 819
872.	KPMG ELLP	A1.4.	<p>Our reading of this paragraph is that there are effectively three levels of approach to equivalence assessment as follows:</p> <p><input type="checkbox"/> A decision taken by the European Commission, following referral from either CEIOPS or an individual EEA supervisor</p> <p><input type="checkbox"/> In the absence of a decision from the EC, CEIOPS may take</p>	Please see 819

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			<p>a collective decision on equivalence</p> <p><input type="checkbox"/> Specifically in relation to the reinsurance market equivalence, an assessment of equivalence under Article 172 may be taken by individual supervisors</p> <p>We are aware of differing interpretations of this paragraph so it would be useful to for CEIOPS to confirm that there are only 3 possible routes</p> <p>In addition, cross reference should be made to paragraph 2.1.5 to provide greater context to when Member States may conduct their own equivalence assessment.</p>	
873.	Swiss Insurance Association (SIA)	A1.4.	<p>Need for more detail on procedural aspects</p> <p>We would find it helpful if a timeframe is defined for the requirements concerning the timeframe for CEIOPS to perform an assessment.</p> <p>In absence of the decision taken by the European Commission, what is the maximum time given to the EEA group supervisor to decide on equivalence?</p>	Please see 819
874.	Association of Bermuda Insurers and Reinsurers (AB)	A1.5.	<p>As stated above, the assessment of third countries should also recognize that Solvency II is an evolving regime with technical measures still to be agreed upon and therefore credit should be given to third countries on their regulatory framework as it currently exists together with measures for implementation of enhancements to accommodate that evolution.</p>	Please see 819
875.	Group of North American Insurance Enterprises,	A1.5.	<p>The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements. The assessment should bear in mind that Solvency II is not a fully-implemented system.</p>	Please see 819

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	Inc			
876.	Groupe Consultatif	A1.5.	The existence of formal transitional provisions should be considered as the timetable for a third country being assessed for equivalence if it considered in the first "wave" to be assessed means that it is unrealistic for all provisions to be in place and applied in practice at the time of the assessment. It says that proposed improvements can be "noted" but how will these be treated in practice.	Please see 819
877.	KPMG ELLP	A1.5.	We understand why the assessment can only be of the existing regime, but where significant enhancements to the regime are proposed, it would be helpful for some indicative views to be expressed on how this might change the equivalence assessment, even if it cannot be confirmed until it is actually applying. In some respects, this could be viewed in a similar way to the internal model pre-application process that CEIOPS has proposed and has recently issued guidance on in CP 80.	Please see 819
878.	PricewaterhouseCoopers	A1.5.	We note that this may be something of a 'moving target' and consequently suggest that consideration should also be given to a third country regimes' short-term prospective plans in terms of its regime. Solvency II is not yet implemented, and when implemented will continue to evolve. Particularly, in terms of the assessments to be made prior to the implementation of Solvency II, we believe it would be appropriate for the assessment to take due consideration of and give credit to situations where new regulatory measures or enhancements are in the process of being implemented in a third country and will be in place prior to the effective date of Solvency II.	Please see 819
879.	Property Casualty Insurers Association of America	A1.5.	The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements. The assessment should bear in mind that Solvency II is not a fully-implemented system.	Please see 819

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880.	Reinsurance Association of America	A1.5.	The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements. The assessment should bear in mind that Solvency II is not a fully-implemented system.	Please see 819
881.	Swiss Financial Market Supervisory Authority, FINM	A1.5.	See General Comment 4: To be expanded for "in existence or in preparation".	Please see 819
882.	Bermuda Monetary Authority	A1.6.	The rating categories – We request clarity in relation to the ratings of "observed," "largely observed", "partly observed", "not observed" and "not applicable". Currently there are no clear criteria as to what these broad categories mean or how they relate to a positive equivalence. Outside of "observed" and "not observed", it is unclear what the other categories mean with respect to whether a principle/objective is met in terms of passing the equivalence assessment. In particular, please confirm how the ratings determine a pass. For example, if a third country has 25% observed, 50% largely observed and 25% partially observed would this likely constitute an equivalence pass? Given the potential variance of results, and combinations of "observed", "largely observed" and "partly observed" that may result from an assessment, we believe that CP 78 could benefit from the inclusion of an example demonstrating how CEIOPS plans to interpret these ratings collectively.	Please see 819
883.	Group of North American Insurance	A1.6.	The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key	Please see 819

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	Enterprises, Inc		<p>supervisors within CEIOPS that this will be the case.</p> <p>The assessment should be based exclusively on the principles and objectives identified by CEIOPS.</p> <p>The assessment should not require uniformity, particularly at the “indicators” level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.</p>	
884.	KPMG ELLP	A1.6.	<p>This paragraph clearly refers to only the principles and objectives, not the indicators. However A.1.3 refers to CEIOPS considering all three aspects. We again ask for CEIOPS to revise the wording in the final advice to make it absolutely clear what role the indicators play in this process.</p>	Please see 819
885.	Property Casualty Insurers Association of America	A1.6.	<p>The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.</p> <p>The assessment should not require uniformity, particularly at the “indicators” level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.</p>	Please see 819
886.	Reinsurance Association of America	A1.6.	<p>The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.</p>	Please see 819

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			The assessment should not require uniformity, particularly at the "indicators" level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.	
887.	Bermuda Monetary Authority	A1.7.	A1.7 and A 1.15 recognise that a third country may have embarked upon various initiatives/plans, which could be noted in the assessment. We believe that it is reasonable for CEIOPS to take into account these initiatives under development as part of their consideration for equivalence. Third countries are asked to have each principle/objective implemented (as evidenced by the indicators) at the time of the assessment, whereas EU countries are allowed to delay until 2012 to implement these requirements. We believe this could perpetuate an "uneven playing field" and, as such, may facilitate regulatory arbitrage. Therefore, it is our recommendation that CEIOPS should provide considerable credit for those plans/initiatives that although not yet in practice will be implemented on or before 2012.	Please see 819
888.	CEA	A1.7.	When will a review take place? Does a review only take place if material changes to the legal requirements in the equivalent third country occur? Will a review be carried out on a continuous basis?	Please see 819
889.	Deloitte	A1.7.	It would be helpful to know how often CEIOPS envisage reassessing equivalence of a third country regime? Also, would the supervisory authority in the third country be expected to submit a request for reassessment?	Please see 819
890.	GDV	A1.7.	When will a review take place? Does a review only take place if material changes to the legal requirements in the equivalent third country occur? Will a review be carried out on a continuous basis?	Please see 819
891.	KPMG ELLP	A1.7.	See comments in A1.5 regarding future developments.	Please see 819

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892.	Swiss Insurance Association (SIA)	A1.7.	Need for more detail on procedural aspects What are the criteria to conduct a review? Our understanding is that a review only takes place if material changes to the legal requirements in the equivalent third country have occurred. A more precise wording would be appreciated.	Please see 819
893.	Bermuda Monetary Authority	A1.8.		Please see 819
894.	Group of North American Insurance Enterprises, Inc	A1.8.	A timeline for the full equivalence review should be developed.	Please see 819
895.	Heritage Insurance Management Limited (Guernsey)	A1.8.	The form and content of the questionnaire will be critical in determining whether it is appropriate for assessing the differences between the third country's insurance market and the EU insurance market against which it is being compared for equivalence.	Please see 819
896.	KPMG ELLP	A1.8.	An indication of the timeline would be very helpful here.	Please see 819
897.	American Insurance Association	Annex	We ask that our general comments regarding process be considered for response in revising Annex 1. Specifically, we ask that this section indicate that all proceedings will be in accordance with the OECD policy recommendations, guidance and checklist on effective and efficient regulation.	Please see 819
898.	CEA	Annex	It would be useful if CEIOPS could clarify if the same methodology is used for all the three assessments (under 172, 227 and 260) and how CEIOPS will deal with principles, objectives and indicators	Please see 819

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			which are basically the same in two or three of the cases (e.g. with respect to professional secrecy).	
899.	DIMA (Dublin International Insurance & Management)	Annex	<p>The methodology should be applied with complete transparency in each instance. With the exception of commercially confidential information, all the information on which the assessment is based should be available and a report explaining the rationale for the determination should be published, including disclosure of the categorisations of each principle/objective as outlined in A1.14.</p> <p>The methodology should allow for the contribution of expert advice and information from industry and industry representative bodies in the process of equivalence determination.</p> <p>The methodology does not contemplate a right of appeal or the grounds for making an appeal, e.g. only new information or an actual change in regime. DIMA endorses a right of appeal in either direction, i.e. by the regime in question or by EU stakeholders affected by the determination. The paper should adopt a position on the question of appeal, including the grounds, the provisional equivalence determination during the course of the appeal and the timeframes for requesting and conducting an appeal.</p>	Please see 819
900.	GDV	Annex	It would be useful if CEIOPS could clarify if the same methodology is used for all the three assessment (under 172, 227 and 260) and how CEIOPS will deal with principles, objectives and indicators which are basically the same in two or three of the cases (e.g. with respect to professional secrecy).	Please see 819
901.	KPMG ELLP	Annex	We believe it would be helpful if CEIOPS could expand on Annex 1 to provide more guidance on the process and timeline that the equivalence assessment is likely to follow. Even if this is no more	Please see 819

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<b>CP No. 78 - L2 Advice on Equivalence for reinsurance activities &amp; group supervision</b>			<b>05.03.2010</b>
		<p>than indicative, this would be very helpful to third country supervisors who are considering equivalence assessments, and to EEA groups with large non-EEA (re)insurance businesses, who may be considering requesting individual assessment in the absence of a Commission view regarding those territories most relevant to them.</p> <p>We therefore encourage CEIOPS to accelerate production of the proposed questionnaire, including providing guidance regarding the level at which questions will be pitched. If any indication of timeline could be included in the final Advice Annex 1, we believe this would be helpful.</p>	