

Summary of comments on CEIOPS-CP-33/09

CEIOPS-SEC-68/09

Consultation Paper on the Draft Advice on Governance

CEIOPS would like to thank **Aviva, FEE, Pearl Group Limited, Munich Re, FFSA, Dutch Actuarial Society – Het Actuariel Genootschap (AG), Deutsche Aktuarvereinigung (DAV), Oliver Wyman, ICAEW (Institute of Chartered Accountants in England and Wales), International Underwriting Association of London (IUA), European Captive Insurance and Reinsurance Owners' Association (ECIROA), Groupe Consultatif (GC), Hungarian Actuarial Society (HAS), UNESPA (Association of Spanish Insurers), Jos Kleverlaan (DNB), Legal and General Group (L&G), RSA Group, Lloyd's, Association of British Insurers (ABI), Investment & Life Assurance Group (ILAG), The European Confederation of Institutes of internal Auditing (ECIIA), German Insurance Association (GDV), Ireland's Solvency 2 Group¹, ROAM (Réunion des Organismes Assurance Mutuelle – France), XL Capital Group (including XL Insurance Company Ltd and XL Re Europe Ltd) ("XL"), PricewaterhouseCoopers (PwC), European Union member firms of Deloitte Touche Tohmatsu (Deloitte), CRO-Forum, KPMG, Institut des Actuaire (France), Syndicat des actuaire-experts et actuaire-conseils indépendant (SACEI), CEA, AMICE.**

The numbering of the paragraphs refers to Consultation Paper No. 33 (CEIOPS-CP-33/09).

No.	Name	Reference	Comment	Resolution
1.	FEE	General comment	<p>Overall, the paper provides a sensible level of guidance on key governance issues and is largely uncontroversial. There are a number of areas we have identified where some additional guidance would be welcome, perhaps in the form of practical examples.</p> <p>We reiterate our comment made earlier this year, in our comments on CEIOPS Issues Paper "Implementing Measures on System of Governance", that it would be helpful if Level 2 implementing measures and potential Level 3 guidance could make clear how the terminology used of "administrative or management body and the organisation of internal supervision" relates to unitary as well as two-tier board systems. Much of the Issues Paper appears to be written in the context of a unitary board system. For this reason, we think that further consideration is required as to how well certain aspects would translate to the two-tier system of governance.</p>	<p><i>Additional guidance will be developed under Level 3 guidance.</i></p> <p><i>The terminology "administrative or management body" was chosen in order to be neutral as to the system employed. Its implementation depends on the national company law applicable in the jurisdiction where the (re) insurance</i></p>

¹ Ireland's Solvency 2 Group, excluding representatives from the Department of Finance and the Financial Regulator.

The Solvency 2 Group is a high-level group set up by the Irish government for the purpose of contributing to the development of Solvency 2 from an Irish perspective. It is made up of representatives from the insurance industry (life and non-life, direct writers and reinsurers), industry representative bodies, professionals (actuaries, accountants and solicitors) working with insurers, as well as representatives from the Department of Finance and the Financial Regulator. As noted above, the latter two representatives have not contributed to this submission.

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				<i>undertaking is incorporated.</i>
2.	Pearl	General comment	<p>We welcome this paper which provides useful guidance on how governance requirements could apply.</p> <p>However, the paper uses descriptive words, e.g. "appropriate" (Para 3.53 c and d), throughout but these may have different interpretations in different European states. It would be helpful to get a reference to a current standard that would be at the required level so that everyone has the same understanding.</p> <p>We notice that the blue text has a strong focus on technical standards, rather than professional standards. In our view, professional standards are as important, if not more so. The possibility of an actuary breaching professional standards and losing their career, as a consequence, feels like the ultimate protection to the situations envisaged in Para 3.308.</p> <p>Future Consultation Papers should also explicitly cover governance requirements at group level.</p> <p>The effects of using an internal model on governance will need to be further developed.</p>	<p><i>Noted.</i></p> <p><i>What is "appropriate" can only be assessed on a case-by-case basis.</i></p> <p><i>CEIOPS considers the references in Art. 42(2) and 48(2) to be quite sufficient. However this issue will be further discussed with stakeholders in the future.</i></p> <p><i>Governance requirements apply mutatis mutandis at group level. Specific governance requirements regarding groups with centralised risk management will be the subject of an upcoming Consultation Paper. See amended paragraph 1.2.</i></p> <p><i>There are additional requirements surrounding the use of an internal model rather than effects of the internal model on governance. All requirements are covered by CEIOPS Advice on Procedure to be followed for the approval of a group internal model.</i></p>

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3.	Munich Re	General comment	The consultation paper should have more content on groups: Being part of a group has implications on the system of governance and we would like CEIOPS to reflect the economic reality of groups in its advice on governance.	<i>The CP constitutes draft advice for Level 2 implementing measures in accordance with Article 50. See comment 2</i>	
4.	FFSA	General comment	<p>Thank you for giving the FFSA, which represents ninety percent of French insurance market, the opportunity to comment on your consultation paper 33 on level 2 measures for Governance.</p> <p>Below we set out our high-level comments on the paper. Detailed comments are included as an annex to this note in the template requested by CEIOPS.</p> <p>High Level Comments</p> <ul style="list-style-type: none"> Choice of the level of responsibility <p>FFSA agrees with the use of the "or" when the Consultation Paper 33 details the duties of the administrative or management body. Indeed, we emphasize that these two bodies can have different duties depending on the undertaking's organization. We note also that, in general, the other Consultation Papers use also the "or" for the definition of the "administrative or management body" responsibilities (except for the Consultation Paper 31 which mentions that "The administrative and management bodies shall have the responsibility to understand and approve the policy to use any financial mitigation techniques, and to set mechanisms to guarantee the stable fulfillment of these provisions.")</p> <ul style="list-style-type: none"> Options of the actuarial function <p>Paragraph 3.253 (option 2): We believe that the actuarial function should rely on technical standards that are widely accepted in the industry and the profession.</p> <p>Paragraph 3.262 (option 1): In our view it should be left to the undertakings to decide the scope of the tasks individually.</p> <p>Paragraph 3.283 (option 2): It should be up to the undertakings to decide the structure and content of the reporting.</p> <p>The FFSA thanks you for the attention you will give to our comments and would be happy to discuss the details of our response with you at your earliest</p>	<p><i>The term is taken from the Level 1 text, any use of "and" instead of "or" is not intentional.</i></p> <p><i>Noted.</i></p>	

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			convenience.	
5.	Dutch Actuarial Society (AG)	General comment	We are in general pleased on how the actuarial function in the consultation paper is described and the importance of such a function as part of the Solvency II framework.	<i>Noted.</i>
6.	DAV	General comment	<p>The DAV, jointly with the Groupe Consultatif Actuarial Européen (Groupe Consultatif for short),</p> <ul style="list-style-type: none"> • welcomes CP33 in general, the thinking on the actuarial function, and the commitment to harmonised standards adopted at European level in particular. • commits to early and active engagement with stakeholders - Commission, CEIOPS, industry - in developing a framework for professional standards (technical, ethical and behavioural). • emphasises the complementarity of standards to Level 2 / Level 3 measures • emphasises the value of standards as affording flexibility to take into account developments in science and in the business environment <p>We do not give detailed comments on section 3.3. (Risk Management System). Our view of the actuarial role in risk management will be given under 3.250. and 3.260. below</p>	<i>Noted.</i>
7.	Oliver Wyman	General comment	We believe that a strong system of governance is a core element in ensuring (re)insurance undertakings' sustained solvency and financial strength, so that they remain in a position to honour policyholder obligations. Apart from policyholder concerns, we also believe that sound governance should in the interest of other stakeholders such as owners and employees. Hence, while we welcome the comprehensive guidance given on systems of governance in Consultation Paper 33-09, we believe it will be vital that organizations (including groups) should be incentivized to meet the regulatory requirements with systems of governance that are suitable for their specific context, and should not be unnecessarily constrained by too narrow rules. A particular concern will be the consistency of application in different Member States, which is why we would also welcome strong Level 3 guidance in this area.	<i>Noted.</i>

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8.	IUA	General Comment	<p>IUA supports the general approach taken by CEIOPS in developing a sound system of governance and emphasising the importance of firms putting in place effective control and risk mitigation measures. It is of clear benefit for firms to have clear, focussed standards in place to meet supervisory objectives. Within that approach, we are particularly pleased to see the clear recognition of proportionality and the proposed flexibility that will enable firms to put in place effective and suitable corporate governance structures. To this end, where possible, the application of general principles is preferred to prescriptive rules.</p> <p>We would, however, strongly support increased recognition of sole undertakings being part of a group and the governance connection between the two entities. (Re)insurers should be able to use group procedures at the individual firm level, thereby avoiding unnecessary and costly duplication of processes and controls. This economic reality should be reflected to a greater extent in published 'blue text' guidance.</p> <p>For the absence of doubt, where we have not specifically commented on a paragraph, it can be taken that we are either comfortable with the proposals or have no substantive comments to make.</p>	<p><i>Noted.</i></p> <p><i>The "blue boxes" contain advice for further regulation. Therefore CEIOPS believes that there is no need to introduce further regulation to enable undertakings to make use of group resources; it is already possible to do this using internal outsourcing arrangements.</i></p>
9.	ECIROA	General comment	<p>We note that the paper addresses the principle of proportionality, where appropriate, but we consider there are a number of areas where the principle should apply but where this has not been commented on. We have detailed these areas below.</p> <p>When applying the principle of proportionality it is most important to consider how much information would be necessary to get a full picture of the company in question. For small, simple companies, including captives (referred to as undertakings in this document) a supervisor will have more information than it would ever be possible to obtain for a complex undertaking.</p> <p>The application of the proportionality principle will be determined by the regulators in each location.</p> <p>We have included below (in blue text) our suggestions on how the principle of proportionality could be applied to these undertakings.</p> <p>Throughout this paper reference is made to Professional Captive Management</p>	<p><i>The principle of proportionality applies throughout this advice.</i></p> <p><i>It is just not mentioned everywhere to avoid constant references.</i></p>

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			companies. The majority of captives (99%) outsource the administration of their company to Captive Management companies. These companies are licensed and controlled by the Regulator in their location. The acceptance by Regulators of the ability of the staff of these management companies and their systems and procedures is an important factor when considering the application of Solvency II to captives.	<i>Noted.</i>
10.	GC	General comment	<p>The Groupe Consultatif</p> <ul style="list-style-type: none"> • Welcomes CP33 in general, the thinking on the actuarial function, and in particular the commitment to harmonised standards adopted at European level • Offers itself as the appropriate body to lead taking the issue forward • Commits to early and active engagement with stakeholders – the EU Commission, CEIOPS, and industry - in developing a framework for professional standards (educational, ethical, professional conduct, and technical interpretation) • Emphasizes the value of standards as affording flexibility to take into account developments in science and in the business environment • Encourages the authorities to consider endorsement of practitioner-developed standards as complementary to legislation. <p>We generally value the role of the responsible holder of the actuarial function as it is today seen in many European countries. We would furthermore prefer if the chief risk officer was given a similar role. This comes clear from our comments to paragraphs 3.53 and 3.308 below.</p> <p>The roles of the responsible holder of the actuarial function and the chief risk officer should be characterized by:</p> <ul style="list-style-type: none"> • Clear qualification requirements, both practical and theoretical to perform the role • The roles should be independent in judgement of the operational functions of the company • The roles should be protected within the company 	<p><i>Noted.</i></p> <p><i>The reference to the CRO was changed (see amended paragraph 3.210)</i></p> <p><i>Key function holders are subject to Art. 42 fit & proper requirements.</i></p> <p><i>CEIOPS does not think that further implementing measures on qualifications requirement are necessary at this point. Actuarial function</i></p>

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			<p>Currently clear qualification requirement exists for actuaries within Europe in form of the "Core Syllabus" as defined by Groupe Consultatif. These qualifications requirements correspond to what is known as fellowship of national actuarial societies. We suggest that similar qualification requirements are introduced for chief risk officers.</p> <p>Both roles should be independent of operational functions. We see that this as the only way to ensure independence in opinions expressed on operational functions such as underwriting policy and reinsurance arrangements (paragraph 3.277).</p> <p>The roles should be protected within the company. This means that roles should be appointed by the board and have the right to report directly to the supervisor. We see this as the only way to ensure independence in reports submitted to the administrative or management body (paragraphs 3.51 (e) and 3.285).</p> <p>We see both roles as being important elements in the future governance structure for insurers. The chief risk officer as having responsibility for implementing and maintaining a proper risk management system and for the responsible holder of the actuarial function as being responsible for adequate reserving and other activities as set out in Article 47.</p> <p>A general comment is that most of the content seems very sensible. However, words like 'adequate', 'appropriate', 'regular basis', 'suitable' and 'proportionate' occur very often. This is of course due to the fact that more precise advice is difficult to give when at the same time the principle of proportionality must apply. A general remark here would be that given the complexity and volume of the rules, documentation and reporting need to be proportionate bearing in mind what value it gives to companies, supervisors, policyholders and the public. It may be that less information which is more focused may be of more benefit than providing too much information that nobody reads.</p>	<p><i>holders and the holders of other key functions have to meet the criteria to be defined under the fit & proper requirements according to Art. 42 to be developed at Level 2 and Level 3.</i></p> <p><i>The appointment policy is up to the undertakings but CEIOPS has adopted the suggestion to give all key function holders direct access to the administrative or management body.</i></p> <p><i>Documentation with regard to the system of governance is not aimed at policyholders or the general public. Adequate documentation has to be "fit for purpose".</i></p>
11.	HAS	General comment	<p>Even though the Framework Directive does not mention the role of any external audit function and its relation to the statutory auditor of (re)insurance companies, it would be advisable to elaborate on this issue under governance considerations, especially in relation to paragraph 2(c) of Article 35 which stipulates that Member States shall ensure that the supervisory authorities have the power to require information from external experts, such as auditors and</p>	<p><i>The role of the external/statutory auditor is outside the scope of Solvency II regulation.</i></p>

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			<p>actuaries.</p> <p>Firstly, a distinction needs to be made between an external auditor of a company (a function similar to internal audit but practically truly independent of the company) and between the statutory auditor of the company regulated under national legislation for the purpose of attesting the annual reports and the financial statements of the company.</p> <p>Secondly, it is an important issue to define the role of the external/statutory auditor of a (re)insurer under the new solvency regime: what the duties and responsibilities are, how they can be discharged and what role the supervisors have in this.</p> <p>Finally, it would also be important to give guidance in a second level document about the relation between the external/statutory auditor and the internal auditor of the (re)insurance company.</p>	<p><i>Insofar as the external auditor is mentioned (Art. 72 and Art. 35 (2)) its responsibilities are not a governance issue.</i></p> <p><i>Noted.</i></p> <p><i>This is outside the scope of Level 2 implementing measures.</i></p>
12.	UNESPA	General Comments	<p>As a starting point, we consider that any regulations which address the diverse elements of the management system should be established so as to facilitate the best management and implementation of business plans by undertakings, both in favourable and unfavourable conditions. In other words, <u>the requirements should be established so as to generate added value for our undertakings, avoiding redundant and rigid regulations.</u></p> <p>In order to meet the objective of generating added value, or at least trying to preserve existing value, the principle of proportionality and the need to have a harmonised regulatory framework throughout Europe are particularly important.</p>	<i>Noted.</i>
13.	UNESPA	General Comments	<p><u>Supporting an approach of greatest possible harmonisation.</u></p> <p>We recognise and support the effort by CEIOPS to emphasise the importance of good governance and risk management by insurance and reinsurance undertakings. In this regard, we consider it essential to work towards achieving the greatest possible harmonisation of standards; to this end, the regulations developed in order to implement the Directive should be as detailed and extensive as possible, in order to try to ensure that the rules of the game are appropriate for all European markets.</p> <p>The scope of the implementation measures in Level 2 should be exhausted and</p>	<i>Noted.</i>

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			mechanisms which make it possible to compared the provisions and divergences existing between countries in respect of Level 3 should be regulated when Solvency II is implemented.			
14.	UNESPA	General Comments	<p><u><i>The need to clarify and implement the proportionality principle to the greatest extent possible.</i></u></p> <p>In general, the term “Proportionality”, particularly with regard to risk, is too subjective. Clear and precise rules and criteria for application are required in this regard.</p> <p>In relation with this principle, in addition to taking into account the nature and scale of each undertaking, the way that the regulations are implemented should permit all operators to manage the material resources required to carry out their governance activities, and to handle the potential impact of adverse effects which might result from the management process efficiently. For example, focusing on corporate governance, there must be some difference in regulatory requirements for an undertaking with 1 or 2 shareholders compared to one with over 500 shareholders. It should also be possible to extend the proportionality principle to groups.</p> <p>We consider it essential that the regulations should not require specific organisational reserves, and that they should recognise the specific nature not just of our sector compared to others, but also specific differences within our sector.</p> <p>We also consider that it would be appropriate to establish separate proportionality criteria for Pillars 1 and 2.</p>	<p><i>Noted.</i></p> <p><i>Any concrete suggestion will be welcomed and duly considered for Level 3 guidance.</i></p> <p><i>For Solvency II regulatory requirements, the number of shareholders is irrelevant.</i></p>		
15.	UNESPA	General Comments	<p><u><i>In our opinion, the section on Groups is dealt with only in passing.</i></u></p> <p>As we have already stated, the principle of proportionality should be applied to Groups. In our opinion, the implementation of the Directive’s regulatory framework should be sensitive to the reality of insurance groups which in practice, and from a business point of view, behave as Groups – ie. acting in a coordinated way; this means that it should be possible for functions which have to be performed at the group level and at the undertaking level to be centralised in order to avoid duplication of administrative work.</p> <p>This should be implemented in greater detail in general terms and should be</p>	<p><i>See comment 2.</i></p> <p><i>The principle of proportionality does apply to groups as well.</i></p> <p><i>The Directive, and therefore solo level requirements as</i></p>		

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			specific, we believe that a special mention should be made of those Groups which work in third countries. It would be useful to have guidance on how to apply the regulations in third country subsidiaries.	<i>such, do not apply in third country subsidiaries.</i>
16.	UNESPA	General Comments	<u>Support for the guiding principles approach.</u> We support the guiding principle approach for risk management, although these guides should not be rigid and should provide the undertakings with flexibility in the way that they organise themselves to comply with the principles.	<i>Noted.</i>
17.	UNESPA	General Comments	<u>The need for greater clarity in the segregation of functions and incompatibilities among the various bodies in the document.</u> The roles, incompatibilities and, if necessary, the specific departments or teams involved should be specified, applying the principle of proportionality in the most objective terms possible. It is not clear to us whether an Internal Control Department is required; to what extent the Actuarial role should be involved in "Risk Management"; and what the functions of Internal Audit and Internal Control Departments are. If this section is not clear, the undertakings could encounter internal organisational problems when they try to implement the regulation.	<i>A "function" is not a department or unit but an administrative capacity. The Level 1 text sets out certain limits as to how the responsibilities of the Internal Audit Function and of the Risk Management and the Actuarial Function with regard to an Internal Model can be organised, but otherwise it is up to the undertakings to assess what the "appropriate segregation of responsibilities" required by Art. 41 (1) means in practice.</i>
18.	UNESPA	General Comments	<u>The use of internal models in the corporate governance system should be developed in greater depth.</u> The integration of these models into the undertaking's economic decision making, risk management, actuarial function and Internal Control Department should be described more fully.	<i>This is outside the scope of the CP on Governance and will be dealt with as an Internal Models' issue. Please see also CEIOPS Advice on Procedure to be followed for the approval of a group internal model.</i>
19.	UNESPA	General Comments	<u>Furthermore, consistency with work on transparency and public information must also be ensured.</u>	<i>The fact that reports are mentioned in different contexts does not imply that</i>

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			The regulations should aim for the greatest possible efficiency in requirements to produce periodic reports into the undertaking's corporate governance functions. The possibility of limiting this requirement to an <i>integrated report</i> (on the system of governance) should be evaluated, with each undertaking being able to break this down optionally and voluntarily into the functions it considers appropriate: corporate governance, internal control, risk management, internal audit, etc...	<i>the reports need to be separate.</i>
	Jos Kleverlaan (DNB)	General comment	Please add a list of definitions.	<i>CEIOPS does not think that a list of definitions would serve its purpose at this stage.</i>
20.	Lloyd's	General comment	<p>Lloyd's believes that the paper is valuable and offers a comprehensive approach to the drafting of implementation measures regarding the system of governance, with much of the content reflecting what was previously published in CEIOPS Issues Paper 24/08 (Implementing Measures on System of Governance).</p> <p>We consider that it remains important to emphasise that an undertaking's Board or similar executive authority is responsible for the undertaking's governance and therefore an overly prescriptive approach detailing the role of particular areas of an undertaking should be avoided.</p> <p>It is important that a level of flexibility is left within the implementing measures to enable individual insurers to assess how requirements can be effectively met. We note that CEIOPS does not propose any implementing measures with regard to proportionality as details cannot be properly proposed within a principles-based system, but welcome the references to proportionality in a number of places in the paper.</p> <p>With regard to the proposals set out for the actuarial function overall Lloyd's is in agreement with the options favoured by CEIOPS. We strongly agree that any guidance issued by the proposed European body should be principles based, with the emphasis on a framework within which the actuarial function should operate. Given that there is no requirement for common standards to be established at European level for other functions it is particularly important that principles for the actuarial function are kept at a high level.</p> <p>We do not agree that the actuarial function should be independent from other functions within an undertaking, as we believe that this potentially contradicts other requirements under Solvency II. Further detailed feedback on the actuarial</p>	<p><i>Noted.</i></p> <p><i>CEIOPS does not require that the actuarial function be independent from other</i></p>

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			function is set out below.	<i>functions, as CEIOPS agrees that this would not be in line with the Level 1 text. "Objective and free from influence" only means that the actuarial function should not be prevailed upon to suppress critical comments or support certain views that other functions or the administrative or management body are interested in against their better judgement.</i>
21.	ABI	General comment	<p>We welcome this paper which overall provides useful guidance on how governance requirements could apply.</p> <p>We look forward to reading the second wave of consultation papers which should explicitly cover governance requirements at group level. When considering the implementing measures on governance and the key functions related to it for groups, convergence of supervisory practices, enhancement of communication between supervisors and rationalisation of requirements between the group and the solo level will be of particular importance. In this respect, our view is that there should be a clear connection between the two and firms should be able to use their group assumptions at solo level. If every requirement were to be replicated both at the group and the solo level, this could prove very burdensome and counterproductive. Therefore, we strongly believe there should be clear adaptation of the governance requirements in the context of the group and we expect the following CPs or addendum to acknowledge the organisational structure of groups. As groups as a whole will specifically be subject to governance requirements (Article 250 of the Directive), this should be fully taken into consideration when the governance system of the legal entities belonging to a group is performed. Therefore, we believe CEIOPS should mention the requirements need to consider the entity in the context of the group. It should also identify activities which may be performed at group level and indicate where a separate activity at entity level is unnecessary and inefficient. The final advice needs to address this and should not just produce a stand alone entity view and</p>	<p><i>Noted.</i></p> <p><i>See comment 2 above.</i></p> <p><i>Since apart from core management responsibilities everything can be outsourced, (internal) outsourcing is the solution if group undertakings do not want to perform all activities separately at entity level.</i></p> <p><i>In CEIOPS' view it is up to the groups to decide how they organise themselves.</i></p>

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			<p>a supplementary set of requirements for the group.</p> <p>It is critical that the requirements are applied proportionately with sufficient flexibility to adapt to the specificities of each undertaking. In that respect, the more rounded principles based approach taken by CEIOPS in this CP is helpful as more rules based requirements might fail to embrace all different business models and organisational structures. We would therefore interpret the requirements on ALM and ALM policies, on the independence of the actuarial function and on the documentation and justification of good governance, for example, as guidance rather than hard requirements. Similarly, when an internal model is in place, whilst we agree there should be minimum common features among the industry and that the internal model will be an integral part of the risk management system for all, a certain latitude should be left to the firms in order to accommodate the particularities of their own business model. It is not in the spirit of the Solvency II Directive to establish rigid rules that would not fit all players in the market and that could prove very costly and onerous to implement for a very uncertain added value. Flexibility will be of particular importance where an internal model is used in order to accommodate differences in business models.</p>	<p><i>The requirement cannot be interpreted as guidelines even if the proportionality principle is applied. The principle of proportionality refers to the way requirements and guidelines are implemented into practise.</i></p>
22.	ILAG	General comment	<p>We agree overall approach though probably more emphasis should be placed on the organisation thinking through the impact of extreme events. We would suggest that firms should be asked to carry out war-gaming exercises and then document the results in a short bullet point easily accessible style (no more than 2 pages of A4) that all of the organisation can read and learn from.</p> <p>We are glad that there is suitable emphasis on the quality of the people in the relevant roles. Good people will always manage an organisation well irrespective of structure, good structure can never cope with poor quality staff.</p> <p>We also applaud the need for the firm to maintain control and some form of quality view over outsourced functions. We would suggest that length of contract may need some form of supervisory intervention. HMRC outsourced all property maintenance on a very long contract – this would not be good practice.</p> <p>We also agree with the risk manager could be merged into the actuarial function if the latter was more than a pure mathematician. We note that the UK profession is starting risk management courses.</p>	<p><i>Noted.</i></p> <p><i>Long contracts as such are not a problem, but it is necessary for the undertaking that the contracts include an adequate termination clause in case the services performed are unsatisfactory.</i></p>

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23.	ECIIA	General comment	<p>The ECIIA (the European Confederation of Institutes of internal Auditing) is pleased to provide you below with its comments on the CEIOPS Consultation Paper No. 33 Draft CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: System of Governance.</p> <p>The ECIIA is a confederation of national associations of internal auditing located in 34 countries, including all of the EU, representing over 35000 internal audit professionals. As such, the ECIIA is the regional representative of the global Institutes of Internal Auditing (the IIA), a professional organisation of more than 160000 members in 165 countries. Throughout the world, the IIA is recognized as the internal audit profession's leader in certification, education, research, and technical guidance.</p> <p>The worldwide organisational structure and globally recognised guidance framework for our profession allows us to comment in detail on some of the elements included in paragraph 3.5(„Internal Audit“) of the paper.</p> <p>With regard to the paper under subject ECIIA has the following <u>general comments</u>:</p> <ul style="list-style-type: none"> - we welcome the fact that the Directive recognises internal audit as an important element of a sound system of governance. We further note that the Directive and the draft advice also recognise that internal audit is a separate function and not simply part of the "risk management functions" of the organisation. Although this may not appear to be an important point, it is something that is not always the case in regulator documents. - the Directive and the draft advice include significant concepts that the Institute recognises as being best practice. However, they do not recognise the existence of a profession of internal auditing and, in particular, the existence of a reliable and robust standard setting framework, the International Professional Practices Framework (IPPF). IPPF includes the <i>Definition of Internal Auditing</i>, the <i>Code of Ethics</i>, the <i>International Standards for the Professional Practice of Internal Auditing (International Standards)</i> and the guidance on implementing these standards: Practice Advisories, Practice Guides and Position Papers. In the medium term, the quality of internal auditing in insurance organisations will be guaranteed more by the existence of a vibrant profession with a Code of Ethics and 	<p><i>Noted.</i></p> <p><i>CEIOPS has no intention to provide such acknowledgement as this could give the (incorrect) impression that the IIA standards will be taken as rules and as the only benchmark against which supervisors should assess undertakings' internal audit function. However, embracing robust professional standards is very important.</i></p> <p><i>The CP is not about</i></p>

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			<p>other standards than by a snapshot of good practice written at one point in time. We therefore recommend to CEIOPS that they acknowledge the existence of the profession of internal auditing, its professional body – the Institute of Internal Auditors, its Code of Ethics and the rest of the International Professional Practices Framework, and the internationally recognised certifications and qualifications that it provides.</p> <ul style="list-style-type: none"> - The considerations that are included in the advice under governance appear to be less about governance than about the foundations for a well managed organisation in general. Governance is normally about a situation which displays the agency problem, ie where one group of people takes decisions and implements them on behalf of another group. Examples are: governments who undertake activities on behalf of their citizens or directors and managers who run companies on behalf of their shareholders. In the CEIOPS advice, it is not clear for which group of stakeholders the insurance undertakings are being governed. Furthermore some aspects of governance related to the probity and accountability of those responsible for governance and the transparency of their decisions making are not covered in great detail. - The origins of the risk management and internal control disciplines and activities are very different. However, in terms of governance of an organisation, we regard internal control as being a part of risk management. In the final analysis there is a need for a control only if there is a risk that it must treat; and internal control can be said to be effective only in terms of whether it manages all the risks within the risk appetite of the organisation. Therefore, we believe they should be discussed together, not separately. - In paragraph 3.47, the advice suggests appointing a member of the administrative body to oversee the risk management function “to underline the importance of risk management and increase accountability”. This obscures the fact that the management of risk is the responsibility of all managers. The risk management function is a second line function, assisting the organisation to develop and maintain a consistent and good practice system for managing risks but not responsible for the management of risks. 	<p><i>governance in any other sense than governance according to the Level 1 text.</i></p> <p><i>For policyholders and beneficiaries.</i></p> <p><i>The CP follows the structure of the Chapter on the "System of Governance" in the Level 1 text.</i></p> <p><i>The paragraph is not contradictory to the ultimate responsibility of the administrative or management body for compliance with all Solvency II requirements. Having a designated member that is specifically responsible for risk management on the administrative or management body does in no way imply that the other members of the body do not remain responsible too.</i></p> <p><i>See amended paragraph 3.210.</i></p>

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24.	GDV	General Comments	<p>The GDV welcomes the opportunity to comment on CEIOPS' consultation paper CP-33-09. Moreover, in general the GDV supports the comments given by the CEA.</p> <p>In general we support the main principles and ideas in the consultation paper and strongly ask for applying the principle of proportionality in the system of governance which could be elaborated further. It is important that any requirements on the system of governance are flexible enough to consider the circumstances of different undertakings.</p> <p>In respect of the other consultation papers feedback is currently requested on, we highly recommend incorporating all governance issues in this consultation paper on governance. Examples:</p> <ul style="list-style-type: none"> ➤ CP 28 paragraph 3.8 requests specific know how or fit and proper criteria for persons that perform best estimate calculations. ➤ CP 32 management rules should also be considered as governance issues ➤ CP 36 contains various governance issues in the context of SPVs <p>One should incorporate all governance issues to paper 33 and not allow to drift apart governance issues</p> <p>There are a few issues one could expect CEIOPS to elaborate further:</p> <ul style="list-style-type: none"> ➤ System of governance in a group context. ➤ Actuarial function in a group context. ➤ The use of internal models in the system of governance should be further developed. ➤ CEIOPS should give more details on the interaction and relationship between different functions. This could be elaborated on in the consultation paper and would be important. In particular we would like more details on how the risk management and internal audit functions interact with the internal control. 	<p><i>Noted</i></p> <p><i>The CPs are draft advice on Level 2 implementing measures regarding what is specifically mentioned in the Articles of the Level 1 text, not comprehensive guidance on a specific topic. However, the specific know-how or fit and proper criteria for persons that perform best estimate calculations will be covered by future Level 3 on fit and proper. Also the section on „Reinsurance and other risk mitigation techniques“ already covers the issues on governance for undertakings using SPVs.</i></p> <p><i>For groups issues see comment 2 above.</i></p> <p><i>There are no specific requirements to be taken into account apart from those already mentioned. It is up to</i></p>

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				<i>the undertakings to decide how they organise this interaction. If it should be considered necessary at a later stage, CEIOPS will cover these issues under Level 3 guidance.</i>
25.	Ireland S2G	General	<p>1. Our Group welcomes and supports CP33. We particularly welcome CEIOPS' views on proportionality, and while we recognise that the application of proportionality cannot easily be prescribed in a principles-based system, it is of vital importance for smaller, less complex undertakings and we would appreciate further indications of how it might play out in practice in such organisations.</p> <p>2. Ireland has a high concentration of (re)insurance undertakings that are subsidiaries of (re)insurance groups headquartered in member states <u>and</u> third countries. Many ancillary activities (e.g. investment activities) of these subsidiaries are outsourced to affiliated entities in member states or third countries. Implementing measures should not be so disproportionate as to render such arrangements impractical. Some of the comments below relate to this general point. Any implementing measures that relate to outsourcing that would, unintentionally or otherwise, be impractical to implement in the context of affiliate outsourcing business models would be particularly detrimental to Ireland and could serve to undermine the principle of freedom of capital movement in the internal market.</p> <p>3. The CEIOPS draft advice fails to fully contemplate unit-linked business and could thereby be impractical to apply in conducting business of this type. Unit-linked business is significant in both UK and Ireland domestic markets and is also a growth segment under Freedoms of Establishment & Services. Implementing measures should fully contemplate unit-linked business. Any implementing measures that would unintentionally or otherwise be impractical to implement for unit-linked business would be particularly detrimental to undertakings in Ireland and could serve to undermine the consumer benefits of a single internal market for insurance.</p> <p>4. Governance issues for undertakings that are part of larger groups can vary quite significantly from those for stand-alone undertakings. Those differences</p>	<p><i>Noted.</i></p> <p><i>Noted.</i></p> <p><i>Since the Level 1 text does not envisage specific requirements for specific business lines etc., the Level 2 implementing measures cannot supply any explicit rules or exceptions for unit-linked business. The specificities of this business can only be taken into account via the principle of proportionality. CEIOPS is fully</i></p>

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			<p>should be borne in mind when CEIOPS is finalising its advice for the Commission. It is quite common, for example, for one internal audit function to have responsibility for a number of different undertakings in a group. See our comments under this heading under 3.231, 3.232, 3.240 and 3.242 below. Similar considerations apply to the role of the Chief Risk Officer and to outsourcing of functions to other group entities.</p> <p>5. As a final general comment, CEIOPS states in 1.8 that, in drafting its advice, it has taken into consideration the lessons learnt from the financial crisis. This is of vital importance. It is also worth noting however that insurers have withstood the impact of the crisis reasonably well, considering its severity. This fact should also be borne in mind when drafting final advice to the Commission, so that we don't "throw out the baby with the bath-water".</p>	<p><i>aware of that. This can all be dealt with via (internal) outsourcing arrangements without any further requirements on Level 2.</i></p> <p><i>Noted.</i></p>
26.	ROAM	General comment A	<p>We approve the approach taken in this draft advice about the relevance of a well defined governance system, suited to the risk and business profile of the undertaking according to the principle of proportionality.</p> <p>We approve also the relevance of a transparency system in relationship with the supervisors.</p> <p>Nevertheless, we request that the duties and responsibilities of the undertaking will not be confused with those of the supervisors and that they remain clearly separated: a supervisor does not have to interfere in the undertakings' <u>strategy definition</u>, neither in the <u>recruitment policy</u> for key functions nor in the various <u>undertaking management policies</u> (underwriting, asset and liabilities, investment, liquidity, compliance, reinsurance, etc.)</p>	<p><i>Noted.</i></p> <p><i>CEIOPS cannot follow where the supposed interference with the undertaking's strategy definition comes from.</i></p> <p><i>In any case, supervisors have to assess all this as part of the supervisory review process and are supposed to and will "interfere" if they discover deficiencies in these areas.</i></p>
27.	ROAM	General comment B	<p>According to us, an efficient governance system is based first and foremost on the motivation and the involvement of the administrative and management body in the long-term management of their company rather than in a formalization of a multitude of strategies, policies, controls, etc.</p> <p>In the same way, an efficient risk management system has to involve employees' awareness on their business risks (development of a risk management culture) rather than spending a lot of energy writing a multitude of procedures and various controls books.</p>	<p><i>Noted.</i></p>

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28.	ROAM	General comment C	<p>Evidently, the implementation of a governance system based on the requirements of pillar 2 requires important delays and implies high costs. Consequently :</p> <ul style="list-style-type: none"> • We wish to emphasize the principle of proportionality. This principle implies an approach adapted to the profile of the company <ul style="list-style-type: none"> - Large undertakings: Control mechanisms are essential because of the industrialized processes which involve a reduction of the visibility on activities - Small undertakings: Control mechanisms must be limited because of <u>the proximity of the staff managers to the field</u>. Too many control mechanisms would be burdensome, useless and even counterproductive. Regarding the 4 key functions (art 43, 45, 46 and 47) for us it is also important to leave any freedom to the management body to adapt or strengthen functions according to its business profile and its size (principle of proportionality), for example to group within or separate them without imposing any method. • We ask Ceiops an appropriate timeframe of 2 years once the level II text will come into effect, in order to smooth over the transition into the new risk management requirements recommended within pillars 2 and 3. 	<p><i>Noted.</i></p> <p><i>CEIOPS acknowledges that the same requirement (control mechanisms in this case) will apply differently in undertakings with different risk profiles.</i></p> <p><i>CEIOPS highlights that there is the intention to have all Level 2 implementing measures and the most important Level 3 guidance ready one year before the implementation date what will allow stakeholders (undertakings and supervisors) at least 1 year of transition. For this particular issue CEIOPS believes it is enough.</i></p>
29.	ROAM	General comment D	<p>We are in favour of a single and common governance system for all legal entities of the same group. We support the view that when key functions are carried out at a Group level, there is no need to duplicate such functions at the level of each legal entity (risk management function, compliance function, internal audit function and actuarial function)</p>	<p><i>Noted. See comment 2 above.</i></p>
30.	XL	General	<p>XL welcomes the opportunity to comment on CEIOPS' draft advice on System of</p>	<p><i>Noted.</i></p>

Template comments

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		comment	<p>Governance. (CP No. 33).</p> <p>Overall this CP provides useful guidance on how governance requirements could apply, and we support the general approach taken.</p> <p>We note that for groups, that global structure needs to be a consideration and, in the in majority of areas this is not specifically addressed within CP33. We anticipate further Level 2 advice from CEIOPS regarding governance requirements at the group level, and suggest that CP33 should make reference to this. We strongly believe that a level of flexibility is required where aspects of governance are performed at the group level, to avoid unnecessary and costly duplication of requirements at the individual entity level, and that these interactions should be mentioned in the CP33 Advice.</p> <p>We appreciate CEIOPS view that details on how the principle of proportionality applies cannot be properly prescribed in a principles based system and accordingly they have not proposed any specific Level 2 implementing measures with regard to proportionality. We strongly support applying a proportionate approach to implementing a system of governance, and would expect the statement in Article 41 that <i>"The system of governance shall be proportionate to the nature, scale and complexity of the operations of the insurance or reinsurance undertaking"</i> to be used when interpreting and applying the guidance in CP33. Our comments which follow have been written from this perspective.</p>	<p><i>See comment 2 above.</i></p> <p><i>The expected flexibility already exists via the option to resort to (internal) outsourcing arrangements.</i></p> <p><i>Noted.</i></p>
31.	PwC	General comment	<p>Overall we consider CP33 to be a very good document. It is logical and clear, and the requirements are in line with our expectations and mirror, in the most part, current best practice.</p> <p>Please note that, while we have mainly restricted our comments to the draft advice presented in CP33, we have occasionally commented on the explanatory text.</p>	<i>Noted.</i>
32.	Deloitte	General comment	<p>We agree with the overarching goal of establishing sound and comprehensive standards regarding the systems of governance of insurance undertakings. However, we believe that the Level 2 advice should emphasise the need of consistency across all areas of the governance framework, so as to avoid:</p> <ul style="list-style-type: none"> • varying levels of detail and attention being given to different elements of the systems required in the Framework Directive, as, in our view, this would lead 	<i>Noted.</i>

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			<p>to any system of governance being only as robust as its weakest element;</p> <ul style="list-style-type: none"> unnecessary compliance burdens arising from overlaps of policies and procedures; an excessive focus on the form of a given policy or procedure at the expense of substance, i.e. the contribution of that policy or procedure to the overall aim of sound risk management consistently applied at all levels and across all business activities of the undertaking. <p>We believe consistency should also be an overriding concern for supervisors when evaluating the system of governance of insurance undertakings, as outlined in the Supervisory Review Process, prior to initiating any detailed examination of specific policies and procedures.</p>	
33.	Deloitte	General comment	<p>In the explanatory notes we find various examples of assertive wording (e.g. in paragraphs 3.7, 3.8, 3.9, 3.62 and 3.94) which are not then replicated in the technical advice. We believe that this could create confusion regarding what will constitute CEIOPS' advice for future regulatory requirements in the minds of the recipients of these documents.</p>	<i>The advice for Level 2 is always in the blue boxes.</i>
34.	Deloitte	General comment	<p>We appreciate the position taken by CEIOPS on the feedback to the Issues Paper on the system of governance.</p> <p>We believe that responsibilities for the approval and review of the major features of the system of governance and risk management framework rest with the highest level of the undertaking: the administrative or management bodies.</p> <p>In order to reflect this principle, we believe the technical advice should produce guidance emphasising which responsibilities are at board and management level. Such an approach would ensure full engagement at both board and management level in relation to their respective responsibilities for the maintenance of the risk management and governance frameworks. We would suggest such guidance at Level 3, although guidance at Level 2 would be welcome so that undertakings have the time to adjust their governance processes well ahead of the implementation of Solvency II.</p>	<p><i>Noted.</i></p> <p><i>The scope of the technical advice is limited by the scope of the Level 2 implementing measures. Also Article 40 of the Level 1 text already states that the ultimate responsibility for compliance with all requirements of Solvency II rests with the administrative or management body.</i></p>

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35.	Deloitte	General comment	As financial services industries are increasingly integrated, we believe that Level 2 measures and Level 3 guidance should ensure consistency between the requirements shaping the system of governance in (re)insurance undertakings and any similar requirements that are being established in respect of other financial services businesses, i.e. banking and securities firms.	<i>CEIOPS bears in mind that although Level 2 and 3 have first and foremost to be consistent with Level 1 it should also be consistent, to the extent possible with existing regulations for other financial sectors.</i>
36.	CROF	General comment	<p>In general we agree with the advice in this consultation paper and feel that it is well written. However there are several key points we would like to make.</p> <p>The main discussion items are:</p> <ul style="list-style-type: none"> • We agree with CEIOPS that scope for Level 2 measures is limited, given the level of detail already contained in the Level 1 text. Similarly, we would expect also the Level 3 guidance to be limited, and in any case to allow for a meaningful application of the proportionality principle. • In general, and in particular on specific topics such as the application of fit and proper requirements and outsourcing attention should be paid to the alignment of these requirements with similar requirements in other directives. • For various requirements, a certain level of materiality should be required to avoid that such requirements become overly burdensome (for instance outsourcing, conflicts of interest and for written policies on various other topics). • Risk management is responsible for setting up the overall Enterprise Risk Management framework and to oversee the operations of the company to ensure alignment with this framework. This framework includes a risk governance system, risk appetite (overall and specific risk limits), risk assessment and valuation methodology, risk control framework (with a focus on operational risk) and tools and processes that enhance risk management at the operating level. • The governance with respect to (re)insurance groups is only partially 	<p><i>Noted.</i></p> <p><i>Noted.</i></p> <p><i>This is done to the extent possible, i.e. to the extent the Level 1 text allows.</i></p> <p><i>All requirements are subject to the principle of proportionality.</i></p> <p><i>Noted.</i></p> <p><i>Any implications are practical and do not affect the</i></p>

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			<p>addressed in this CP. We believe that the ability to set specific requirements for groups is limited given the varying structures of European insurance groups. We do, however, believe that the CP needs to acknowledge that there are implications for the system of governance for companies that are part of a group. In addition and importantly, harmonization of supervisory practices, regarding governance and key organization/functions, is a main concern that we hope will be addressed in the final CP.</p>	<p><i>requirements which apply to all undertakings whether they are part of a group or not.</i></p> <p><i>Harmonization of supervisory practices will be covered by Level 3 guidance, namely regarding the Supervisory Review Process.</i></p>
37.	KPMG	General comment	<p>This is a cohesive and comprehensive consultation paper (CP) and we support the overriding theme of a principles based approach towards establishing a system of governance supported by a good risk management system. We believe a principles based approach, whilst potentially challenging and subject to interpretation, is a more effective way for (re)insurance undertakings to reach good governance outcomes.</p> <p>The principle of proportionality will be key when implementing these requirements. Whilst CEIOPS has made efforts to provide examples of where proportionality would apply, we believe it may be helpful, as part of level 3 guidance, to provide some example case studies highlighting in given situations whether different policies adopted by a firm would be deemed to be proportionate or not. In reality there will be a number of acceptable approaches, but such case studies would provide a benchmark for (re)insurance undertakings to assess their own approaches against. Such examples would be particularly useful in key areas of risk management and ORSA.</p>	<p><i>Noted.</i></p> <p><i>CEIOPS is aware of the difficulties in the application of the principle of proportionality. Some examples may be developed at Level 3 if considered necessary, however there is a danger that providing case studies would de facto result in the supervisor directing undertakings towards certain solutions which may not be the most appropriate solutions for them.</i></p>
38.	Institut des actuaires	General comment	<p>Institut des actuaires, the third European actuarial local association, representing 2300 actuaries from France, welcomes the Consultation 33-09 which opens a new area for the actuarial profession in Europe.</p> <p>This answer comes in addition to the Groupe consultatif answer. The Institut des</p>	<p><i>Noted.</i></p>

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			actuarial supports and agrees with the Groupe consultatif answer.	
39.	Institut des actuaires	General comment	<p>The official acknowledgement of Actuarial function in the directive is a very positive point.</p> <p>Independence and ability are essential for a quality practice of the actuarial function; the board should ensure the permanence of independency of actuarial function. To provide professional advice and ensure that board members have sufficient understanding and information about the actuarial function holder's opinions, IA suggests requiring that actuarial function responsible have direct access to board members.</p> <p>The actuarial function plays a key role in an insurer by providing a check on the reliability and adequacy of the calculation of technical provisions and capital adequacy. The actuarial function holder must act independently, free from management interference. Level 2 and level 3 measures should insure the independence of the actuarial function in order to secure the value added it could give to the insurance company.</p> <p>Actuarial expertise is a key component in the operation of insurers, insurance market and insurance supervisory authorities. As stated in Recital 18b of the Framework Directive Proposal, the actuarial function can be staffed by:</p> <ul style="list-style-type: none"> - own staff - or can rely on advice from outside experts - or can be outsourced to experts within the limits set by the Directive. <p>The actuary is most of time an employee of the insurer ("in-house actuary"), while in other jurisdictions, but outsourcing to a third party actuarial firm may be used. It could happen that there is a perception that in-house actuaries are beholden to management (e.g., his or her opinions may not carry weight with management), notwithstanding supervisory frameworks that are put in place to ensure the independence. On the other hand, an in-house actuary may understand the business models and risks better than third party actuarial firms and may be more informed of what happens in the insurer. As such, they may be able to identify important issues more effectively. If outsourcing is used, the board must also reviews if the external actuary has any potential conflicts of interest, such as if his or her firm also provides other non-actuarial services to</p>	<p><i>Noted.</i></p> <p><i>CEIOPS changed its advice to incorporate this suggestion not only to the actuarial function but to all key functions. This was also included in the Level 2 advice. See new paragraph 3.15 and 3.33..</i></p> <p><i>Noted.</i></p>

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			<p>the insurer. The board must satisfy itself that any such potential conflicts are subject to appropriate controls.</p> <p>In each case, actuarial function should be hold by professionals trained in evaluating the financial implications of contingent events.</p> <p>The proficiency, qualification, experience and knowledge of the actuarial function holder are key points to cope with all the requirements, namely the ones detailed in article 47, in the CP 33, in ERM issues, in accordance with the standards and practice of the Groupe Consultatif and the Institut des Actuaire.</p> <p>In several countries and several activities (i.e. life insurance) the competence and the responsibility of the actuarial function is not limited to liabilities and reserves but concerns also ALM and even Asset management. In fact, Actuaries have specific roles and functions which typically involve the calculation of an insurer's insurance risks and premiums. Their roles and responsibilities differ from jurisdiction to jurisdiction. The scope of task generally asked to actuaries is not limited to liabilities and reserves, as mentioned in the Level 1 text, but Actuaries are typically required to provide professional advice or certification to the board with regard to:</p> <ul style="list-style-type: none"> - calculation or estimation of technical provisions in accordance with the valuation framework set up by regulation or by the insurer - identification and estimation of material risks and appropriate management of the risks - assessment of the management of risk, including the methodology underlying internal models methodologies and the quality of the data - financial condition testing - investment strategy and asset-liability management - supervisory capital assessment and economic capital assessment - appropriateness of premiums (and surrender value) - allocation of bonuses to with-profit insurance contracts and to member/policyholders in the case of mutual (and cooperatives) - management of participating funds (including analysis of material effects 	<p><i>The Level 1 text does not limit the <u>possible scope</u> of the actuarial function's tasks in this regard, only the <u>mandatory</u> tasks of the actuarial function are limited.</i></p> <p><i>CEIOPS does not consider it a problem that some Member States have an appointed actuary and others have not. However this issue will be covered in the discussion for Level 3 guidance.</i></p>

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			<p>caused by strategies and policies)</p> <ul style="list-style-type: none"> - product design, risk mitigation (including reinsurance) and other risk management roles. <p>Appointed actuaries</p> <p>In some jurisdiction the actuary is appointed by the insurer's board or the shareholders/owners. Such appointed actuaries usually have a legal obligation to the supervisors to ensure that the interests of policyholders are protected. In some jurisdictions the appointment of the actuary is subject to supervisory review or approval.</p> <p>How would the level playing field be ensured between countries having and those not having appointed actuaries?</p>	
40.	Institut des actnaires	General comment	<p>The consultation paper should be focused on governance requirement and not on day to day activities of actuarial function which should be mentioned in specific papers.</p> <p>To get a clearer view on the draft advice from CEIOPS on the actuarial function, Institut des actnaires suggests to define the scope of the actuarial function on a governance perspective with the following items:</p> <ul style="list-style-type: none"> - Role of the actuarial function - Qualifications of actuarial function holders/responsible (Competency and experience) - Access to information - Adequate frameworks and procedures - Independence of actuarial function holders/responsible - Conflicts of interest - Appointment of actuarial function holders/responsible - Outsourcing of actuarial function - Reporting lines - Role of the board and the actuarial function holders/responsible 	<p><i>CEIOPS advice follows the Level 1 text and its scope is limited by the scope of the Level 2 implementing measures. Hence CEIOPS does not deem appropriate to change the structure of the section on the actuarial function.</i></p>

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			- Performance measurement, appraisal and dismissal.	
41.			Confidential comment deleted.	
42.			Confidential comment deleted.	
43.	SACEI	General comment	<p>SACEI is an association which gathers independent actuarial consultants who are also member of the Institut des Actuares.</p> <p>SACEI welcomes the acknowledgement of outsourcing in the Solvency II Directive and in the CP about Governance.</p> <p>SACEI wishes that the proportionality principle could be applied to the governance of outsourcing. Level 2 measures should specify this point.</p>	<p><i>Noted.</i></p> <p><i>Proportionality applies throughout Solvency II. It can however not reduce requirements as such, but only affect what is expected of undertakings in order to meet the requirements.</i></p>
44.	CEA	Introductory remarks	<p>The CEA welcomes the opportunity to comment on the Consultation Paper (CP) No. 33 on level 2 measures for "Draft Advice on Governance".</p> <p>It should be noted that the comments in this document should be considered in the context of other publications by the CEA. Also, the comments in this document should be considered as a whole, i.e. they constitute a coherent package and as such, the rejection of elements of our positions may affect the remainder of our comments.</p> <p>These are CEA's views at the current stage of the project. As our work develops, these views may evolve depending in particular, on other elements of the framework which are not yet fixed.</p>	<i>Noted.</i>
45.	CEA	Key comments	<p>In general we support the main principles and ideas in the consultation paper.</p> <p>We support the approach taken in this paper, of emphasising the principle of effective governance and control by the firm, coupled with transparency in the relationship with supervisory authorities.</p> <p>In respect of the other consultation papers feedback is currently requested on we highly recommend incorporating all governance issues in this consultation paper on governance. (E.g. in consultation paper 28 paragraph 3.8 requests</p>	<p><i>Noted.</i></p> <p><i>See comment 24 above.</i></p> <p><i>CEIOPS tentatively incorporated all governance</i></p>

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			<p>specific know how or fit and proper criteria for persons who perform best estimate calculations. There are also governance requirements in consultation paper 36 on SPVs.)</p> <p>We strongly support the articulation of proportionality in the consultation paper.</p> <p>It is important that any requirements on the system of governance are flexible enough to consider the circumstances of different undertakings. We welcome the articulation of proportionality in the different sections on the consultation paper, for example in paragraph 3.198 and in paragraph 3.110.</p> <p>However, in our view proportionality could be elaborated further.</p> <p>CEIOPS should give more details on the interaction and relationship between different functions.</p> <p>This could be elaborated on in the consultation paper and would be important. In particular we would like more details on how the risk management and internal audit functions interact with the internal control.</p> <p>The current financial crisis has not necessarily shown any significant failings in the governance of insurers or reinsurers.</p> <p>The paper refers to lessons learned from the recent crisis a number of times. While we do not disagree that certain issues can be read across from the banking sector in a precautionary sense, and that all systems may be improved on, we do not agree that the crises has shown any significant failings in the insurance sector. We should be careful to not to draw the conclusion that changes are justified by failures in insurance governance.</p> <p>The use of internal models in the system of governance should be further developed.</p> <p>The interaction of these models in the undertaking's economic decision-making, risk management, actuarial function and internal control should be described more fully.</p>	<p><i>requirements in the Advice. However some specificities are also cover in other Advices. CEIOPS envisages that when drafting Level 2 the Commission will have this in mind.</i></p> <p><i>CEIOPS will consider the suggestion for its Level 3 guidance.</i></p> <p><i>This is outside the scope of the advice on the system of governance and will be dealt with as an internal model issue.</i></p>
46.	AMICE	General comment	Our response to CP 33 should be read in relation to our response to the "CEIOPS Issues Paper on Implementing Measures on System of Governance" that CEIOPS published in November 2008.	<i>Noted.</i>

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47.	AMICE	General comment	<p>Developing an appropriate system of governance as required by the Framework Directive and including the four “key functions” of risk management, compliance, internal audit and actuarial function, is seen by AMICE’s members as probably the most demanding and most burdensome requirement arriving through Solvency II. This leads us to forcefully make two points as a general introduction to our comments:</p> <p>The application of the proportionality principle is of particular importance in the context of regulation of governance aspects. The new recital 14a (in the numbering of the EP text of 16.4.2009 – Amendment 145) as well as the newly inserted Art 28 (3a) put emphasis on the importance of size as such as a determinant of proportionality – in addition to the three dimensions of nature, scale and complexity of risk. Art 28 (3a) expressly refers to proportionality in implementing measures while the last part of Rec 14a equally expressly refers to the application of proportionality in “the exercise of supervisory powers”. CEIOPS’ general commitment in par. 1.6 to “address the principle, where appropriate” is for us too weak to allay our members’ fears about being unduly overburdened with structural and procedural governance requirements.</p> <p>The implementation of governance requirements, both structural and procedural, takes time and cannot be done within a few months. It will include training of employees entrusted with and responsible for key functions and may include the hiring of staff with particular competences and/or the identification and hiring of appropriate service providers to whom functions may be outsourced. As we have already commented on other occasions, our members feel that the 12 months foreseen between the finalisation of the level 2 measures in autumn 2011 and the implementation of the Solv II framework in autumn 2012 will be very, very tight. We urge CEIOPS to make reference to these expected bottlenecks when submitting its advice to the European Commission and to phrase its advice accordingly.</p>	<p><i>In no way does the new recital imply that size is a determinant of proportionality. The three equivalent determinants are nature, scale and complexity of an undertaking’s business. In practice – as the recital acknowledges – taking nature, scale and complexity into account will tend to ease the burden on small and medium-sized undertakings in general. It does not mean small automatically equals easier.</i></p>
48.	AMICE	General comment	<p>The possibility to outsource functions is for us a focal element of the principle of proportionality. Many of our members are therefore particularly alerted by any suggestions from CEIOPS to curb or reduce the possibilities for outsourcing. We are therefore making related comments, among others, in the context of the outsourcing of the internal audit function and with regard to the retention of competences and/or responsibilities at the outsourcing undertaking.</p>	<p><i>Article 49 of the Level 1 text explicitly states that undertakings remain fully responsible for discharging the obligations under Solvency II. That means that responsibility</i></p>

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				<i>cannot be outsourced and undertakings have to be able to oversee outsourced activities and be competent enough to assess whether the service provider discharges its obligations satisfactorily and in compliance with legal and administrative requirements.</i>
49.	AMICE	General comment	We agree that the system of governance should be transparent to the supervisor. This transparency, however, must not lead to a confusion of the roles and responsibilities of the company on one hand and the supervisor on the other. We reject undue interference by the supervisor in the definition of the general policy or the business policy of the company or in the policy as such of recruiting staff for the individuals to whom Art 42 applies.	<i>The Level 1 text requires that supervisors assess undertakings' system of governance which includes undertakings' policies. As supervisors should have the necessary power to enforce compliance with Solvency II requirements, supervisors will be able and expected to challenge undertakings' policies and require changes if the policies are not in line with sound and prudent management of the undertaking.</i>
50.	AMICE	General comment	<p>We would like to make the general point that strong governance in an enterprise must rely also strongly on the motivation, involvement and ethics of the individuals involved. For mutual insurers, this is complemented by an intrinsic focus on the long-term development of the company for the benefit of its member-policyholders. A multitude of strategies, policies, rules and controls alone can and will not suffice.</p> <p>Similarly, a system for effective risk management must also rely heavily on education and training, in addition to certain procedures and controls whose obedience should never stand in the way of a holistic risk assessment ("missing</p>	<p><i>CEIOPS believes that motivation, involvement and ethics together with strategies, policies, rules and controls will give the best results.</i></p> <p><i>CEIOPS hopes you do not mean to propose that procedures and controls can</i></p>

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			the wood for the trees”).	<i>be disregarded for the sake of holistic risk assessment.</i>
51.	AMICE	General comment	For groups, we support a system of governance that is to the extent possible unique and common to all the legal entities within the group. We believe it could be counterproductive to duplicate the four key functions (risk management, compliance, internal audit, actuarial) in each legal entity of the group.	<i>See comments 8 above.</i>
52.				
53.	Lloyd’s	1.5	We note that CEIOPS expects to issue Level 3 guidance on written policies in relation to risk management, internal audit, internal control and outsourcing and agree that this will be useful, in particular to elaborate on the internal control policy.	<i>Noted.</i>
54.	FFSA	1.6	Harmonization : We recommend that the principles of harmonization for the implementation of the measures concerning governance and its key functions within multinational groups will be described and strengthened. In particular, the convergence of supervisory practices among the EU member states can be considered as a key point for multinational group.	<i>CEIOPS will consider providing more details in its Level 3 guidance.</i>
55.	IUA	1.8	It is right that CEIOPS have taken into account the lessons learnt from the current financial crisis. However, we would add a cautionary note in emphasising that the financial crisis has primarily highlighted fundamental failings in the banking sector and not the insurance sector. Whilst not immune to the effects of the current financial crisis, clearly insurance was not the source of the problems and we believe that generally, core insurance business has performed well. Consequently, whilst lessons have to be taken on board, care has to be take not to automatically assume the insurance sector has significant governance failings and regulate accordingly.	<i>The wording was changed to make this point more explicit. See amended paragraph 1.8.</i>
56.	CEA	2.53	Although it is referred to in paragraph 2.53, risk appetite seems to have been overlooked in the paper and we believe it should be further considered by CEIOPS as it constitutes an intermediary threshold between limits and policies.	<i>Noted.</i> <i>CEIOPS will consider providing more details in its Level 3 guidance.</i>
57.	IUA	General	Overall, we support these provisions in providing a clear and comprehensive	<i>Noted.</i>

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		Governance (Section 3.1)	corporate governance structure, though with suitable flexibility for (re)insurers to operate and concentrate on specific and heightened risk areas. Indeed, we would expect (re)insurers to have in place already the key processes outlined in Para 3.3, in line with a proportionate approach to risk management.	
58.	AVIVA	3.2, 3.3, 3.12, 3.13, 3.14, 3.24	<p><u>The system of governance</u></p> <p>We agree with the comments in paras 3.24 that the undertaking's system of governance shall be robust with a clear well-defined organisation structure that has well defined, clear, consistent and documented lines of responsibility.</p> <p>However we believe that the nature and role of the administrative or management body and its relationship with senior management is an essential governance requirement and should be more clearly defined. (e.g whether this body includes independent non –executive directors, that can present objective and constructive challenge to management). Although the structure of boards varies by country, they all share a common charter to safeguard and enhance shareholder investment by effective oversight of management activities.</p> <p>We believe that the advice should cover the structure and role of boards including their responsibility for managing the undertaking on behalf of its shareholders and for ensuring that the undertaking is appropriately managed and that it achieves its objectives. Their activities include determining the undertaking's strategic direction, reviewing the undertaking's operating and financial performance, and providing oversight that the undertaking is adequately resourced and effectively controlled.</p> <p>This aligns with current UK governance requirements for listed firms. Companies listed in the UK are required to follow certain principles and provisions on how they should be directed and controlled to follow good governance practice, and must disclose how they have applied such principles.</p>	<p><i>The differences in the nature and structure of the board are owing to differences in national company laws. Harmonisation of these is outside the scope of Solvency II.</i></p> <p><i>The responsibility of the board towards shareholders is covered by listing regulations that, although being observed by the listed companies, are outside of the scope of Solvency II.</i></p> <p><i>In any case, the wording was changed to make these points clearer. See new paragraphs 3.4 to 3.6.</i></p>
59.	AVIVA	3.2, 3.3, 3.12, 3.13, 3.14, 3.24	<p><u>The system of governance</u></p> <p>We agree with the comments in para 3.24f that the undertaking's system of governance must establish, implement and maintain decision-making procedures. However we believe that the role and effectiveness of the administrative or management body (or board of directors) in the undertaking's decision-making procedures (para 3.24f) is an essential governance</p>	<p><i>As the administrative or management body bears, according to Article 40 of the Directive, the ultimate responsibility for the compliance with the laws, it is incumbent upon its members</i></p>

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			<p>requirement.</p> <p>We believe that a formal schedule of matters should be specifically reserved for the board's decision and prevents management from circumventing board supervision. The role and effectiveness of a board in the undertaking's decision-making procedures (para 3.24f) is an essential governance requirement and disclosure of how this works to shareholders, normally via the annual report, is very much in line with current practice in the UK.</p>	<p><i>to establish appropriate decision-making procedures preventing management from circumventing board supervision.</i></p>
60.	CROF	3.2, 3.3, 3.12, 3.13, 3.14 3.24	<p>"The undertaking's system of governance shall: [...] b) Be robust with a clear and well-defined organisational structure that has well-defined, clear, consistent and documented lines of responsibility across the organisation;"</p> <p>We agree with the comments in paras 3.24 that the undertaking's system of governance shall be robust with a clear well-defined organisation structure that has well defined, clear, consistent and documented lines of responsibility.</p> <p>We believe that the advice should cover the structure and role of boards including their responsibility for managing the undertaking on behalf of its stakeholders and for ensuring that the undertaking is appropriately managed and that it achieves its objectives. Their activities include determining the undertaking's strategic direction, reviewing the undertaking's operating and financial performance, and providing oversight that the undertaking is adequately resourced and effectively controlled.</p>	<p><i>The role of boards including their responsibility is covered by Article 40 of the Directive. CEIOPS Level 2 Advice is, however, restricted to specifying the implementing measures related to Articles 41 to 49 (see also Article 50). See also amended paragraphs 3.4 to 3.6.</i></p>
61.	CEA	General comment and 3.2, 3.24-3.25	<p>The consultation paper does not consider the implications of being part of a group on the system of governance.</p> <p>The second wave of consultation papers should also explicitly cover governance requirements at group level. Our view is that there should be a clear connection between the solo and the group level and undertakings should be able to use their group assumptions at solo level. It would be burdensome to replicate every requirement both at the group and the solo level. There should be a clear adaptation of the governance requirements in the context of the group. Groups can centralise their functions in order to avoid duplication of work. For example, one internal audit function should be able to audit the whole group and findings</p>	<p><i>See comment 2 above. Governance requirements pursuant to Article 246 of the Solvency II Directive have to be fulfilled in addition to the requirements applicable to the solo undertakings. The proposed solution could be possible under outsourcing arrangement.</i></p>

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			<p>and recommendations of the internal audit should be reported to management or administrative body of the group.</p> <ul style="list-style-type: none"> • An additional paragraph after 3.2 should be inserted as follows: "The system of governance shall acknowledge the existence of groups and the fact that governance rules also apply to groups as a whole. Accordingly, when assessing the governance of legal entities belonging to a group, one should take into account that the group is already subject to governance requirements pursuant to Article 250 (or equivalent third country provisions)". • This should also be reflected in the CEIOPS' advice. After paragraph 3.24 an additional paragraph should be inserted as follows: "Being part of a group has implications to the way an entity organises its governance. When key functions are carried out at group level, there is no need to duplicate such functions at the level of every legal entity. The assessment of the governance system of an undertaking belonging to a group should take account of the supervision of the governance system at group level". • It would be useful to have guidance on how to apply the requirements on the system of governance to third country subsidiaries. • We would appreciate if CEIOPS also gives advice about the tasks and meaning of the actuarial function within a group. Part 3.6 does not consider the actuarial function from a group's point of view. 	
62.	ECIROA	3.3G	<p>Undertakings which employ their own staff generally have a very small number of staff. These employees must therefore perform multiple tasks but even these undertakings outsource internal audit and risk management to specialists in their parent company.</p> <p>Once the key functions have been defined, staff performing multiple tasks can be identified and their roles described.</p>	<i>Noted.</i>
63.	ECIROA	3.3H	<p>Undertakings are too small to establish their own information systems. They are able to produce sufficient, reliable, consistent, timely and relevant information regarding all business activities, the commitments assumed and the risks to which they are exposed.</p> <p>Undertakings can use the information systems of their parent to provide</p>	<i>Noted.</i>

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			information or information can be provided by the professional licensed captive management company which will have its own systems in place.	
64.	ECIROA	3.3I	<p>These undertakings are too small to establish these functions within the company but are subject to the risk management controls and procedures of the parent company. These functions are staffed by qualified competent persons.</p> <p>Under the principle of proportionality it should be possible to outsource these functions internally to the Parent Company. Where functions are outsourced to a professional licensed captive management company, the board of the undertaking will ensure that the management company functions are appropriate and adequate.</p>	<p><i>Noted.</i></p> <p><i>Taking into account specific requirements, all functions may be outsourced under the Solvency II regime.</i></p>
65.	KPMG	3.3	<p>The current guidance does not cover the need for an independent level of challenge at the governing body level. Recent Corporate Governance failures have indicated the need for stronger independent challenge to the executive. Properly qualified and well trained non-executive members of the governing body with adequate time commitment to an undertaking can provide a useful check and balance to a governing body. We recommend that CEIOPS consider this aspect further in the overall governance requirements.</p> <p>The paper also does not distinguish between the oversight role of a governing or administrative body and the management's role within the firm. Where there is a separate governing body, such as a board, and that board is not wholly comprised of executive members, the oversight responsibilities of the directors should be identified.</p>	<p><i>In general, the structure of the board is subject to national company law, and thus outside the scope of Solvency II.</i></p> <p><i>The wording was changed to make this point clearer.</i></p> <p><i>See amended paragraphs 3.4 to 3.6.</i></p>
66.	IUA	3.4	We support the general principle of (re)insurers considering drawing up a code of conduct for all staff in dealing with risk management. This allows for a useful degree of flexibility for (re)insurers and we would expect that such a provision would be interpreted in such a way that, apart from general key principles, staff should be familiar with the Code applicable to their own areas of expertise rather than the whole Code.	<p><i>Noted.</i></p> <p><i>CEIOPS has clarified this point accordingly. See amended paragraph 3.8.</i></p>
67.	ROAM	3.5	We agree with this requirement only if the paragraph refers to conflicts of interest between 1 employee and the undertaking.	<i>CEIOPS disagrees. This paragraph covers all possible sources of conflicts of interests.</i>

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68.	RBS	3.5	Clarification of the meaning of "conflicts of interest" is required in this context.	<i>CEIOPS does not consider the definition of "conflicts of interest" to be necessary.</i>
69.	FEE	3.6	The explanatory text states 'Undertakings should adopt an overall remuneration policy that is in line with its business strategy, risk profile and objectives', however, the following draft CEIOPS advice makes no reference to remuneration policy. This is surprising given that the financial crisis has brought renewed focus on remuneration policies. Remuneration policy at both board and executive levels needs to be aligned with the risk appetite of the undertaking, as misalignment can reduce the effectiveness of the governance system.	<i>The remuneration issues are addressed in detail in CEIOPS Advice on Remuneration Issues.</i>
70.	ICAEW	3.6	Undertakings should adopt an overall remuneration policy that is in line with its business strategy, risk profile and objectives. It should avoid potential incentives for unauthorised or unwanted risk taking. In light of the FSA and other EEA supervisors' recent work on this area, are we likely to see more specific guidance coming out on this? Will this be in line with any changes to regulation of the financial services industry as a whole?	<i>See comment 69 above.</i>
71.	KPMG	3.6	We agree that (re)insurance undertakings should adopt an overall remuneration policy that is in line with its business strategy, risk profile and objectives and that it should avoid potential incentives for unauthorised or unwanted risk taking. However, this may be challenging to achieve in all instances, as incentives have often been based on measures other than risk related ones. Some guidance of how this could be achieved may be helpful.	<i>See comment 69 above.</i>
72.	Lloyd's	3.7 -3.9	3.7 refers to regular internal review of the system of governance and 3.8 comments on the reports to be produced for the administrative or management body as an output of that review. 3.9 states that these reports should include the conclusions drawn from the ORSA. Given that the ORSA should be a key tool of the risk management system used by senior management, it is important that any reporting here does not duplicate what is already in place within the business to meet the ORSA requirements.	<i>CEIOPS agrees. Regular governance review shall be part of the internal control framework and should not duplicate the ORSA. Paragraph 3.9. from the CP has been deleted.</i>
73.	Deloitte	Paras. 3.7, 3.8 and 3.9	While these explanatory articles are currently not reflected in the technical advice, they have been drafted in a way that they assert future regulatory requirements. Should they become part of the technical advice, we would like to	<i>Noted.</i>

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			<p>suggest the following comments:</p> <ul style="list-style-type: none"> while we agree with the requirement of a regular review of the system of governance, we consider that this does not need to be an additional reporting procedure. Given the scope of the system of governance set in paragraph 3.3, such a review would need to cover an extremely wide scope and range of issues, including information systems, personnel expertise and decision-making processes, all of which would result in a significant workload if subject to a separate required reporting procedure. in our view, the review of the system of governance should be embedded in the execution of reviews and controls assigned to specific systems and functions. This should not only incorporate the Own Risk and Solvency Assessment (as mentioned in paragraph 3.9), but also internal control, internal audit, reports from the actuarial and risk management functions, etc. Proper coordination between these reviews and controls should ensure a comprehensive assessment of the system of governance, on a regular basis, while avoiding the duplication of efforts and an unnecessary separate reporting burden. 	<p><i>CEIOPS has issued an Advice on Supervisory Reporting and Public Disclosure. This paper covers the reporting requirements regarding the System of Governance.</i></p> <p><i>This is in line with the paragraph.</i></p>
74.			Confidential comment deleted.	
75.	IUA	3.8	On reporting, 'at least annually' may, particularly for some group structures, be quite onerous. We would prefer the text to reflect that (re)insurers should concentrate on area which have been identified either as key risk areas or areas of heightened risk as required, rather than undertaking a full assessment of the whole risk management structures at least once a year.	<i>CEIOPS does not agree. Even though the undertaking shall concentrate on key risk areas, the report shall cover all elements of the governance system.</i>
76.	ECIROA	3.8	<p>All undertakings do this, normally more than once per year</p> <p><i>Under the principle of proportionality all undertakings have established reporting procedures appropriate to their size and risk profile.</i></p>	<i>Noted.</i>
77.	ABI	3.8	We assume that this requirement is intended to be interpreted pragmatically, as a formal management assessment of performance based on, for instance, performance indicators, observed failures or losses, stakeholder feedback and with formal independent assessment as and when appropriate. We assume it is not CEIOPS intention to imply a full assessment each year.	<i>This assumption is correct. Further detail on this issue will be developed under Level 3 guidance on SRP.</i>

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78.	KPMG	3.8, 3.31, 3.320	The phrase "key functions" is used in all of these paragraphs, but only the last gives examples of what this might include. It may be helpful to include some cross-referencing between these.	<i>CEIOPS considers the explanation of the term "key function" in section 3.2. to be sufficient. The same applies also for "senior management".</i>
79.	CEA	3.8-3.9	<p>We agree that the effectiveness of the system of governance should be assessed but this should not lead to a duplication of existing reporting requirements.</p> <p>We agree with CEIOPS that the effectiveness of the system of governance should be assessed. However, the explanatory text in paragraphs 3.8 and 3.9 could lead to onerous requirements and duplication of existing work.</p> <ul style="list-style-type: none"> Paragraph 3.8 calls for "reporting procedures encompassing at least all key functions". "The reports produced shall encompass an assessment of the effectiveness of the system of governance and should contain suggestions for improvements." We would understand that this assessment is linked to the requirement in 3.7 to review the system of governance on a regular basis. We do not think that there is a need to have separate regular reporting from key functions to the management or administrative body on the effectiveness of the system of governance. Instead, the system of governance should be reviewed at least annually by the management or administrative body but using the information already available. It would be helpful if the wording in paragraph 3.8 could be clarified to this effect. <p>Similarly, paragraph 3.9, which asks for the reports to include conclusions drawn from the ORSA, could lead to onerous reporting requirements. It is not clear why paragraph 3.9 is required in addition to the existing reporting requirements and we would like it deleted. Instead paragraph 3.8 could say that the existing reporting should contain the information that is necessary for assessing the effectiveness of the system of governance. The reporting requirements in the implementing measures for the system of governance should be streamlined as much as possible so that there is no duplication of reporting from different functions or from the same functions but for different purposes.</p>	<i>Paragraph 3.9. from the CP has been deleted.</i>
80.	GDV	3.9	In order to avoid onerous reporting requirements undertakings should just distribute the results from the own risk and solvency assessment internally to the relevant functions instead of deriving additional reports based on ORSA.	<i>Paragraph 3.9. from the CP has been deleted.</i>

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			CEIOPS should delete paragraph 3.9.	
81.	AVIVA	3.12,3.13, 3.14, 3.24	<p><u>The system of governance</u></p> <p>We agree with the proportionality requirement in para 3.12; that it should apply to every element of the undertaking's system of governance. We believe that the principle of proportionality should be included in the CEIOPS' advice paragraphs.</p> <p>We believe that general governance requirements set out in para 3.12 - 3.28 should recognize the extent to which local markets differ (e.g products, regulatory issues, taxation) and the extent to which insurance market development varies considerably across Europe and encompasses both mature markets and some of the fastest developing and largest emerging markets.</p>	<p><i>The general application of the proportionality principle is already included in the Level 1 text (see in particular article 29). Repetitions of the Level 1 text are to be avoided on Level 2.</i></p> <p><i>In addition, CEIOPS does not see the link between the principle of proportionality and the local market unless this is linked to the risks faced.</i></p>
82.	Munich Re	3.12	The proportionality requirement outlined in Para 3.12 is important and should be included in the CEIOPS' advice paragraphs.	<i>See comments 81 above.</i>
83.	IUA	3.12 / 3.15	We strongly agree applying a proportionate approach to implementing a system of governance. With regard to internal audits we believe that establishing an independent and objective approach is the key aspect and not whether a person or unit operating the internal audit function has other operational duties. In most cases, we would expect that a separate unit or individual complete the internal audit function but believe that (re)insurers should have the ability to incorporate other functions into individual's functions. This would allow (re)insurers putting in place functions proportionate to their business and not creating an unreasonable and disproportionate burden. In line with stressing the independent and objective approach, individuals having both operational and internal audit functions would not be able to audit their own operational areas and firms should have measures in place to address this.	<i>As described in paragraph 3.20, undertakings with low risk profile should have the possibility to outsource the internal audit function or to commission a qualified party to execute these tasks on a part-time basis.</i>
84.	ECIROA	3.12	<p>The functionality risks as defined in the Directive faced by undertakings are easily identifiable due to their relatively simple structure. The system of governance for these undertakings reflects this.</p> <p><u>Undertakings already document in detail their organizational structure including roles and responsibilities of their professional licensed Captive Managers. A copy of the service contract can be provided.</u></p>	<i>Noted.</i>

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85.	RSA Group	3.12	We fully agree with this comment.	<i>Noted.</i>
86.	ABI	3.12	We fully support this paragraph and believe that the principle of proportionality should be included in the level 2 advice.	<i>Noted.</i>
87.	GDV	3.12	The proportionality requirement outlined in Para 3.12 is important and should be included in the CEIOPS' advice paragraphs.	<i>See comments 81 above.</i>
88.	CROF	3.12, 3.13, 3.14, 3.24	<p><i>"The proportionality requirement applies to every element of the system of governance."</i></p> <p>We agree with the proportionality requirement in para 3.12; that it should apply to every element of the undertaking's system of governance. However, we believe that the principle of proportionality should be included in the CEIOPS' advice paragraphs.</p> <p>We believe that general governance requirements set out in para 3.12 - 3.28 should recognize the extent to which local markets differ (e.g. products, regulatory issues, taxation) and the extent to which insurance market development varies considerably across Europe and encompasses both mature markets and some of the fastest developing and largest emerging markets.</p>	<i>See comment 81 above.</i>
89.	CEA	3.12	<p>The different criteria for proportionality requirements linked to the nature, scale and complexity of the risks should be precisely defined.</p> <p>We also believe that the criteria should be different for Pillar 1 and for Pillar 2; that is why principles of proportionality need to be determined separately for Pillar 1 and Pillar 2.</p>	<i>CEIOPS already presented its view on this in paragraph 1.6. of the paper. It is in CEIOPS view not possible to define proportionality any more closely for Pillar II. Any concrete suggestion will be welcomed and duly considered for Level 3 guidance.</i>
90.	AMICE	3.12	In line with our general comment above, we reiterate that in the final version of the Framework Directive the obligation to observe the principle of proportionality goes beyond the initial concept of nature, scale, and complexity of risk. Both	<i>As commented above (see comment 47) in response to the comment CEIOPS does not</i>

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			CEIOPS and the Commission are of course aware of this; it should however also be clearly spelt out in CEIOPS' advice.	<i>consider it possible to interpret the Level 1 text (recitals) that way.</i>
91.	Lloyd's	3.13	Lloyd's agrees with CEIOPS' recognition that an undertaking's administrative or management body should consider whether a committee structure is appropriate and considers that such flexibility is key to ensuring that an undertaking is able effectively to govern the risks faced by its business activities.	<i>Noted.</i>
92.	GDV	3.13	Paragraph 3.13 seems to be an example for proportionality and how to address a governance structure adequately within a large organisation. However, it should be labelled as an example and not to be required as a minimum standard to establish an audit, risk, investment and remuneration committee.	<i>The sentence is labelled as an example.</i>
93.	KPMG	3.13	It is left for an undertaking's administrative or management body to determine an appropriate committee structure, with examples given of forming audit, risk, investment or remuneration committees for these important functions. We would consider that, for many organizations, an audit committee would be very beneficial addition to the governance arrangements, and recommend CEIOPS consider whether this should be mandated, subject to proportionality principles. An audit committee would provide an independent line of oversight for both the internal audit function and external auditors to report into. The independence of such a committee, and its ability to provide robust guidance and challenge, for large organizations is an important element in ensuring a robust system of corporate governance. We recommend that CEIOPS consider adding an expectation in this area for at least large undertakings, similar to the approach it has taken regarding the need for a Chief Risk Officer to be appointed that it has included at paragraph 3.47.	<i>Noted.</i> <i>CEIOPS considered this idea. Please see new paragraph under the section on Internal Audit.</i>
94.	CEA	3.13	Paragraph 3.13 seems to be an example of proportionality and how to address a governance structure adequately. However, the last sentence should be labelled as an example. Establishing audit, risk, investment and remuneration committees should not be required as minimum standards.	<i>The last sentence is labelled as an example.</i>
95.	FEE	3.15	Paragraph 3.15 notes the level 1 text requirement for the internal audit function not to be combined with other operational duties or functions. In practice, many smaller undertakings combine internal audit, risk management and certain compliance functions. We welcome the CEIOPS recognition of the need for	<i>The requirement concerning independency of the internal audit function from all operational functions is</i>

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			proportionality but note that this requirement risks creating a disproportionate need for internal audit. CEIOPS might also address this by looking at the independence of the internal audit function from the operational processes it is assessing, the potential threats to that independence and any safeguards in place against those threats. We consider that the head of internal audit could have certain risk management and compliance responsibilities without compromising their objectivity if, for example, those additional responsibilities did not involve the operation of control processes.	<i>already set forth in the Level 1 text. As described in paragraph 3.20, undertakings with low risk profile should have the possibility to outsource the internal audit function</i>
96.	ICAEW	3.15	<p>The internal audit function cannot be combined with other operational duties or functions. The internal audit function shall be objective and independent from the operational functions.</p> <p>Although it is agreed that the internal audit function can only be fully independent and objective when it is not combined with other operational duties and functions, it is noted that many smaller insurance entities combine the functions of risk management and internal audit. In order to comply with this requirement they will have to incur additional cost, either through outsourcing certain functions or taking on additional members of staff. (Although the scale of the internal audit function can be proportionate to the size and risk profile of the entity.)</p> <p>We wonder if, for small firms safeguards could be put in place to maintain the independence of the risk management and internal audit functions while combining them with other functions in the business. This would be more proportionate to the nature and scale of the business.</p>	<i>See comments 95 above.</i>
97.	ECIROA	3.15	<p>Undertakings are too small to have their own internal audit function. The Internal Audit function of the parent company is the appropriate qualified party to undertake this function.</p> <p><i>Undertakings are all subject to audit by the Internal Audit function of their Parent. Alternately, undertakings can commission an external qualified party to execute these tasks.</i></p>	<i>Noted.</i>
98.	GC	3.15	With regard to footnote 2, it is our opinion that it would be necessary for the administrative or management body members that carry out such an audit to be non-executive directors	<i>The minority opinion refers to executive directors.</i>

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99.	Lloyd's	3.15	With regard to internal audit, we note CEIOPS' view that in undertakings with low risk profiles this would not have to be a permanently operating function and a qualified party could be commissioned to execute these tasks. Further guidance on this point, which is not covered by the proposed level 2 implementing measures, would be appreciated.	<i>CEIOPS will consider providing more details on this issue in its Level 3 guidance.</i>
100.	ABI	3.15	We would imagine this requirement to apply differently depending on the nature, scale and complexity of the undertaking. Also, as the Directive does not define a function as a department or a specific person, but rather as a capacity, we believe CEIOPS should not limit the internal audit function to an organisational unit ('separate unit or an individual'). The comments made in the footnote are in this respect more relevant: "[...] considering the principle of proportionality it is possible that the internal audit function is exercised by two members of the administrative or management body provided the undertaking ensures that neither audits their own specific areas of responsibility." This is a helpful illustration of how the proportionality principle could apply in practice.	<i>See comments 95 above.</i>
101.	GDV	3.15	Independence is the key issue to consider in relation to internal audit. We understand the need for an independent audit function. However, CEIOPS should focus on the definition of independence and bear in mind that the framework directive defines a function as a capacity and not necessarily as an organisational unit or a specific person. Therefore we recommend deleting the predetermining statements regarding a specific organisational structure and rather focus on defining (1) independence and (2) proportionality in this context. We strongly support the footnote statement: "[...] considering the principle of proportionality it is possible that the internal audit function is exercised by two members of the administrative or management body provided the undertaking ensures that neither audits their own specific areas of responsibility." This is an example of how proportionality can be applied in small and medium sized organisations which cannot afford to employ additional staff as an audit function only.	<i>See comments 95 above.</i>
102.	ROAM	3.15	The independency requirement of internal audit function with the operational functions seems to be unrealistic for small size undertakings because of the close distance between employees, except when resorting to a consulting firm audit or a statutory auditor.	<i>See comments 95 above.</i>

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			<p>If it is not possible to resort to statutory auditors to exercise the internal audit function (see comments on 3.231) we think the internal audit function could be exercised by two members of the administrative or management body on specific areas, providing they are separated from their own business responsibility areas.</p>	
103.	KPMG	3.15	<p>It could be clearer that the requirement that the internal audit function cannot be combined with other operational duties or functions also applies where the function is outsourced.</p> <p>We are aware of some insurers that combine the risk management and internal audit functions, but with separation of the internal audit team from the risk management team below the head of that department. In such an arrangement, the potential conflict of interest between internal audit work and risk management can be achieved by outsourcing the internal audit review of the risk management function. It is unclear if such a structure would be acceptable under Solvency II and guidance on this would be welcomed.</p>	<p><i>Noted. Please see revised paragraph 3.20.</i></p> <p><i>Further guidance will be given at Level 3, however the structure described (outsourcing of the internal audit) seems in compliance with the principles defined.</i></p>
104.	CEA	3.15	<p>Independence is the key issue to consider in relation to internal audit.</p> <p>We understand the need for an independent audit function. However, CEIOPS should focus on the definition of independence and bear in mind that the Framework Directive defines a function as a capacity and not necessarily as an organisational unit or a specific person. Therefore we recommend deleting the statements regarding a specific organisational structure and rather to focus on defining (1) independence and (2) proportionality in this context. We strongly support the statement in the footnote: "...considering the principle of proportionality it is possible that the internal audit function is exercised by two members of the administrative or management body provided the undertaking ensures that neither audits their own specific areas of responsibility". This is an example of how proportionality can be applied in small and medium sized organisations, which cannot afford to employ additional staff as an internal audit function only.</p>	<i>See comments 95 above.</i>
105.	AMICE	3.15	<p>Many of our members see value in concept described in footnote 2 of CEIOPS' consultation paper as a singular minority position.</p> <p>We are of course aware of the instruction of Art. 46(3) but believe that the required "independence from the operational functions" can in certain</p>	<i>See comments 95 above.</i>

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			<p>circumstances be achieved to an appropriate (and proportionate) degree by a construction as proposed in this footnote. Likewise, we are aware of the considerations expressed in para 3.237.</p> <p>Nevertheless, we encourage CEIOPS to further pursue this idea and to include related passages in its advice.</p>	
106.	GDV	3.16-3.18	<p>Written policies to all employees should not create substantial administrative costs.</p> <p>Written policies for all staff members should be very light and in a general form in order to avoid unfounded costly administrative burden. Otherwise, we support the approach stated in paragraphs 3.16.-3.18 (Proper implementation of the written policies requires ensuring that all staff members are familiar with the policy relevant for their area of activities).</p>	<i>Noted.</i>
107.	CEA	3.16-3.18	<p>Written policies for all employees should not create substantial administrative costs.</p> <p>Written policies for all employees should be light and in a general form in order to avoid unjustified and costly administrative burden. Otherwise, we support the approach stated in paragraphs 3.16.-3.18 (Proper implementation of the written policies requires ensuring that all staff members are familiar with the policy relevant for their area of activities).</p>	<i>Noted.</i>
108.	ROAM	3.17 & 3.18	<p>We are convinced that the understanding and the involvement of staff members inside the risk management system is more efficient than written documents about risk management, internal control, internal audit and outsourcing and all management procedures associated.</p>	<i>Noted.</i>
109.	ICAEW	3.19	<p>Any changes with regards the policies and procedures for risk management, internal control, internal audit and outsourcing must be subject to prior approval.</p> <p>There may be circumstances where changes need to be put in place quickly and the full approval process cannot be followed. Firms should be able to demonstrate that they have contingency policies for these circumstances.</p>	<i>The prior approval by the administrative or management body is already required in Article 41 paragraph 3 of the Level 1 text. This requirement shall apply to all changes with regard to the content of the policy. Only the changes with regard to typographical errors</i>

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					<p><i>shall be excluded.</i></p> <p><i>If changes need to be put in place quickly this would suggest that they are important and exactly the sort of changes that should not be introduced passing by the administrative or management body. Incidentally CEIOPS would not envisage that "a full approval process" needs to take up much time.</i></p>
110.	Ireland S2G	3.19	The requirement for prior approval would be onerous if the board of directors had to approve <u>all</u> changes to risk management policies, as this would include even minor changes like typographical errors. Suggest the following addition in bold to imply that only where the substance or spirit of the policies are changed, prior approval is required: "CEIOPS interprets the requirement for prior approval by the administrative or management body to apply to any material or significant changes with regard to the content of the policies."		<i>See comment 109 above.</i>
111.	PwC	Section 3.1 3.19	We note that para 3.19 is not part of the formal draft advice to the Commission, however, we believe that a requirement for prior approval by the administrative or management body to apply to any changes with regard to the content of the policies could be onerous and inefficient.. Prior approval should be based on a pre-determination (by the administrative or management body) of the materiality of any changes. Para 3.19 appears to be contradicted in some ways by the following para 3.20 which states "an annual review would be considered sufficient, unless the system or area concerned undergo significant change".		<p><i>See comment 109 above.</i></p> <p><i>There is no contradiction. "At least annually" is interpreted as more often than annually in case of significant changes. If no significant changes occur as a rule an annual review would be considered sufficient.</i></p>
112.	CROF	3.19	"CEIOPS interprets the requirement for prior approval by the administrative or management body to apply to any changes with regard to the content of the policies."		<i>See above.</i>

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			The Directive states that policies should be "subject to prior approval, and adapted in view of any significant change". In para 3.19 it appears that this is being interpreted as prior approval of "any changes" with regard to the content of the policies. It should be recognised that in practice policies will be reviewed and approved by the board at set times of the year. As an example, in order to execute certain strategies practically and efficiently, an exception can be made to current policy as long as the governance around exceptions is clearly-defined. Should the exception become a permanent revision in policy, this would occur at the policy review and approval time.	
113.	ECIROA	3.22	<p>The majority of captives do not employ their own staff and outsource the administration of the captive to professional Captive Managers. Systems and procedures are in general easy to identify and describe.</p> <p>Undertakings can develop and document contingency plans proportionate to the size and the extent of outsourcing. Captives ensure that professional licensed Captive Managers have appropriate contingency plans in place.</p>	<i>Noted.</i>
114.	ROAM	3.22	<p>We agree with suitability of contingency plan(s) to ensure the business disruption and/or possible losses are limited.</p> <p>Nevertheless, be careful to remain realistic within the scenarios and not to impose specific plans to the undertaking. We think the undertaking must be the only one responsible to set up or not such plans according to its risk profile (principle of proportionality).</p>	<i>Noted.</i>
115.	AMICE	3.22 and 23, 3.27 and 28	<p>We agree that crisis management planning and contingency planning minimise the loss in the event of an event that is significant due to its nature and/or severity. Such planning allows the organisation to provide an adequate response and to ensure the continuity of the operations.</p> <p>We appreciate the relatively general obligations that CEIOPS proposes in this context (identifying the risk, testing and updating, communicating) and warn against prescribing the contents of such plans in any greater detail. When assessing the plans, supervisors should apply proportionality in line with the principle that proportionality relates also to "the exercise of supervisory powers".</p>	<i>Noted.</i>
116.	ICAEW	3.23	<p>Contingency plans shall be regularly tested and updated.</p> <p>An indication of a minimum acceptable regularity for testing would be useful,</p>	<i>CEIOPS will consider this issue in its Level 3 guidance.</i>

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			especially for smaller firms.	
117.	AVIVA	3.24	<p>We agree with the comments on para 3.24 that the undertaking's system of governance shall be robust with a clear well-defined organisation structure that has well defined, clear, consistent and documented lines of responsibility. However, we have concerns that the requirements do not deal appropriately with the distinction between the business organisation and the undertaking's legal structure.</p> <p>We believe that where business structures are not closely aligned with legal entities the effectiveness of legal entity boards in governance needs to be clear, particularly as they can be remote from business decision making and they tend to meet infrequently. Committee structures, other less formal governance groups and the presence of regional/business heads on entity boards may be used to provide a bridge between business lines and entity boards.</p> <p>The functionally aligned structures need to equally recognise the legal and regulatory role of the boards of holding entities and its operating subsidiaries. We recognise the risk that governance gaps can emerge between business unit decision making and legal entity governance.</p>	<i>Noted.</i>
118.	Munich Re	3.24	We agree with the advice given.	<i>Noted.</i>
119.	FFSA	3.24	<p>Internal structure and organization:</p> <p>We recommend detailing the connection between the design of the system of governance and the duties of the administrative or management body. Furthermore, the CEIOPS needs to precise and clarify the responsibilities of the administrative body on one hand and of the management body on the other hand: in some jurisdiction, there are legal obligations attached to each of them.</p> <p>We agree with the use of the "or" when the Consultation Paper 33 details the duties of the administrative <u>or</u> management body. Indeed, we emphasize that these two bodies can have different duties depending on the undertaking's organization. We note also that, in general, the other Consultation Papers use also the "or" for the definition of the "administrative or management body" responsibilities (except for the Consultation Paper 31 which mentions that "The administrative <u>and</u> management bodies shall have the responsibility to</p>	<p><i>The differences in the nature and structure of the board are owing to differences in national company laws. Harmonisation of these issues is outside the scope of Solvency II.</i></p> <p><i>Article 40 already clarifies the connection between the design of the system of governance and the duties of the administrative or</i></p>

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			understand and approve the policy to use any financial mitigation techniques, and to set mechanisms to guarantee the stable fulfillment of these provisions.”)	<i>management body.</i>
120.	PwC	3.24a	While not disagreeing with this paragraph, we note that indications on expectations in terms of ‘effective cooperation’ could be useful at Level 3, as well as guidance on supervisors’ views on the meaning of ‘at all relevant levels within the organisation’.	<i>Noted.</i>
121.	FFSA	3.24b	Differences between organizational and legal structure : We propose to include in the article 3.3.b. (“The undertaking’s system of governance should be robust with a clear and well-defined organizational structure that has well-defined, clear, consistent and documented lines of responsibility across the organization) the differences between the organizational and legal structure in order to clarify how group system of governance will include solo entities. We support the view that when key functions are carried out at group level, there is no need to duplicate such functions at the level of every legal entity.	<i>CEIOPS does not agree. Governance requirements pursuant to Article 246 of the Solvency II Directive have to be fulfilled in addition to the requirements applicable to the solo undertakings. The proposed solution could only be possible under outsourcing arrangement.</i>
122.	ABI	3.24 (b)	We agree that the undertaking’s system of governance should be robust with a clear, well-defined organisational structure that has well-defined, consistent and documented lines of responsibility. However, we have concerns that the requirements might not fully take into account the distinction between the business organisation and the undertaking’s legal structure. We believe that where business structures are not closely aligned with legal entities the effectiveness of legal entity boards in governance needs to be clear, particularly as they can be remote from business decision making and tend to meet infrequently. Committee structures, other less formal governance groups and the presence of regional/business heads on entity boards may be used to provide a bridge between business lines and entity boards. The functionally aligned structures need to equally recognise the legal and regulatory role of the boards of holding entities and its operating subsidiaries. We recognise the risk that governance gaps can emerge between business unit decision making and legal entity governance.	<i>Noted.</i>
123.	PwC	3;24b	The meaning of ‘consistent’ could be further clarified as it could mean	<i>Under a holistic approach</i>

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			intrinsically consistent in and of itself (within the context of the organisation), or consistent with business strategy(ies).	<i>obviously both.</i>
124.	GC	3.24(c)	It would be useful to have guidance on what qualifications/skills the administrative or management body should possess including but not limited to finance, accounting, actuarial, risk management.	<i>Noted. CEIOPS will consider this further in its Level 3 guidance.</i>
125.	ABI	3.24 (c)	We welcome the 'collective' responsibility of the administrative or management body.	<i>Noted.</i>
126.	PwC	3.24c	To cater for situations where no directly applicable 'professional qualifications' exist, the wording of these paragraph could perhaps be changed to 'sufficient professional qualifications and/or knowledge and experience'.	<i>All three are necessary. "Professional qualifications" does not imply a specific qualification must be available.</i>
127.	IUA	3.24(f)	In line with a principles-based risk approach, it would be preferable to refer to establishing decision making procedures that an undertaking believes could have a material impact on the undertaking. This would accomplish a more suitable, proportionate approach.	<i>Noted.</i>
128.	GC	3.24(f)	This should say "implement" and "maintain" rather than "implements" and "maintains".	<i>Noted.</i>
129.	ABI	3.24 (f)	Administrative / management body We would agree with CEIOPS' point regarding on the importance of the role of the administrative or management body (or board of directors) in the undertaking's decision-making procedures (para 3.24(f)). Therefore we would suggest that a formal schedule of matters is specifically reserved for the board's decision in order to define the limit of management discretion. The role and effectiveness of a board in the undertaking's decision-making procedures is an essential governance requirement.	<i>Noted.</i>
130.	Ireland S2G	3.24 f)	Typo - Suggest removing "s" as shown in bold: "Establish, implements and maintains decision-making procedures."	<i>Noted.</i>
131.	PwC	3.24f	Decision-making procedures are obviously necessary throughout an organisation. They need to be effective. It may be worth considering identifying which decision-making procedures are envisaged by this paragraph in Level 3	<i>Noted.</i>

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			measures. We would suggest that these would, certainly, include all decision-making procedures relevant to the risk position. We believe also that there should be emphasis on ensuring that all the right parties are involved, as appropriate, in decision-making.	
132.	PwC	3.24g	Experience has shown that the separation of 'functions', or responsibilities, has proved challenging for small and medium-sized financial institutions in other sectors faced with similar requirements. While acknowledging CEIOPS' comments in its Feedback Statement concerning functions, it would appear likely that additional guidance at Level 3 could be useful.	<i>Noted.</i>
133.	PwC	3.24h	The reference to 'information systems' may be misleading: we assume it means systems which provide information which both use technology and those that do not, but this may need to be specified. Clearly, where risk relevant information relies on IT-based systems and processes, they must fulfil the requirements for information systems.	<i>Information system means a system based on appropriate reporting arrangements at all levels of the undertaking.</i>
134.	Ireland S2G	3.24 j)	"Safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question". We believe that this is superfluous and should be removed because of the existence of data protection legislation in the EU.	<i>Noted.</i>
135.	PwC	3.24l	We see a substantial ongoing challenge with regards the availability of sufficiently qualified personnel, particularly with regards to actuarial professionals in some countries. In terms of the four functions (risk management, compliance, actuarial and internal audit), organisations will need to establish appropriate organisation structures, with clear allocation of tasks and responsibilities for each of these functions. We suggest that the good practice ' <i>three lines of defence</i> ' concept could be used as the basis, whereby business and actuarial function form the first line of defence, risk management and compliance fall primarily into the second line of defence (oversight/advice), and internal audit in the third line of defence (ex-post review) – see also Para 3.26. As suggested in the Feedback Statement, this might be covered by Level 3 measures.	<i>Noted.</i>
136.	GDV	3.24	It should be left to the management's discretion for whom it employs or considers capable for the proper discharge of the responsibilities.	<i>Noted.</i>

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137.	Ireland S2G	3.24	The framework described in this section is the ultimate goal of a system of governance, e.g. h) "establish information systems that produce sufficient, reliable, consistent, timely and relevant information (...)" and the repeated use of the word "ensure". Since this ultimate goal should always be a best endeavour of any governance system in place in an undertaking, we suggest the following amendment in bold: "The undertaking's system of governance shall aim to:"	<i>CEIOPS does not agree that trying is sufficient.</i>
138.	CROF	3.24	<p><i>"The undertaking's system of governance shall:</i> <i>[...]</i> <i>Establish, implements and maintains decision-making procedures;"</i></p> <p>We agree with the comments in para 3.24f that the undertaking's system of governance must establish, implement and maintain decision-making procedures. However we believe that the role and effectiveness of the administrative or management body (or board of directors) in the undertaking's decision-making procedures (para 3.24f) is an essential governance requirement.</p> <p>The role and effectiveness of a board in the undertaking's decision-making procedures (para 3.24f) is an essential governance requirement and should be disclosed to shareholders.</p>	<i>Noted.</i>
139.	CROF	3.24	<p><i>"The undertaking's system of governance shall:</i> <i>[...]</i> <i>b) Be robust with a clear and well-defined organisational structure that has well-defined, clear, consistent and documented lines of responsibility across the organisation;"</i></p> <p>We agree with the comments on para 3.24 that the undertaking's system of governance shall be robust with a clear well-defined organisation structure that has well defined, clear, consistent and documented lines of responsibility. However, we have concerns that the requirements do not deal appropriately with the distinction between the business organisation and the undertaking's legal structure.</p> <p>The CEIOPS paper should recognise that groups are frequently organised in a way that business structures are not closely aligned with legal structures. This</p>	<i>Noted.</i>

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			<p>should not prevent the effective exercise of local board members of their board role and they should be able to take responsibility for that. Committee structures, other less formal governance groups and the presence of regional/business heads on entity boards may be used to provide a bridge between business lines and entity boards.</p> <p>The functionally aligned structures need to equally recognise the legal and regulatory role of the boards of holding entities and its operating subsidiaries.</p>	
140.	CROF	3.24 – 3.28	<p><i>CEIOPS' advice 3.24 – 3.28</i></p> <p>We also believe that the paper should mention that there are implications for the system of governance for companies that are part of the group. Although groups would adhere to advice given in para 3.24 - 3.28, it should be recognized in the paper that in practice different elements and responsibilities of the system of governance may reside in different levels of the group – at the solo company level or at the group level – and this is still acceptable if the system is robust, clear and well-defined.</p>	<p><i>Governance requirements pursuant to Article 246 of the Solvency II Directive have to be fulfilled in addition to the requirements applicable to the solo undertakings.</i></p>
141.	CEA	3.24-3.28	<p>We support the advice on the general governance requirements.</p> <p>We support the high level principles in this advice. We also agree with the use of "or" when the consultation paper details the duties of the administrative or management body. We would like to emphasise that these two bodies can have different duties depending on the undertaking's organisation.</p> <p>We would like to suggest a number of modifications to the advice.</p> <ul style="list-style-type: none"> • There are a high number of responsibilities to fulfill within an insurance undertaking. It would be beyond the capacity of any undertaking to document the discharge of all of them. We agree that important, major processes should be documented and that corresponding procedures should be in place. We therefore suggest the following modification to 3.24. e): "Ensure all personnel understand how to discharge themselves of their responsibilities. Any procedure governing the discharge of responsibilities shall be available to and known by all personnel. " • Solvency II's concept of 'System of Governance' does not intend to establish decision-making procedures for every decision. In analogy to the fit and proper principle, which are in place for all "persons who effectively 	<p><i>Noted.</i></p> <p><i>CEIOPS does not agree.</i></p> <p><i>The paragraph does not imply that there should be decision-making procedures for each</i></p>

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			run the undertaking" (not for "all persons"), the following modification to 3.24. f) is proposed: "Establish, implement and maintain decision-making procedures for all decisions that could result in a material impact on the value of the undertaking and cause consumer detriment."	<i>and every decision. However, CEIOPS would certainly consider the suggested modification as being much too narrow.</i>
142.	Munich Re	3.25	Half sentence "... any potential source of conflicts of interests is identified and..." should be deleted.	<i>CEIOPS disagrees. The identification of potential sources of conflicts of interest should be a real goal.</i>
143.	IUA	3.25	Referring to conflicts of interest, whilst the principle is supported, it might be unrealistic for an undertaking to ensure the identification of <u>any</u> potential conflict. Perhaps it would be more realistic to emphasise that the undertaking should have suitable conflicts procedures in place.	<i>Noted.</i>
144.	GC	3.25	We agree that undertakings should be required to ensure that conflicts of interest are identified and procedures established for addressing the conflicts. It would be helpful to have further information on the types of functions that are believed to cause conflict and therefore should not be combined or restrictions on reporting lines for functions.	<i>Noted.</i>
145.	GDV	3.25	An undertaking will not be able to ensure identifying all conflicts of interest. Therefore the sentence should be changed as follows: "Undertakings should ensure that any potential source of conflicts of interest is identified and procedures are established so that those involved with the implementation of the strategies and policies understand where conflicts of interest could arise and how these should be addressed, e.g. by establishing additional controls."	<i>CEIOPS disagrees. See comment 142 above.</i>
146.	PwC	3.25	Further guidance on the nature and management of conflicts of interest would be useful at Level 3.	<i>Noted.</i>
147.	CROF	3.25	"Undertakings should ensure that any potential source of conflicts of interest is identified and procedures are established so that those involved with the implementation of the strategies and policies understand where conflicts of interest could arise and how these should be addressed, e.g. by establishing additional controls." Half sentence "... any potential source of conflicts of interests is identified and..."	<i>CEIOPS disagrees. See comment 142 above.</i>

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			should be deleted.	
148.	CEA	3.25	<p>An undertaking will not be able to ensure that all conflicts of interest are identified.</p> <p>Therefore the sentence should be changed as follows: "Undertakings should ensure that procedures are established so that the persons dealing with the implementation of the strategies and policies understand where conflicts of interest could arise and how these should be addressed, e.g. by establishing additional controls."</p>	<i>CEIOPS disagrees. See comment 142 above.</i>
149.	Munich Re	3.26 – 3.28	We agree with the advice given.	<i>Noted.</i>
150.	GDV	3.26-3.28	We agree with the advice given.	<i>Noted.</i>
151.	PwC	3.27	Further guidance on areas where contingency plans at a minimum need to be in place may be helpful at Level 3.	<i>Noted.</i>
152.	IUA	3.29	<p>We support the key objectives and principles outlined in Section 3.2. However, there is no detail on how the fit and proper system will operate in practice; therefore it is difficult to provide more detailed assessment until the Level 3 guidance is established. It will be necessary, as much as possible, to ensure that the key principles are adopted consistently across Member States. For example, whilst the 'key functions' text is fine as drafted, these may be open to further and more stringent interpretation at Level 3. Similarly, the notification to supervisors of a replacement of a 'fit and proper' person is open to Level 3 guidance. Whilst, there is nothing wrong with this, per se, care does need to be taken to ensure that there is no fundamental differences in interpretation or gold-plating of regulation at the national supervisory level. We trust that this principles-based guidance and / or Level 3 guidance will help in this regard, whilst not being overly prescriptive.</p> <p>We would also reiterate the issue of group supervision, and recognition that governance of an individual (re)insurer may be dictated at a group level. We feel that the guidance should recognise and cater for this reality.</p>	<i>Noted</i>
153.	XL	3.29 to 3.41 (Fit and Proper	Until more detailed guidance on how the "Fit and Proper Requirements" will operate in practice it is difficult to provide comment. We look forward to reading the more detailed Level 3 guidance for assessing fitness and propriety and hope	<i>Noted.</i>

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		Requirements)	that this will address: <ul style="list-style-type: none"> - How to determine whether 'all persons who effectively run the undertaking or have other key functions' meet these standards. - The approach to be taken where elements of governance of an individual (re)insurance entity are dictated at group level. - Key functions may include large numbers of senior managers and it may be difficult to assess and measure some of the requirements under 'Fit and Proper'. We would welcome further guidance and defined benchmarks. - Clarification of the meaning of "other key functions" – we believe an interpretation similar to that of the current FSA approved person regime would be appropriate. 	
154.	FFSA	3.30	<p>Scope of application :</p> <p>We support the view that Fit and Proper requirements should :</p> <ul style="list-style-type: none"> - apply only to the executive directors and managers who ultimately have the duty of implementing the system of governance - be further applied proportionally only by the board when staffing the key functions. <p>We also recommend informing the supervisor about fit and proper matters; but we don't agree to ask supervisor opinion about it.</p>	<p><i>This is not fully in line with the Level 1 text.</i></p> <p><i>The Level 1 text states: "Insurance and reinsurance undertakings shall ensure that all persons who effectively run the undertaking or have other key functions meet at all times the following requirements..."</i></p>
155.	GDV	3.30-3.32, 3.37, 3.42-3.44	<p>Fit and proper requirements should not be too burdensome and should only apply to the Board and to those managers who are in key functions (e.g. risk management function).</p> <p>Proportionality principle should be taken into account. The current section on fit and proper requirements is too far reaching and could be interpreted as fit and proper applying to lower levels of management. This could create severe problems with national labour law. CEIOPS's advice on fit and proper requirements should focus on what minimum harmonisation is required; different jurisdictions are free to impose more stringent regimes.</p> <p>Proportionality will be of high importance in the implementation of CEIOPS' advice in paragraphs 3.42-3.44. In this respect, it might be useful to have a</p>	<p><i>See comment 154 above.</i></p> <p><i>This is owing to the Level 1 text.</i></p> <p><i>This is already in the text.</i></p>

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			<p>more direct reference to this principle in the advice box on fit and proper requirements. This could be done in the same way as in paragraph 3.32: "when deciding on the persons falling under the provisions of article 42, the nature, scale and complexity of the risks inherent in the business of the undertaking should be taken into account as well as the way the undertaking is organised."</p> <p>In our view the documented policies and processes referred to in paragraph 3.37 should not be unduly burdensome. Article 42 of the Level 1 text does not require the undertakings to have in place documented policies and procedures to ensure that all persons who are subject to Article 42 are fit and proper. According to the Level 1 text, it suffices that these persons comply with the fit and proper requirement. The Level 2 implementing measures should reflect this. In addition, in some jurisdictions it has not been widespread practice to have in place documented policies and processes to ensure fitness and propriety. Requiring documented policies and processes can put an unnecessary burden on undertakings.</p> <p>Paragraphs 3.37 and 3.40 state that CEIOPS expects to develop criteria for assessing documented policies and processes and guidance for assessing fitness and propriety at Level 3. In our view detailed guidance is not required and the existing guidance contained adequate level of detail.</p> <p>We propose a slight wording change to paragraph 3.44: "...other key function holders are identified by the undertaking". "For" should be replaced by "by".</p>	<p><i>Undertakings are required to comply with the fit & proper requirements for persons subject to Article 42. They cannot remain inactive and hope that all their relevant personnel just happen to fit the bill but have to ensure compliance.</i></p> <p><i>The Level 3 guidance will be developed if considered needed to foster convergence of requirements and supervisory practices.</i></p> <p><i>The use of "for" is intentional; the supervisor has the last word here.</i></p>
156.	ROAM	3.30	<p>We understand the "fit and proper" requirements which have existed for several years for the undertakings' key functions. Nevertheless, we think these conditions to exercise a key function are necessary but not sufficient.</p> <p>ex : B. MADOFF fulfilled the "proper" requirement. And many others : ENRON, Crédit Lyonnais, etc.</p> <p>In the case of a specialized mutual insurance undertakings, we are convinced that :</p> <p>* The directors' motivation and involvement in the long-term management of the undertaking are essential for a sound and prudent management approach. In</p>	<p><i>Noted.</i></p> <p><i>Paragraph 3.7 and 3.29.</i></p>

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			<p>this sense, the directors of specialized mutuals behave as family group leaders.</p> <p>* It is necessary to foresee the "fit and proper" principle in a collective way. Indeed, each director taken individually can be "fit" but the whole board of directors can be unable to make any relevant decisions.</p> <p>Consequently, we wish Ceiops completes the "fit and proper" principle with these notions.</p>	<p><i>already states: "... the members of the administrative or management body should, collectively, be able to provide for the sound and prudent management of the undertaking."</i></p>
157.	CEA	3.30-3.32, 3.37, 3.42-3.44	<p>Fit and proper requirements should not be too burdensome and should only apply to the Board and to those managers who are in key functions.</p> <p>Proportionality principle should be taken into account. The current section on fit and proper requirements is too far reaching and could be interpreted as fit and proper applying to lower levels of management. This could create severe problems with national labour law. In our view, the key functions are the four functions mentioned in paragraph 3.31 (risk management, compliance, internal audit, and actuarial function). CEIOPS's advice on fit and proper requirements should focus on what minimum harmonisation is required; different jurisdictions are free to impose more stringent regimes.</p> <p>Proportionality will be of high importance in the implementation of CEIOPS' advice in paragraphs 3.42-3.44. In this respect, it might be useful to have a more direct reference to this principle in the advice box on fit and proper requirements. This could be done in the same way as in paragraph 3.32: "when deciding on the persons falling under the provisions of article 42, the nature, scale and complexity of the risks inherent in the business of the undertaking should be taken into account as well as the way the undertaking is organised."</p> <p>In our view the documented policies and processes referred to in paragraph 3.37 should not be unduly burdensome. Article 42 of the Level 1 text does not require the undertakings to have in place documented policies and procedures to ensure that all persons who are subject to Article 42 are fit and proper. According to the Level 1 text, it suffices that these persons comply with the fit and proper requirement. The Level 2 implementing measures should reflect this. In addition, it is not widespread practice in some jurisdictions to have in place documented policies and processes to ensure fitness and propriety. Requiring documented policies and processes can put an unnecessary burden on undertakings.</p> <p>Paragraphs 3.37 and 3.40 state that CEIOPS expects to develop criteria for</p>	<p><i>See comments 155 above.</i></p>

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			<p>assessing documented policies and processes and guidance for assessing fitness and propriety at Level 3. In our view detailed guidance is not required and the existing guidance contains an adequate level of detail.</p> <p>We propose a slight wording change to paragraph 3.44: "...other key function holders are identified by the undertaking". "For" should be replaced by "by".</p>	
158.	AMICE	3.30	<p>In our general comments, we have already laid out that we believe that the "fit and proper" requirement as circumscribed in Art. 42(1), namely having adequate knowledge, qualifications, and experience, and being of good repute and integrity, do not suffice alone to make managers and holders of key functions good post holders – as numerous examples have shown over the past years, notably in the banking and investment banking sectors.</p> <p>We also would like to mention already here that it is necessary to see the fitness and propriety of a management body in a collective way.</p>	<p><i>Noted.</i></p> <p><i>Paragraph 3.7 and 3.29. already states: "... the members of the administrative or management body should, collectively, be able to provide for the sound and prudent management of the undertaking."</i></p>
159.	Pearl	3.31	'Other key functions' should not be interpreted too broadly and should be understood in a similar way as the current FSA approved person regime.	<i>Noted.</i>
160.	DAV	3.31	We are pleased to note that the actuarial function is included in the list of key functions.	<i>Noted.</i>
161.	GC	3.31	<p>We are pleased to note that the actuarial function is included in the list of key functions, because actuarial methods and skills are indispensable for the valuation of insurance risks and liabilities.</p> <p>It would be helpful to specify whether there are certain heads of function that can not be members of the administrative or management body eg head of internal audit</p>	<p><i>Noted.</i></p> <p><i>CEIOPS may further elaborate on this in Level 3 guidance.</i></p>
162.	UNESPA	3.31	This establishes that the aptitude and honesty of not just those responsible who "effectively manage the company" (which includes senior executives in addition to the Board) but also all persons who "perform key functions".	<i>CEIOPS has identified the functions which are key for every undertaking. Further</i>

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			<p>Although the “key functions” are defined as those which are critical and important for the governance system (including risk management, compliance, internal audit and actuarial functions), this also leaves open the possibility that other functions might be considered to be key, depending on “<i>the nature, scope and complexity of the business, or the basis upon which this is organised</i>”.</p> <p>In addition to planting doubts about interpretation depending on specific cases, this would lead to extending the control regime of honesty and aptitude to lower levels which would not actually be defined. Furthermore, whilst the honesty checks would be identical in all cases, this would not be the case for competence, which could be refined depending on “<i>the nature, scope and complexity of the business, or the basis upon which this is organised</i>”.</p> <p>Therefore the key functions need to be identified in more detail so that this is not left to be freely interpreted by Member States and each undertaking.</p>	<p><i>key functions can only be determined on a case-by-case basis. Supervisors will check whether they agree with an undertaking’s assessment as to what are its key function holders. CEIOPS envisages guidance on Level 3 as to the circumstances for considering a person as an “other key function holder”.</i></p>
163.	ABI	3.31	<p>'Other key functions' should not be interpreted to mean large individual departments but rather it is necessary to ensure those functions are fulfilled adequately in the governance structure and should be understood in a similar way as, for example, the current FSA approved person regime.</p>	<p><i>The interpretation of “other key functions” as large individual departments would not be in line with the Level 1 text. CEIOPS is fully aware that “function” does not equal “department” or “unit” but only denotes an administrative capacity.</i></p>
164.	AMICE	3.31 and 32 and 3.43	<p>When CEIOPS states that the circle of persons that hold key functions may go beyond those that “effectively run the undertaking” and the persons responsible for the (four) key functions referred to in Art 43, 45, 46, 47, we feel that CEIOPS may come very close to – or even transgress – the boundaries of the scope of Art 49(1)(b) of the Framework Directive. In other words, we do not agree with the free-handed extension of the fit and proper requirements to middle management “taking into account the nature, scale, and complexity inherent in the business of the undertaking.”</p> <p>First of all, having to ascertain of fitness and propriety in the meaning of the Solvency II framework and following up with the monitoring of these qualities for a large number of staff can out to be extremely burdensome. This, for us, is a</p>	<p><i>The level 1 text extends the fit & proper requirements to all persons who “have other key functions”. Article 50 (1)(c) explicitly states that the implementing measures shall cover which functions are subject to the requirements set out in Article 42. That does not necessarily require that the identifications of the functions should be</i></p>

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			<p>case of “upwards proportionality” (i.e. higher requirements for larger undertakings that go beyond the standard requirements of the framework directive text) against which we have spoken out in other contexts.</p> <p>Apart from the consideration of a potential case of “ultra virus”, we are alerted by the completely open-ended phrasing of this suggestion and see no indication where the limits could be to declaring wide circles of an insurer’s personnel as “key”.</p>	<p><i>comprehensive in the Level 2 text.</i></p> <p><i>The term “key function holder” covers “persons who effectively run the undertaking or have other key functions”. This puts a limit on which functions could be considered key. A “key function holder” is somebody who has influence in the undertaking.</i></p>
165.	FFSA	3.32	<p>Key functions :</p> <p>We support the fact that key function holders need to be established by the undertaking.</p>	<i>Noted.</i>
166.	ECIROA	3.32	<p>Captives are run by their Board. These Board Members are allocated responsibility for risk management, compliance, internal audit and actuarial functions.</p> <p><i>Undertakings will provide information regarding the qualifications of their Board members and details of the functions they are allocated.</i></p>	<i>Noted.</i>
167.	ROAM	3.32	<p>We approve this principle. Undertakings know their needs and therefore are the best positioned to define their key functions.</p>	<i>Noted.</i>
168.	AMICE	3.32	<p>We fully support CEIOPS in these findings. Undertakings themselves are indeed in the better position to identify the key functions in their organisation.</p>	<i>Noted.</i>
169.	GC	3.34	<p>Requirements for key function holders should be proportionate and not unduly burdensome. The requirements for key function holders should be widened to ensure that “experience AND/OR qualifications” can be used to assess what each key function holder requires, i.e. rather than specifying that experience AND qualifications invariably are needed.</p>	<i>This would not be in line with the Level 1 text which requires professional qualifications, knowledge and experience.</i>
170.	Lloyd’s	3.34	<p>Requirements for key function holders should be proportionate and not unduly burdensome. Lloyd’s considers that the requirements for key function holders should be widened to ensure that “experience AND/OR qualifications” can be</p>	<i>See comment 169 above.</i>

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			used to assess what each key function holder requires, rather than specifying that experience AND qualifications are needed.	
171.	ROAM	3.34 & 3.35	<p>The specialized mutual insurance companies are managed by a board of directors made up by professionals who are not insurers. We approve the consideration of:</p> <ul style="list-style-type: none"> * the principle of proportionality : "professional qualifications, knowledge and experience depends on the function, as well as on the nature, scale and complexity of the business" * the <u>collective</u> approach of competences : "the members of the administrative or management body should, collectively, be able to provide for the sound and prudent management of the undertaking" 	<i>Noted.</i>
172.	AMICE	3.34, 3.35 and 3.43	<p>We welcome the clear reference in para. 3.34 and 3.43 to nature, scale and complexity of the business.</p> <p>Furthermore, we emphasise again the importance of observing the contribution of each member of the administrative or management body to the collective functioning of the body and to the sound and prudent management of the undertaking.</p> <p>As we had the opportunity to discuss with CEIOPS on several occasions and as CEIOPS is aware, some mutual insurers may be particularly challenged in this aspect due to their specific statutes and/or governance rules. Many mutuals are in their activities restricted to insuring certain groups of individuals (e.g. members of a particular profession). In turn, they are then obliged to compose their board partially or completely from among membership. Undoubtedly (for us), the inclusion in the board of a mutual insurer of member-policyholder (i.e. clients) add considerably to the overall functioning of this body as it injects the clients' angle to the deliberations of the board which, for mutuals, is at the core of their business model. Applying stringent qualification and knowledge tests to every single member of such a board jeopardises this concept.</p> <p>The same, as we have argued earlier, is by the way true for all cases where supervisory boards of insurers have, by virtue of law, to include employees' representatives.</p> <p>We would like to mention that we agree with CEIOPS that all members of the administrative or management bodies should fulfil the "propriety" requirement.</p>	<p><i>Noted.</i></p> <p><i>Noted.</i></p> <p><i>The fit & proper requirements still apply and while what constitutes fitness depends on the function and the principle of proportionality the yardstick is what is required to perform adequately in a specific function; the level of fitness cannot be lowered below what is necessary in order not to create too much trouble for an undertaking in finding suitable candidates.</i></p> <p><i>Noted.</i></p>

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173.	Ireland S2G	3.35	We would not always expect members of the administrative or management body to have specific areas of responsibility. Suggest the following addition in bold to clarify this: "Apart from qualifications that enable them to discharge the duties of their specific areas of responsibility that they may have the members of the administrative (...)?"	<i>CEIOPS has changed the text accordingly. See amended paragraph 3.42.</i>
174.	ECIROA	3.36	Undertakings understand the need to appoint proper persons to their Boards. CVs of the Board members are already required by Regulators.	<i>Noted.</i>
175.	FFSA	3.37	Documentation for assessing fit and proper requirements: We support the view that the documented policies and processes for assessing fit and proper requirements shouldn't be unduly burdensome.	<i>Noted.</i>
176.	ROAM	3.37 + 3.40	The recruitment policy comes under the only responsibility of the undertaking. Moreover, undertakings have already established policies and a probation period.	<i>In the first place it is the responsibility of the undertakings to ensure by their recruitment policy that all persons subject to fit and proper requirements meet these requirements. However, the supervisor will assess whether the policy adequately serves their purpose. Further, supervisors have to assess the fitness and propriety of the persons that undertakings have to notify according to Article 42(2).</i>
177.	ROAM	3.39 & 3.40	We disapprove the intervention of the supervisor into the undertakings' recruitment process.	<i>The supervisor does not interfere with the recruitment process. It assesses the adequacy of the recruitment policy and asks for changes if it is not suitable for ensuring that all persons subject to fitness and propriety</i>

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					<i>requirements are sufficiently vetted.</i>
178.	KPMG	3.40 3.41	and	The particulars of the notification process in relation to a person replaced because they no longer fulfil the fitness and propriety requirements has been deferred to Level 3. The criterion 'fit' is difficult to assess and similarly detailed guidance for assessing fitness (and propriety) has been deferred to Level 3. The impact of such notifications on the concerned individual's future ability to seek employment is likely to be significant and any such notifications may be challenged by the individual unless they are in relation to proven cases of violation of law. It will be important that the Level 3 guidance addresses these difficulties to support a meaningful and robust notification process	<i>Noted.</i>
179.	ROAM	3.41		<p>Except serious event with a final court decision, we are opposed to the principle to communicate to the supervisor the name of an employee or director who does not fulfil anymore the fit and proper requirement for his/her function.</p> <p>We think this principle is contrary to the recommendations of the French Data Protecting Authority (CNIL, Commission Nationale de l'Informatique et des Libertés), is unsuitable to French law and consequently cannot be transposed.</p>	<p><i>The notification is a requirement according to Article 42(3) of the Level 1 text.</i></p> <p><i>Implementation of the Level 1 text is obligatory and mere recommendations of a national body are no obstacle to implementation.</i></p>
180.	AMICE	3.41		<p>We note that the obligation to notify separately and specifically when a person referred to in Art. 42 has been replaced due to loss of "fit and proper" status is one in the Framework directive. We do not see an urgent reason for CEIOPS to harmonise the particulars of the notification process.</p> <p>We believe, however, that the obligation on the insurer to notify the particular circumstances of the person's departure has to be designed in a restrictive way. We are thinking of the situation that an employee is involved in a case before the courts which, at the end, clears this employee from any allegations. Pre-emptive classification of this employee as, for example, "not proper" may be absolutely inappropriate and moreover in breach of national labour and/or libel laws.</p>	<p><i>Noted.</i></p> <p><i>CEIOPS will further discuss this under Level 3 guidance.</i></p>

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181.	AVIVA	3.42, 3.43, 3.44	<p><u>Fit and Proper Requirements</u></p> <p>The fit and proper requirements are broadly in line with current practice in the UK and do not appear to be overly burdensome.</p> <p>We agree with the principle of proportionality when considering those other 'key functions' that are considered important and critical, the nature, scale, complexity of the risks inherent in the business of the undertaking.</p> <p>The key function requirements do not appear to be overly burdensome and we note that their scope extends to all business activity of the undertaking. We believe that the effectiveness of key functions is also more effective where control functions – finance, risk, compliance work hand in hand.</p>	<i>Noted.</i>	
182.	Pearl	s 3.42 to 3.44	Proportionality will be of high importance in the implementation of CEIOPS' advice in par 3.42 to 3.44. In this respect, it might be useful to have a more direct reference to this principle at level 2: 'when deciding on the persons falling under the provisions of article 42, the nature, scale and complexity of the risks inherent in the business of the undertaking should be taken into account as well as the way the undertaking is organised' (par 3.32)	<i>CEIOPS considers the references to proportionality principle sufficient.</i>	
183.	Oliver Wyman	3.42	We agree that undertakings shall have in place documented policies and procedures to ensure that all persons subject to Article 42 are fit and proper. From our perspective, the guidance should be more specific and require explicit Board endorsement of key personnel, in particular of holders / managers of critical functions such as risk management.	<i>Noted.</i>	
184.	IUA	3.42 -3.44	Para 3.42-3.44 are sensible. We would expect these to be assessed in light of the proportionate approach. With regard to 'other functions' (Para 3.43) we anticipate (and would approve of) that the proposals would work similarly to the current FSA 'approved persons' regime.	<i>Noted.</i>	
185.	GC	3.42	In addressing the question of having fit and proper persons in different positions in the governance structure the document defines the required qualities. We feel that this part applies mostly to management in general. It might be understood from that that individuals in different functions must fulfill these requirements but then also additionally fulfill qualities specific to different functions. If this is understood correctly we note with pleasure that the ones relating to the actuarial function are more exact than the ones relating to the other functions (in some	<i>Noted.</i>	

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			<p>cases they do not exist).</p> <p>We feel that the CP concentrates on the importance of a person fulfilling certain qualities on appointment. We would put equal emphasis on how the person maintains these qualities in carrying out their duties, and how the procedures that should be followed in replacing that person.</p> <p>In terms of maintaining the qualities in carrying out their duties, we feel that the positions of the actuary and the CRO should be structured as described below in our comments to paragraphs 3.53 and 3.308.</p> <p>An equally important question and one that supports the ongoing requirements stated above is the question of replacing an employee in these positions of responsibility. There we feel that:</p> <ul style="list-style-type: none"> • When one is replaced, the new employee should find out the reasons why the former office-holder has left. The former office holder should personally inform the supervisor why he/she has left • There should be a layer of protection, for example against lawsuits, for employees performing their respective duties both in relation to confidential reporting within the company and to the supervisor. 	<p><i>CEIOPS agrees these points are important. They are however not mentioned in the Advice as they are outside the scope of the Level 2 advice.</i></p> <p><i>CEIOPS does not see the need for new employees to find out the reasons their predecessor's departure. The Level 1 text does not require notification of the supervisor by the former office holder. That is outside the scope of Solvency II.</i></p>
186.	UNESPA	3.42, 3.43 & 3.44	<p>We consider that the "<i>fit and proper</i>" requirements should apply to the Board, but not to lower levels of management. Supervisory bodies should be informed, but we consider that this information does not imply that the supervisor should give opinions on key issues and requirements demanded of the company's management, which must be the exclusive competence of the undertaking.</p>	<p><i>This is not in line with the Level 1 text: fit and proper requirements apply to persons who effectively run the undertaking or have other key functions.</i></p> <p><i>Since Art. 42(2) requires that along with the notification undertakings have to submit all information needed to assess whether any new persons appointed to manage the undertaking are fit and proper it is perfectly clear that the supervisor is obliged to take</i></p>

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				<i>an active role.</i>
187.	RSA Group	3.42-3.44	'Key functions' should be kept to those that have either significant influence on the firm's performance and/or those responsible for the systems and controls of the firm, similar to the FSA's Approved Persons regime.	<i>Noted.</i>
188.	ABI	3.42 to 3.44	<p>Fit and proper requirements</p> <p>Proportionality will be of high importance in the implementation of CEIOPS' advice in paras 3.42 to 3.44. In this respect, it might be useful to have a more direct reference to this principle at level 2: 'when deciding on the persons falling under the provisions of article 42, the nature, scale and complexity of the risks inherent in the business of the undertaking should be taken into account as well as the way the undertaking is organised' (par 3.32). The full fit and proper requirements should directly apply to the Board of directors and senior management, who are ultimately responsible for the system of governance. Fit and proper should then be applied proportionately by the Board when staffing key functions and depend on the firm's own internal process, cascading down from the top executive functions to other key functions (see also comments on para 3.31). In practice, in the UK, firms would usually apply a very rigorous appointment process.</p> <p>Proportionality should also be taken into account when documenting the process (para 3.37).</p>	<p><i>See comments 182 and 186 above.</i></p> <p><i>This is in line with CEIOPS' views. What is required by way of fitness depends on the function and the nature, scale and complexity of the business.</i></p> <p><i>How much documentation is necessary depends on what is needed to understand the process and procedures.</i></p>
189.	Ireland S2G	3.42	Meeting fitness and propriety standards is the ultimate goal of a system of governance and the most that can be expected of policies and procedures is that they do their very best to ensure that this goal is met. Suggest the following amendment in bold: "Undertakings shall have in place documented policies and procedures to ensure as far as practicable that all persons subject to Article 42 are fit and proper."	<i>Noted.</i>
190.	XL	3.42 to 3.44	Proportionality will be important in documenting the processes for assessing fitness and propriety (para 3.37) and we would like to see a reference to proportionality included within paragraphs 3.42 – 3.44	<i>See last comment in 188 above.</i>
191.	PwC	Section 3.2	Where 'fit and proper' requirements currently exist in different EU countries, the	<i>Noted.</i>

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		3. 42	process varies. In some cases, the requirement is to notify the regulator of the appointment (and dismissal or resignation) of approved persons. The regulator may keep a register of these individuals. In other countries, prior regulator approval is required before an appointment is confirmed. We note that CEIOPS intends to provide further guidance on 'fit and proper' requirements at Level 3. We would recommend that consideration is given to adopting pre-approval of key appointments as the common approach.	
192.	CROF	3.42, 3.43, 3.44	<p><i>Para 3.42 "Undertakings shall have in place documented policies and procedures to ensure that all persons subject to Article 42 are fit and proper."</i></p> <p><i>Para 3.43 "Key functions are those considered important and critical in the system of governance and include risk management, compliance, internal audit and actuarial functions. Other functions may be considered key functions according to the nature, scale and complexity of an undertaking's business or the way it is organised."</i></p> <p><i>Para 3.44 "Undertakings shall notify the supervisory authority of the persons who effectively run the undertaking and which, if any, other key function holders are identified for the undertaking."</i></p> <p>The fit and proper requirements are broadly in line with current practice in the CRO Forum member companies and do not appear to be overly burdensome.</p> <p>We agree with the principle of proportionality when considering those other 'key functions' that are considered important and critical, the nature, scale, complexity of the risks inherent in the business of the undertaking. It is important, however, to emphasize that in the case of groups where people that effectively "run" key functions may be at different levels of the group, that the fit and proper requirements are applied at those levels.</p>	Noted.
193.			Confidential comment deleted.	
194.	FFSA	3.44	<p>Other key functions :</p> <p>In addition of the article 3.44. ("Undertakings shall notify the supervisory authority of the persons who effectively run the undertaking and which, if any, other key function holders are identified for the undertaking"), we suggest that other key function holders should be identified <u>by</u> the undertaking and not <u>for</u> the undertaking.</p>	"For" does not exclude "by".

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195.	AMICE	3.44	We agree that undertakings should have to inform the supervisor of the persons who effectively run the company. It is however important that this remains a notification obligation and does not become an obligation to wait until the supervisor approves the appointment through an explicit act.	<i>As follows clearly from Art. 42(2), the supervisor has to assess the fitness and propriety of persons who effectively run the undertaking or have other key functions. That means the supervisor could object to an appointment if a person is not fit or proper and the undertaking would have to take this into account. Thus appointing a person before the supervisor has expressed an opinion is a risk that undertakings would be well advised to avoid.</i>
196.	IUA	3.45	Subject to the comments below, we are generally comfortable with the proposed text and interpretation and submit that the key elements of an effective risk management structure are reasonable.	<i>Noted.</i>
197.	ROAM	3.46	We approve the principle of proportionality for the risk management system because the undertaking has to focus its device on its own risk areas and takes into account its way of functioning (see General Comment about proportionality principle)	<i>Noted.</i>
198.	AMICE	3.46	In line with our general emphasis on proportionality, we welcome the clear reference in this paragraph.	<i>Noted.</i>
199.	FFSA	3.47	Proportionality We support the view expressed in the article 3.47: "in large undertakings and undertakings with more complex risk profiles a Chief Risk Officer (CRO) is appointed"	<i>Noted.</i>
200.	IUA	3.47	More detail on the role of the CRO would be beneficial at Level 2 guidance or in Level 3 CEIOPS guidance. We would expect that appointment of a CRO would be dealt with by an undertaking and assessed by supervisors in a proportionate	<i>Noted. Please see amended paragraph 3.210.</i>

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			manner and not necessarily or wholly based on the size of the undertaking, and rather more on the nature, scale and complexity of their business.	<i>The reference is explicitly to complexity, not to size.</i>
201.	GC	3.47	We agree that the responsibility for the Risk Management System could call for a CRO to be appointed, at least in larger companies. We believe it is appropriate and proportionate for the same approach to be taken for the Actuarial Function. See also our remarks to 3.308	<i>CEIOPS does not agree. Please see amended paragraph 3.210.</i>
202.	L&G	3.47	Does CEIOPS believe the CRO is a Board level appointment to an organisation? What does CEIOPS believe the role and accountabilities of the CRO to be?	<i>Please see amended paragraph 3.210. It could be a Board member according to the choice made by the undertaking</i>
203.	RSA Group	3.47	Further clarity is required of the CRO role and whether independence is required.	<i>Please see amended paragraph 3.210. Details will be provided in level 2 or level 3 texts.</i>
204.	Lloyd's	3.47	Lloyd's agrees that it is important that there is clear responsibility for oversight of the risk management function. We note that CEIOPS expects that at least in large undertakings and those with more complex risk profiles a Chief Risk Officer is appointed, however this role is not defined. Lloyd's view is that undertakings should be allowed flexibility to determine how their risk management systems should be organised to meet Solvency II requirements and therefore prescribed structures and roles should be avoided.	<i>Please see amended paragraph 3.210. Undertakings have to ensure that they meet the Solvency II requirements in a proportionate way. Proportionality can work "both ways".</i>
205.	ABI	3.47	CRO We agree that for a large, complex group, it is probably sensible to have a Chief Risk Officer. However, this should not become mandatory and firms should remain free to appoint a CRO or not. Although in current practice the role of the CRO seems to be subject to different interpretations, a common role for the CRO is for that person to be responsible for raising challenge (part of the second line of defence) ² rather than directly	<i>See comment 204 above.</i> <i>Noted.</i>

² See comments on paras 3.52, 3.53
Template comments

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			managing risk mitigation (the first line of defence). In this sense it might be more appropriate for the CRO to report to the Board.	
206.	ECIIA	3.47	the advice suggests appointing a member of the administrative body to oversee the risk management function "to underline the importance of risk management and increase accountability". This obscures the fact that the management of risk is the responsibility of all managers. The risk management function is a second line function, assisting the organisation to develop and maintain a consistent and good practice system for managing risks but not responsible for the management of risks.	<i>Noted. Please see amended paragraph 3.210. Even though a chief risk officer is appointed, the management or administrative body is ultimately responsible for the robustness of the risk management.</i>
207.	GDV	3.47	The last sentence should be deleted or strictly labelled as an example because it is contradictory to the definition of a function and the principle of proportionality to expect the specific role of a chief risk officer.	<i>Please see amended paragraph 3.210. It is fully in line with the principle of proportionality that there are expectations of more sophisticated means and methods with regard to the practical implementation of the system of governance for some more complex undertakings than for others. There is no contradiction with the definition of a function either. Having a CRO does not require a risk management unit/department, just some clearly designated person who is held responsible for the risk management of the undertaking to the administrative or management body.</i>
208.	Ireland S2G	3.47	More consideration needs to be given to the last sentence in this paragraph where it states "CEIOPS expects that at least in large undertakings and	<i>Please see amended paragraph 3.210.</i>

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			undertakings with more complex risk profiles a Chief Risk Officer (CRO) is appointed." In general, in a large group, a CRO is appointed at a global level and the local risk managers within entities/business groups feed upwards to the CRO. Suggest the following sentence instead: "The administrative or management body will give due consideration to the appointment of a Chief Risk Officer (CRO) where the nature, scale and complexity of the risks inherent in the business are such that this is appropriate."	
209.	ROAM	3.47	The risk management function perimeter could overlap the chief executive officer function in small and medium-sized insurance undertakings. Can Ceiops clarify whether the chief executive officer of a small and medium-sized undertaking can oversee the risk management function?	<i>The Advice states that overseeing is possible.</i>
210.			Confidential comment deleted.	
211.	CEA	3.47	It is not appropriate to require the designation of a member of the administrative or management body to oversee the risk management function. The way the administrative or management body functions should be up to the undertaking to decide.	<i>The risk management function is important enough to warrant special attention.</i>
212.	AMICE	3.47	AMICE members seek some more clarity about the relation between the responsibilities of the person responsible for the risk control function and the top manager, e.g. the CEO. On the one hand, they observe that the amount and scope of responsibilities incumbent on the risk management function are quite wide, which raises the question which functions in the area of strategy would remain with the CEO. On the other hand, members are concerned that in small or medium size enterprises it might be only the CEO who has the competence (skills, knowledge, experience) to exercise this function. Clarity whether this would be acceptable as a structure would be welcome. We do not believe that extensive new advice is needed, but would regard the inclusion of some further explanations in the explanatory notes of the advice as useful guidance as to the thinking of CEIOPS and its members.	<i>Details will be provided in level 3 texts.</i>
213.	AVIVA	3.48	<u>Risk and internal control system</u> The request for the undertaking to assess the service provider's risk	<i>See comment 879</i>

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			management systems raises questions of scope, and whether self certification would be acceptable. More clarity is needed on the practical implications of such a requirement.	
214.	ICAEW	3.51	While the background on the requirements for the risk management function appear sensible, it would be extremely useful to have some examples of how CEIOPS envisages this would work in practice.	<i>Noted.</i>
215.	FFSA	3.51 d	Interaction with other functions We support the view that the role of the risk management function is to ensure a comprehensive, coherent and consistent approach to risk throughout the insurer. That's why, in addition of the 3.51.d ("appropriate reporting procedures and feedback loops that ensure that information on the risk management system..."), we recommend to detail the interaction between the risk management areas and the other functions (communication, ...)	<i>See new paragraph 3.11.</i>
216.	Pearl	3.51 e (and 3.53 e)	Para 3.51 e indicates that the Risk Management Function is to report to the administrative or management body on the effectiveness of the Risk Management Function. An area should not be responsible for evaluating its own effectiveness. This should be that the Risk Management Function evaluates the Risk Management System.	<i>CEIOPS changed the typographical error. . See amended paragraph 3.69.(e)</i>
217.	ICAEW	3.51 (f)	The paper refers very briefly to the ORSA process. While it is appreciated that CEIOPS has issued a previous paper on the ORSA, it is surprising that this paper does not discuss in any detail how the ORSA will fit into the risk management function in a practical sense. As the ORSA and the internal models are the new concepts in Solvency II and they are the areas where practical examples are most needed and would be most useful.	<i>As the Paper deals with Level 2 implementing measures in accordance with Article 50(1) - and to some extent possible connected future Level 3 guidance – the ORSA which is not subject to mandatory Level 2 implementing measures is outside the scope of the Paper.</i>
218.	KPMG	3.51(f)	There is only a brief mention of the ORSA. We recognise that CEIOPS has already issued an issues paper in relation to the ORSA, but believe further guidance in this area is important, in particular regarding how the risk management function and systems should interact with the ORSA and how proportionality principle would apply in practice. This is an area where we believe that guidance in the	<i>See comment 217 above.</i>

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			form of examples would be helpful. Risk modelling approaches should be tailored to the scale, nature and complexity of the risks faced by an insurer.	
219.	IUA	3.51	<p>With regard to 'adequate written policies' (Para 3.51(b)) we would expect that high level principles and risk management structures would be documented and signed off at Board level, with the implementation and key reporting dealt with at senior executive management level. We also wonder whether it would be worth referencing the internal audit function within the risk management guidelines.</p>	<p><i>According to Article 41(3) the policies are subject to approval by the administrative or management body.</i></p> <p><i>CEIOPS does not understand the reference comment. The internal audit function is not part of the risk management system.</i></p>
220.	ROAM	3.51	<p>Ceioips lists all the essential parts of an effective risk management system. It comes with the description and the application of a multitude of policies (practices), guides of procedures, etc.</p> <p>We think it is useful to clarify the duties and the responsibilities of each one as well as to involve in the risk management system the whole staff whatever its level.</p> <p>Nevertheless :</p> <ol style="list-style-type: none"> 1. Describe everything in management guidebooks can quickly become useless. Example: J. KERVIEL in the case of Société Générale! As mentioned in our 'General Comment' we think an efficient risk management system has to involve employees awareness on their business risks (development of a risk management culture) rather than spending a lot of energy writing a wide literature <p>=> We propose to leave the undertaking free concerning the methods and the tools so as to manage its risk management system.</p> <ol style="list-style-type: none"> 2. We think it is not appropriate to communicate so much confidential information to the supervisor (strategy of risk management, risk appetite, goals, etc.) 	<p><i>This is not in line with the Level 1 text which requires policies and documentation.</i></p> <p><i>There are no areas or issues within an undertaking which are potentially confidential with regard to the supervisor. The supervisor can ask for any information it needs.</i></p>

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221.	KPMG	3.51(e), 3.52	We agree that the design and operational effectiveness of the risk management system should be regularly evaluated and reported on. This paragraph requires this to be performed by the risk management function. However, as drafted in paragraph 3.51(e) this sounds like a self evaluation exercise. In order to be more effective, we believe such a review should be carried out by persons independent of the development and ongoing maintenance of the risk management system. We therefore recommend that CEIOPS considers the involvement of the internal audit function in this assessment process.	<i>The internal audit function has to do its own assessment of the risk management system.</i>
222.	AMICE	3.51 (f) and 3.53(f)	CEIOPS writes that an “effective risk management system” requires a suitable own risk and solvency assessment process. AMICE agrees that ORSA is, along other elements, at the core of Pillar II requirements and is a key element to foster a risk management culture within the undertaking, but care is needed to avoid obliging companies in an excessive way. We make this point both with a view to avoiding quantitative overburdening as well as regarding confidentiality. Supervisors should not have the opportunity to interfere with the management of the undertaking, e.g. when having to scrutinise the risk management strategy including its objectives, key principles and the setting of its risk tolerance or “risk appetite” etc	<i>See last comment 220 above.</i>
223.	FEE	3.51 and 3.53 (f)	This section provides a good framework for the requirements of the risk management function. However, it would be useful, particularly for smaller insurance undertakings, to have some examples of how this might be applied in practice. In 3.53(f) the paper refers to ORSA process, but does not provide any further detail of how this might fit into the risk management function. The ORSA and internal models are both new concepts under Solvency 2 which will be among the most challenging for undertakings to implement. These are the areas where practical examples and additional guidance are most needed and would be most useful. We recognise that CEIOPS has issued a previous paper on the ORSA, we would have expected this additional assistance from CEIOPS on their expectations in these areas and wonder whether the level 3 guidance might include some examples of how this might be applied by different types of organisation.	<i>Noted.</i> <i>The ORSA is outside the scope of the Paper as it does not require mandatory Level 2 implementing measures. It will be treated separately as a priority on Level 3.</i>
224.	ECIROA	3.52	Undertaking’s operational risks are limited and identifiable. Captives’ underwriting risks are monitored by the group risk management function of the	<i>Noted.</i>

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			parent company (or underwriting committee) and market risks by the group finance function (or finance committee). Operational risks are monitored by either the captives' own staff or by the risk management systems and business continuity plans of the professional licensed captive manager. The control systems are reflected in the regular reports to the board. The risk management system would reflect the size and relatively straightforward structure of an undertaking.		
225.	GDV	3.52	CEIOPS should elaborate more on the relationship of the risk management system and its support by the internal control system in particular how these systems distinguish.	Noted. See amended paragraph 3.71.	
226.	AVIVA	3.52, 3.53	<u>Risk management system</u> We agree that the risk management system should be integrated into the organisational structure of the undertaking and into its decision making process. We believe that the key to strong risk management in complex volatile markets is a renewed focus on the basic concept of 'three lines of defence', working in conjunction with a pervasive risk culture. Primary responsibility for risk identification and management lies with business management and the front office (the first line of defence), support for and challenge on the completeness and accuracy of risk assessment, risk reporting and adequacy of mitigation plans are performed by specialist risk functions (the second line of defence). Independent and objective assurance on the robustness of the risk management framework and the appropriateness and effectiveness of internal control is provided by internal audit (the third line of defence).	Noted. . See amended paragraph 3. 71.	
227.	ABI	s 3.52, 3.53	<u>Risk management system</u> We agree that the risk management system should be integrated into the organisational structure of the undertaking and into its decision making process. In this respect, we believe the basic concept of 'three lines of defence', in conjunction with an embedded risk culture, to be a strong risk management model, especially in complex, volatile markets. Primary responsibility for risk identification and management lies with business management and the front office (the first line of defence), support for and challenge on the completeness and accuracy of risk assessment, risk reporting and adequacy of mitigation plans	Noted. . See amended paragraph 3.71.	

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			are performed by specialist risk functions (the second line of defence). Independent and objective assurance on the robustness of the risk management framework and the appropriateness and effectiveness of internal control is provided by internal audit (the third line of defence). See also our comments on para 3.265.	
228.	CROF	3.52, 3.53	<p>Para 3.52 "The risk management system shall be integrated into the organizational structure of the undertaking and into its decision making processes. [...]"</p> <p><i>Para 3.53 "An effective risk management system requires at least the following:[...]"</i></p> <p>We agree that the risk management system should be integrated into the organisational structure of the undertaking and into its decision making process.</p> <p>We believe that the key to strong risk management is the basic concept of 'three lines of defence', working in conjunction with a pervasive risk culture. Primary responsibility for risk identification and day-to-day management lies with business management and the front office (the first line of defence), formulation of policies, limits and risk appetite, support for and challenge on the completeness and accuracy of risk assessment, risk reporting and adequacy of mitigation plans are performed by specialist risk functions (the second line of defence). Assurance of the overall effectiveness of internal controls, independent and objective assurance on the robustness of the risk management framework and the appropriateness and effectiveness of internal control is provided by internal audit (the third line of defence).</p>	<i>Noted. . See amended paragraph 3.71.</i>
229.	AVIVA	3.53	<p><u>Risk management system</u></p> <p>We believe that an undertaking's risk management and governance framework is designed to manage, rather than eliminate, the risk of failure to achieve business objectives and can provide only reasonable assurance against material financial misstatement or loss.</p>	<p><i>Noted.</i></p> <p><i>The wording is in this sense.</i></p>
230.	Pearl	3.53 (b)	<p>Par 3.53 b): 'written policies that include a definition and categorisation of the risks faced by the undertaking by type, and the levels of acceptable risk limits for each risk type': this could potentially be very burdensome if it was interpreted in a narrow way. We would therefore imagine this to be high level or</p>	<i>CEIOPS has changed the wording to clarify this point. . See amended paragraph 3.72.</i>

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			as group / classes of risks such as equity, property, credit... (See FSA, MiFiD interpretation).	
231.	Munich Re	3.53 b	Only "material" risk-types faced by the undertaking should fall within the scope of Paragraph 3.53b). It is not clear whether a difference is meant between the "risk appetite" referred to in Paragraph 3.53a) and the "levels of acceptable risk" referred in Paragraph 3.53b). If not, there would appear to be some redundancy. Otherwise, clarification may be needed as to what precisely is meant by these two terms.	<i>Agreed See amended paragraphs 3.69 and 3.72</i>
232.	IUA	3.53(b)	Categorisation of risks should not be interpreted too narrowly as this would be unnecessarily burdensome on (re)insurers. A class of business approach, similar to that applied by FSA, would be adequate.	<i>Noted.</i>
233.	ABI	3.53 (b)	Par 3.53 b): 'written policies that include a definition and categorisation of the risks faced by the undertaking by type, and the levels of acceptable risk limits for each risk type': this could potentially be very burdensome for firms if it was interpreted in a narrow way. We would therefore imagine this to be high level or as group / classes of risks such as equity, property, credit... (See FSA, MiFiD interpretation).	<i>CEIOPS has changed the wording to clarify this point. See amended paragraphs 3.69 and 3.72.</i>
234.	GDV	3.53b	Only "material" risk-types faced by the undertaking should fall within the scope of Paragraph 3.53b). It is not clear whether a difference is meant between the "risk appetite" referred to in Paragraph 3.53a) and the "levels of acceptable risk" referred in Paragraph 3.53b). If not, there would appear to be some redundancy. Otherwise, clarification may be needed as to what precisely is meant by these two terms.	<i>See comment 231 and 233 above. The difference is that the level of acceptable risk is a specification of the more general "risk appetite".</i>
235.	CROF	3.53 b)	"An effective risk management system requires at least the following: [...] b) Adequate written policies that include a definition and categorisation of the risks faced by the undertaking, by type, and the levels of acceptable risk limits for each risk type, implement the undertaking's risk strategy, facilitate control mechanisms and take into account the nature, scope and time horizon of the business and the risks associated with it;" The scope of para 3.53 b) should be limited only to material risks faced by the	<i>See comment 231 above.</i>

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			undertaking.	
236.	AMICE	3.53 (b)	<p>We are aware that the level 1 text (Art 43(1)) speaks of identifying, measuring, monitoring, managing, and reporting risks on an individual and an aggregated level. CEIOPS obviously refers to this principle when requesting a definition and categorisation of risks and the setting of risk limits for each risk type.</p> <p>We suggest clarifying in the explanatory text whether this principle has to be applied strictly when risks (risk drivers) carry along some minor or immaterial “ancillary” risks.</p>	<i>Agreed. See amended paragraphs 3.69 and 3.72.</i>
237.	ROAM	3.53 b) d) e)	Id 3.51. For an effective risk management system, we support the idea that the undertaking is the best party to define its own methods of analysis and risk management.	<i>Noted.</i>
238.	Munich Re	3.53 c	Perhaps the words “material” and “plausibly” should be added so that the sentence reads “.....manage, monitor and report <u>the material</u> risks it is or might <u>plausibly</u> be exposed to...” in order to place a dimension on the effort required by the undertaking.	<i>This is not in line with the Level 1 text. However, “could be exposed to” does not require that even risk with an extremely low probability of crystallizing have to be considered.</i>
239.	GDV	3.53c	Perhaps the words “material” and “plausibly” should be added so that the sentence reads “.....manage, monitor and report <u>the material</u> risks it is or might <u>plausibly</u> be exposed to...” in order to place a dimension on the effort required by the undertaking.	<i>See comment 237 above.</i>
240.	Oliver Wyman	3.53	We support the formulation of risk appetite as a key element of a risk management strategy. In our work, we find that it helps organisations structure their risk management approach and framework, and is key in linking risk strategy to specific risk-management instruments such as limits. It is important that the risk appetite should include quantitative limits to risk exposures that are binding to the organization and trigger a review and decision by the board when breached	<i>Noted.</i>
241.	Oliver Wyman	3.53	We support the advice given on an effective risk-management system. While formalization and documentation of policies, responsibilities etc. is important and should be required to some extent, it must be avoided to over-formalize risk	<i>Noted.</i>

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			management, which bears the risk of turning it into a formalistic 'box-ticking'. Rather, we would like to see that risk management is required to have measurable impact on behaviours, such as imposing binding limits on risk taking, risk-adjusted targets and performance metrics for managers, as well as an active dialogue within senior management on the dynamics of the risk profile. In particular, we would expect it to be a requirement that members of the administrative or management body can at all times explain the risk reports, and the decisions taken based on these considerations. Finally, there is not yet a consistent view in the industry what exactly an own risk and solvency assessment (ORSA) is, and significantly more guidance should be given both on Level 2 and Level 3, to ensure that ORSA is consistently implemented as an ongoing process based on high-quality and relevant information - both qualitative and quantitative, and is effectively used by top management as an input to control the prospective dynamics of the solvency position.	<i>The ORSA is outside the scope of this Paper as it requires no mandatory Level 2 implementing measures. It will be treated separately as a priority on Level 3.</i>
242.	IUA	3.53(d)	'Continuous' monitoring would perhaps be better worded 'effective' or 'regular and effective' as this would allow (re)insurers to drill down on key risk areas in line with a risk based approach. Requiring continuous monitoring as a minimum for a risk management system could be somewhat onerous for all undertakings, and would question whether this would be a realistic and proportionate requirement.	<i>The continuous monitoring is required by the Level 1 text.</i>
243.	GDV	3.53.d	We do not believe it is practical to require the risk function to be "continuously" monitored and managed by the administrative or management body. The word "continuously" sets an unrealistic hurdle. It would be more appropriate to change this to "actively and effectively" or a similar form of words. The term "feedback loops" should be deleted since "appropriate reporting procedures" satisfies the internal need for transparency on the relevant risk exposures.	<i>See comment 242 above.</i> <i>It is not sufficient to report to the administrative or management body, the body has also hand down its opinion whether anything should be changed on account of the information received.</i>

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244.	GC	3.53	<p>The risk management system is core to the successful implementation of the new Solvency II framework. It is also important that the new framework is not seen by insurers as another regulatory reporting duty but that it encourages insurers to create and embed a risk management culture within the company. We agree with the emphasis to this effect in paragraphs 3.179 – 3.190.</p> <p>It is therefore our suggestion that the main organizational responsibility for the risk management system is placed in a Risk management function that may be lead by a chief risk officer. To ensure its organizational role, independence and qualifications the risk management function should:</p> <ul style="list-style-type: none"> • Be appointed by the administrative or management body • Report to the administrative or management body • Be present at meetings of the administrative or management body when issues regarding the risk profile or risk management of the company are being discussed • Have the right to report directly to the supervisor • Be independent of operational business and have unlimited access to all information about the company • Should be qualified in ERM³ 	<p><i>Noted.</i></p> <p><i>CEIOPS changed the text to include the direct access. See new paragraphs 3.15 and 3.33. The reporting to the administrative or management body was already included. Also fitness & propriety requirements apply to the risk management function holder since it is a key function.</i></p> <p><i>CEIOPS does not agree that the risk management function as a whole has to be independent of operational business or have unlimited access to all information about the company. How the personnel is appointed and whether it is present at meetings of the administrative or management body is up to the undertaking to decide.</i></p>
245.	GC	3.53(c)	<p>Article 43.1 refers to the requirement to "... identify, measure, monitor, manage and report on a continuous basis....". 3.53(c) does not refer to the continuous requirement. It is our opinion that a "continuous" requirement would be onerous</p>	<p><i>CEIOPS changed the wording to include continuous. Level 2 cannot take precedence over</i></p>

³ It may be discussed what this means until a harmonized qualification system may have been introduced
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			and that either a "continual" or "regular and frequent" requirement would be more appropriate and therefore support the non-inclusion of the "continuous" requirement but are uncertain whether Level 2 text would take precedence over the Level 1 text.	<i>Level 1.</i>
246.	GC	3.53(d)	We suggest that "continuously" is replaced by "regularly and frequently".	<i>CEIOPS changed the wording to "actively". See amended paragraph 3.72.</i>
247.	UNESPA	3.53	In this paragraph, CEIOPS establishes the minimum requirements for " <i>Risk Management</i> " <i>including a reference to the ORSA</i> ; we consider that the requirements established in the ORSA should be taken into account in this respect in order to ensure consistency in the documents regulating both issues, particularly for Groups.	<i>The ORSA is outside the scope of this Paper.</i>
248.	Lloyd's	3.53	Lloyd's considers that the proposed level 2 implementing measures are at the appropriate level of detail. 3.53(a) could be further clarified by referring to "key risk management principles", rather than "key principles".	<i>CEIOPS changed the text accordingly. See amended paragraph 3.72.</i>
249.	ABI	3.53	Although 'risk appetite' is referred to in this paragraph, this notion seems to have been overlooked in the paper and we believe it should be further considered as it is an important intermediary threshold between limits and policies.	<i>CEIOPS considers "risk appetite" as the more general term and limits as a quantitative specification of risk appetite.</i>
250.	XL	3.53 (b)	The requirement for "adequate written policies that include a definition and categorisation of the risks... by type, and the levels of acceptable risk limits for each risk type..." could be onerous and difficult to enforce if interpreted narrowly. We would welcome clarification of the level of granularity expected, given that policies are likely to need tailoring by geographical location, legal entity etc.	<i>The adequate level of granularity depends on the nature, scale and complexity of the business.</i>
251.	PwC	Section 3.3 3.53 (d)	The wording ' <i>continuous monitoring</i> ' may need clarification. CEIOPS might consider using "on-going" or "regular" or "active" monitoring - terminology which it uses elsewhere - to avoid creating an overly onerous expectation. We infer from the Feedback Statement, amongst other things, that the determination would rest with the administrative body and management as to the nature and frequency of monitoring that would be appropriate in each circumstance, but that key is a that all risks are appropriately monitoring on an ongoing basis.	<i>CEIOPS changed the wording to "actively". See amended paragraph 3.72.</i>

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252.	Deloitte	3.53.a	<p>We draw your attention to the need for consistency in terms utilised, i.e. paragraph 3.53.a refers to “risk appetite”, while paragraph 3.73 refers to “risk tolerance” – it is unclear in the draft advice as to whether these terms apply to the same or different concepts. We believe that a clear definition of key terms would ensure consistent interpretation and application of the implementing measure when they are finalised by the Commission.</p> <p>We suggest that the text presented in explanatory paragraph 3.52 is included in the technical advice.</p>	<i>See comment 249.</i>
253.	CROF	3.53	We believe that an undertaking’s risk management and governance framework is designed to manage, rather than eliminate, the risk of failure to achieve business objectives and can provide only reasonable assurance against material financial misstatement or loss.	<i>Noted. The wording is in this sense.</i>
254.	CEA	3.53	<p>The word “material” should also be repeated in the advice on risk management system.</p> <p>Paragraph 3.51 states that an effective risk management system covers all material risks. We would ask CEIOPS to repeat the word “material” in the advice in 3.53.</p>	<i>Since Article 44 requires the risk management system to cover all risks CEIOPS wants to avoid inconsistency in the wording.</i>
255.	CEA	3.53.d	<p>We do not believe it is practical to require the risk function to be “continuously” monitored and managed by the administrative or management body.</p> <p>The word “continuously” sets an unrealistic hurdle. It would be more appropriate to change this to “actively and effectively” or a similar form of words.</p>	<i>CEIOPS changed the wording to “actively”. See amended paragraph 3.72.</i>
256.	AMICE	3.53 (e)	AMICE members note that there is the permanent latent ambiguity about the terminology of the various bodies in a company, according to the divergent company structures in different jurisdictions. We urge CEIOPS to make a particular effort to avoid such ambiguities in their advice on level 2 measures.	<i>CEIOPS added a general explanation. See paragraphs 3.4 to 3.6.</i>
257.	Oliver Wyman	3.54, 3.86-3.101, 3.162-3.168	Given recent events and turbulences in financial markets and the consequences of weak credit risk management, we feel that credit risk is a risk that must be covered in a (re)insurance undertaking’s risk management system. Credit risk is currently addressed as a risk that ‘should be covered’ in paragraphs 3.162 to 3.168, i.e. following the detail on risks that ‘shall be covered’. We would recommend that credit risk should be given a more prominent role. Since the categorisation of risks that the risk management system shall cover has already	<i>The CP follows the structure of the Level 1 text. CEIOPS does not consider that it greatly matters whether it is considered separately or not. The important point is that it</i>

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			been set in Article 43 (2) and (3) of the Level 1 directive, our recommendation is to treat credit risk as one type of investment risk that shall be covered according to 43 (2c). This is in line with the guidance provided in 3.94, which states that credit risk should be addressed in the (re)insurance undertaking's investment strategy.	<i>has to be considered.</i>
258.	GDV	3.57	In its level 2 guidance CEIOPS should follow strictly to the principles set in the level 1 text and must not extend this minimum requirements or even postpone any elaboration of "other risks" to level 3-guidance.	<i>CEIOPS keeps within the scope of the Level 2 implementing measures which do not include elaborating upon "other risks".</i>
259.	CEA	3.57	In its Level 2 guidance CEIOPS should follow strictly the principles set out in the Level 1 text and should not extend these minimum requirements or to postpone any elaboration of "other risks" to Level 3 guidance.	<i>See comment 258 above.</i>
260.	AMICE	3.57	We note that CEIOPS specifies that the risk management system of the undertaking should cover all risks beyond those included in the SCR that may be considered materially relevant. We welcome this (the explicit reference to materiality), but would suggest some indication in the explanatory text about the concept of materiality in this context.	<i>This is outside the scope of the Paper.</i>
261.	KPMG	3.58	The lessons learnt from the Crisis paper issued by CEIOPS in March 2009 identified that some elements of the Solvency II regime needed strengthening. This paper recognised that for some risks such as custodian risks there was only a broad Pillar 2 approach to the issue as part of the investment policies of the undertakings and their risk management and internal control systems. Use of investment custodians is prevalent within insurers and we question whether this important risk should not be given more prominence within the risk management system	<i>CEIOPS agrees that custodian risk is important but has deliberately limited the "other risks to be considered" that it explicitly mentions for illustrative purposes to the risks most commonly mentioned in a Solvency II context.</i>
262.	IUA	3.60	We have no fundamental concerns with the proposed strategy for underwriting and reserving risk. We would raise, however, whether investment policy should necessarily be included in the underwriting strategy? Perhaps this would be better placed in the asset liability strategies?	<i>CEIOPS amended the paragraph. See amended paragraph 3.82. .</i>
263.	Ireland	3.62	This section is written as if it were a "review" rather than a "strategy". We	<i>Noted.</i>

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	S2G		suggest that more consideration be given to the language in order to make it appropriate for a strategy. For example, in d) it is not appropriate to refer to "adequacy" – it should refer to "required" instead. Suggest replacing with: "The minimum returns required". Also in f) a strategy should not refer to the "effectiveness" of a mitigation strategy. Suggest the following changes in bold: "Reinsurance and other risk mitigation strategies available and their effectiveness (...)". Similarly in g) a strategy should identify the risks arising and then have a process in place for considering the appropriate capital requirements to cover such a risk, rather than identifying the risks and the resulting capital requirements.	
264.	Deloitte	. 3.62	While we recognise that the strategy for underwriting and reserving risks should take into account risks related to investments, we believe that it should only make reference to the undertaking's investment and ALM strategies rather than include the investment policy itself.	<i>CEIOPS amended the paragraph. See amended paragraph 3.82. .</i>
265.	CEA	3.62	We do not see why the investment policy should be included in a proper underwriting and reserving strategy for non-life underwriting. It should only be considered in life underwriting.	<i>CEIOPS changed the paragraph. See amended paragraph 3.82. For non-life the investment policy may not always be relevant but it cannot generally be excluded from consideration.</i>
266.	ECIROA	3.63	The majority of captives reinsure policy-issuing primary insurers, who are also covered by this directive and on whose statistical and accounting systems they rely. Those writing primary (or direct) insurance have processes and procedures in place. <i>Undertakings can demonstrate that they have suitable processes and procedures in place.</i>	<i>Noted.</i>
267.	ECIROA	3.66	Captives have claims management procedures in place. The processes are more streamlined and function more efficiently than in most commercial insurance companies. <i>The "claims cycle", its systems and procedures are documentable by all captives and their managers.</i>	<i>Noted.</i>

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	Munich Re	3.67	We agree with advice 3.67.	<i>Noted.</i>
268.	Ireland S2G	3.67	In a reinsurance context, <u>ensuring</u> the "reliability, sufficiency and adequacy" of the data can be extremely challenging due to degrees of imperfection which are unfortunately necessarily part of the reinsurance and retrocession worlds (being several degrees removed from the actual data inputting and being on the receiving end of lags in reporting from counterparties). Often materiality must be considered in this quest. Suggest replacing with "Suitable processes and procedures should be in place for obtaining reliable, sufficient and adequate statistical and accounting data for use in to ensure the reliability, sufficiency and adequacy of both the statistical and accounting data to be considered both in the underwriting and reserving processes."	<i>CEIOPS believes that also in a reinsurance context the reliability, sufficiency and adequacy of the data is important and reinsurance undertakings should have in place processes and procedures to ensure that.</i>
269.	PwC	3.67 – 3.69	Specific reference to back-testing for underwriting risk might lead to overly challenging compliance requirements in some cases, e.g. low frequency, high-severity business or start-ups (see also Para 3.140 on operational risk). Alternatives, such as consortium data and expert opinions might also be considered.	<i>Back-testing is explicitly given as an example only.</i>
270.	PwC	3.67-3.69	General requirements concerning incentive systems should be mentioned in the next advice.	<i>Noted.</i>
271.	Munich Re	3.68	Regarding advice 3.68 we would like to note that this advice is not applicable to our reinsurance business, because we usually do not and often cannot distinguish between the distribution channels of our clients.	<i>Noted.</i>
272.	GDV	3.68	Regarding advice 3.68 we would like to note that this advice is not applicable to our reinsurance business, because we usually do not and often cannot distinguish between the distribution channels of our clients.	<i>Noted.</i>
273.	Ireland S2G	3.68	This is very insurer-specific. It needs to be altered to be relevant to reinsurance undertakings. Could "distribution channel" in the context of reinsurance undertakings mean "branches"? Also it is not clear how a reserving policy/procedure could be relevant in the context of a distribution channel of an insurer.	<i>Noted.</i> <i>Distribution channel means the same, but reinsurance undertakings may not have them in the plural.</i> <i>CEIOPS deleted the reference</i>

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				<i>to reserving.</i>
274.	Munich Re	3.69	Regarding advice 3.69 we would like to note that claims management processes of a reinsurance company will usually differ from the processes of a direct insurer.	<i>Noted.</i>
275.	Lloyd's	3.69	We suggest that the claims management procedures should cover "receipt" or "notification" (replacing "reception") and "processing" (replacing "procession").	<i>CEIOPS changed the text accordingly.</i>
276.	GDV	3.69	Regarding advice 3.69 we would like to note that claims management processes of a reinsurance company will usually differ from the processes of a direct insurer.	<i>Noted.</i>
277.	IUA	3.70	We agree with the proposed approach.	<i>Noted.</i>
278.	ABI	s 3.70 to 3.85 ALM	ALM We would recommend a sensible application of the requirements in this section as if they were considered hard rules this could prove very burdensome for firms. It could also deprive firms from their freedom to organise themselves the way that best meets their needs and business. ALM policies should not only depend on the needs of different product lines, they would also cover all relevant insurance, bank and investment products. This requirement should therefore not be limited to product lines (see para 3.83).	<i>Noted.</i>
279.	GDV	3.70	Asset-liability management needs to also take into account of the requirements imposed by national accounting systems. While highlighting the risk inherent in "economic values" is in line with the economic approach of Solvency II, long-term economic/strategic views and shorter-term operational/accounting views need to be also considered. This dual approach is supported by item 3.174 and should be mirrored in item 3.70 and throughout the paper.	<i>CEIOPS agrees that this is sensible but does not consider this relevant for the definition.</i>
280.	XL	3.70 – 3.85 (Asset Liability Management)	We would recommend a sensible application of the requirements in this section, because if they were considered hard rules this could prove very burdensome for firms. It could also deprive entities from their freedom to organise themselves in the way that best meets their needs and business.	<i>Noted.</i> <i>The material in this section mainly provides possible input for Level 3 guidance. Paragraphs 3.102 – 3.106 contains the Level 2 advice to</i>

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				<i>the Commission</i>
281.	CEA	3.70	Asset-liability management needs to also take into account of the requirements imposed by national accounting systems. While highlighting the risk inherent in "economic values" is in line with the economic approach of Solvency II, long-term economic/strategic views and shorter-term operational/accounting views need to be also considered. This dual approach is supported by item 3.174 and should be mirrored in item 3.70 and throughout the paper.	<i>See comment 279 above.</i>
282.	Oliver Wyman	3.71 and 3.94	The advice states that a (re)insurance undertaking should have an ALM strategy as well as an investment strategy. We agree that these are necessary and that 3.72 and 3.94 describe appropriate elements of such a strategy. Given that asset liability and investment management are closely interlinked, companies should be allowed to have a joined ALM and investment strategy, i.e. combine the components laid out in 3.71 and 3.94 in a joined ALM and investment strategy. This would be in line with ALM and investment management concepts and tools such as liability-driven benchmarks and risk budgets.	<i>CEIOPS agrees. Undertakings are free as to how they set and integrate their strategies and policies.</i>
283.	Jos Kleverlaan (DNB)	3.71	3.71 and 3.79 do not connect. 3.71 is too limited.	<i>The comment is very unspecific.</i>
284.	Jos Kleverlaan (DNB)	3.75	There is no such thing as "the" correlation. The wordings suggest a deterministic relationship.	<i>The wording was changed with 'correlations' replacing 'the correlation'. See amended paragraph 3.95.</i>
285.	XL	3.75	Para 3.75 " <i>The ALM framework should not only recognise the interdependence between assets and liabilities but take into account the correlation of risks between different asset classes and the correlations between different products and business lines.</i> " This could prove very burdensome for firms and in terms of splitting assets by business and product line.	<i>This statement has to be put against the background of the principle of proportionality.</i>
286.	ICAEW	3.76	ALM – have regard to any off-balance sheet exposures. Given the roots of the current credit crisis, should there be more requirement for	<i>The requirement to monitor and report the risks the undertaking is or could be</i>

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			specific monitoring and reporting of off balance sheet exposures, both internally as part of governance and externally to supervisors?	<i>exposed to on a continuous basis covers any off-balance sheet exposures.</i>
287.	KPMG	3.76	It is stated that asset liability management should have regard to any off-balance sheet exposures. We agree with this as a concept, but wonder whether there should be reference within this paper to the need for off-balance sheet exposures to be separately identified and monitored.	<i>See comment 286 above. Explicit reference to the identification, monitoring etc. of off-balance sheet exposures was added. See amended paragraph 3.97.</i>
288.	Jos Kleverlaan (DNB)	3.77	The size and structure of solvency will have an influence as well	<i>Noted.</i>
289.	Ireland S2G	3.80 c)	This language may not be appropriate for a reinsurer. Suggest adding language in bold "(...) provide for (...) assessment of the possible effects these can have throughout the life of the insurance policies and/or reinsurance contracts."	<i>The wording was changed accordingly. See amended paragraph 3.100 and 3.105.</i>
290.	Munich Re	3.82	The undertaking shall develop written ALM policies that <u>besides market and credit risk</u> especially take into account the interrelation with other types of risks, such as liquidity and underwriting risks, establish ways to manage the possible effect of options embedded in the products, provide for a structuring of the assets that ensures the undertaking holds sufficient cash and diversified marketable securities of an appropriate nature, term and liquidity to meet its obligations as they fall due.	<i>The wording was changed accordingly. See amended paragraph 3.104.</i>
291.	GC	3.82	"Obligations to pay bonuses to policyholders" is referred to in 3.72(b) but not included in 3.82. We consider it appropriate to include this requirement within 3.82 with a clarification as to the type of bonuses that should be considered eg vested and/or discretionary future bonus.	<i>The wording was changed for the obligations to explicitly include bonuses payable to policyholders. CEIOPS does not consider it necessary to specify the bonuses. See amended paragraph 3.104.</i>
292.	GDV	3.82	The undertaking shall develop written ALM policies that <u>besides market and credit risk</u> especially take into account the interrelation with other types of risks, such as liquidity and underwriting risks, establish ways to manage the possible	<i>See comment 291 above.</i>

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			effect of options embedded in the products, provide for a structuring of the assets that ensures the undertaking holds sufficient cash and diversified marketable securities of an appropriate nature, term and liquidity to meet its obligations as they fall due.	
293.	ROAM	3.82	We think it is useful and necessary to formalize guidelines in the asset & liability management policy. However, we think it can be counterproductive to want to describe everything in advance. Too many rules can sometimes damage the quality of the analysis.	<i>The requirement stated is principles based. The undertaking should apply this requirement taking the principle of proportionality into account.</i>
294.	AMICE	3.82, 3.84 and 3.85	CEIOPS states that the undertaking shall develop written ALM policies that especially take into account the interrelation with other types of risks, such as liquidity and underwriting risks. We understand the concerns of CEIOPS with regard to liquidity and underwriting risks, and to the risks resulting from embedded options. They are certainly topical in the context of the current banking crisis. However, we do not believe that a text of such prescriptive detail would be well-placed in a level 2 implementation measure and suggest therefore to CEIOPS to revise its advice to the Commission.	<i>The requirements stated are principles based. The undertaking should apply these requirements taking the principle of proportionality into account.</i>
295.	Munich Re	3.83	Within the ALM policies it should also be described what the general strategy with regard to embedded options in products (if applicable) is.	<i>Noted.</i>
296.	FFSA	3.83	ALM policy definition We suggest including in the article 3.83 the point that the undertaking shall tailor its ALM policies to the needs of its different risks and activities.	<i>The wording was changed to be more general. See amended paragraph 3.106.</i>
297.	GC	3.83	We recommend replacing the requirement to tailor ALM policies for “product lines” by a requirement to tailor to “business lines”. This would be consistent with the wording in 3.84.	<i>The wording was changed to be more general. See amended paragraph 3.106.</i>
298.	GDV	3.83	Within the ALM policies it should also be described what the general strategy with regard to embedded options in products (if applicable) is.	<i>Noted.</i>
299.	CEA	3.83	We suggest including in paragraph 3.83 the point that the undertaking shall tailor its ALM policies to the needs of its different risks and activities.	<i>The wording was changed. See amended paragraph</i>

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			The amended paragraph would therefore be the following: "The undertaking shall tailor its ALM policies to the needs of different product lines, different risks, and different activities. The undertaking shall combine the ALM policies appropriately in order to optimise the overall ALM management".	3.106.
300.	Munich Re	3.84	We would support this statement.	Noted.
301.	GDV	3.84	We support this position.	Noted.
302.	Munich Re	3.85	We would support this statement.	Noted.
303.	GC	3.85	It would be useful to have guidance on what is expected by "regard to any off-balance sheet exposures". This would include guidance on the types of exposures that should be included and those that may be excluded.	Noted. "Any" means there are no exclusions.
304.	GDV	3.85	We support this position.	Noted.
305.	CROF	3.85	<i>"The ALM framework should not only recognise the interdependence between assets and liabilities but also take into account the correlation of risks between different asset classes and the correlations between different products and business lines."</i> <i>"Undertakings should also have regard to any off-balance sheet exposures that they may have."</i> The requirement should be in addition to policies on market and credit risks.	Noted.
306.	IUA	3.86	We are comfortable with the proposals though would question why 'internal' in Para 3.107 has been omitted in the blue text of 3.113, 'The investment policy shall include quantitative limits on assets'. It would seem reasonable to clarify that the limits are internal and not prescribed limits.	CEIOPS has provided the clarification. See amended paragraph 3.134.
307.	ICAEW	3.87	Undertakings should only invest in assets or instruments that they can properly monitor, manage and control – have to be able to fulfil the prudent person principle in relation to this. Does this mean that in practice there will need to be an investment specialist on the management team if an entity is investing in complex instruments? This would give more control around the assessment of investments and their risk,	Yes. Refer to section 3.1 and 3.2.

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			although many smaller, and especially general insurance firms, outsource this specialism.	
308.	CROF	3.87, 3.96, 3.108	<p><i>"Undertakings shall, according to the "prudent person" principle as specified in Article 130(2) of the Level 1 text, only invest in assets and instruments which they can properly monitor, manage and control.[...]"</i></p> <p>We agree with the comments on the application of the "prudent person" principle (expert manager) to the management of investments, and that companies should only invest in asset classes they can properly manage and understand.</p> <p>However, the role of external managers – when the expertise in relation to the management of certain asset classes is outsourced to them – is not addressed. External managers play an important role in extending the range of investment options available to (re)insurers. These external managers should be subject to the same rules governing outsourcing of key functions.</p>	<p><i>Noted.</i></p> <p><i>Refer to section 3.7</i></p> <p><i>Outsourcing of the investment is outsourcing of a critical or important function and therefore requirements under 3.379 and 3.381 and 3.382 should be complied with..</i></p>
309.	Jos Kleverlaan (DNB)	3.89, 3.92	<p>3.89 sub b) A plan to deal with unexpected cash outflows or changes in expected cash in- and outflows; and</p> <p>3.92 ...the assets they are buying and / or originating.</p>	<p><i>Noted. See amended para. 3.100..</i></p> <p><i>Noted. See amended para. 3.115.</i></p>
310.	Ireland S2G	3.88	Typo - Suggest deleting the word "in" as follows: "undertakings (...) should preferably use in risk management models that consider all relevant variables."	<i>The word was deleted.</i>
311.	KPMG	3.88, 3.92	We agree with CEIOPS on the overall principle that undertakings should only invest in assets and instruments which they thoroughly understand.	<i>Noted.</i>
312.	Ireland S2G	3.91	Typo - Suggest replacing "and" with a comma as follows: "If the risks arising from the investments are not adequately covered by the standard formula quantitative limits and , asset eligibility criteria may in the future be developed (...) to address those risks."	<i>The text is in line with Level 1 text (article 111 (2))</i>
313.	CEA	3.93	The wording of paragraph 3.93 should be improved on to clarify its meaning.	<i>CEIOPS is not totally opposed to the future development of</i>

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			<p><i>"On that basis, CEIOPS would rather evoke the Prudent Person principle and believes that the restrictive use of quantitative limits remains appropriate under the Solvency II regime."</i></p> <p>The meaning of this sentence is ambiguous but presumably it means that quantitative limits should be applied sparingly and by exception. It would be helpful if this could be clarified.</p>	<i>quantitative limits under Level 2 that the Level 1 text provides for but does not support the extensive use of such limits.</i>
314.	KPMG	3.96	<p>We agree with that mark to model methodologies need to have sufficient resources devoted to them and also the need for independent price verification. However, we question the consideration of the need for back-up valuation models. It is likely that some degree of this may be included within the independent price verification process and the need for another model would seem onerous in all but a few cases. If this is deemed necessary, then consideration will also be needed regarding the ability of this model to generate a fair value, with the need for similar independent price verification in particular. Most (re)insurance undertakings would not have sufficient properly qualified investment staff to maintain potentially three models.</p>	<i>As this paragraph is not included in Level 2 advice CEIOPS will reconsider this under the discussion for Level 3.</i>
315.	GDV	3.101	<p>There should be consistency between the consultation paper on SPVs and this consultation paper.</p> <p>Governance requirements regarding special purpose vehicles stated in consultation paper no. 36 should be incorporated in this paper and not only referred to.</p> <p>We would also ask CEIOPS to define ISPV as this term is not defined in the consultation paper.</p>	<p><i>Noted.</i></p> <p><i>The governance requirements on SPV's are covered by this Advice on both paragraph 3.123 and in paragraphs 3.177 and 3.178.</i></p> <p><i>The definition was provided in a footnote as a reference to the definition of the Level 1 Directive.</i></p>

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316.	CEA	3.101, 3.155-3.157, 3.161	<p>There should be consistency between the consultation paper on SPVs and this consultation paper.</p> <p>Governance requirements regarding special purpose vehicles stated in consultation paper 36 should be incorporated in this paper and not only referred to.</p> <p>We would also ask CEIOPS to define ISPV as this term is not defined in the consultation paper.</p>	<p><i>The Papers are consistent.</i></p> <p><i>See comment 315 above.</i></p>
317.	Ireland S2G	3.103	<p>Two observations:</p> <p>1. In unit-linked business whereby policyholders select the investments, the undertaking should not be responsible for level of risk that policyholder chooses to take, provided it has taken appropriate steps to ensure the policyholder is informed of risks.</p> <p>2. The reference to policyholders suggests that only direct writers are envisaged by the language.</p> <p>Suggest the following amendment in bold to allow for both observations: "The assets should also be appropriate so that the policyholders undertaking is not exposed to undue risk."</p>	<p><i>The text was changed accordingly. See amended paragraph 3.125.</i></p>
318.	KPMG	3.105	<p>"The grouping together of "derivative products, asset backed securities (ABS) and collateralised debt obligations (CDOs), hedge funds" does not seem immediately logical. Derivative products are normally used as a tool for implementing various investment strategies such as efficient portfolio management or reduction in investment risk; ABS and CDOs are credit instruments; hedge funds are alternative investments.</p> <p>Further elaboration would be useful as to what is meant by "any other financial instruments with similar characteristics" to ensure (re)insurance undertakings capture the necessary instruments to comply with this guidance.</p>	<p><i>See footnote 7.</i></p>
319.	Munich Re	3.108	We would support this statement.	<p><i>Noted.</i></p>
320.	GC	3.108	After competent replace full stop with comma.	<p><i>The text was changed accordingly.</i></p>
321.	GC	3.108	We agree that the undertaking should define its investment policy in line with	<p><i>"Prudent manager" refers to</i></p>

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			what a competent and expert manager would apply. We are not clear why it is necessary for the manager to also be prudent as this implies that the outcome required by the investment strategy is less likely to be achieved as the decisions making are biased.	<i>the prudent person concept.</i>
322.	GDV	3.108	We support this position.	<i>Noted.</i>
323.	Ireland S2G	3.108 – 3.113	The advice from 3.108 to 3.113 does not contemplate unit-linked insurance business where policyholders choose the underlying investments and thereby choose the levels of risk that they wish to take. Provided that policyholders are aware of the underlying investment risks (an area that is governed by consumer protection regulations in the various member states) then the advice in these paragraphs has little or no relevance. There is a danger of confusion of objectives when prudential supervision of insurers' solvency strays into territory that is more properly within the ambit of consumer protection.	<i>The special nature of for instance the unit-linked business is included in para 3.126, where it reads: The investment policy shall take into account the undertaking's business...</i>
324.	PwC	3.108	The reference to an investment policy 'in line with what a competent, prudent and expert manager would apply' may require further clarification at Level 3. More clarification is also needed regarding consistency between investment policy, risk strategy and capital allocation/limitation.	<i>Further detail on the investment policy will be provided in the Level 3 guidance.</i>
325.	Deloitte	. 3.108	Many undertakings rely on external asset managers for the actual implementation of their risk management policies. While this situation is addressed through the requirements in respect of outsourcing, we believe the investment policy itself should include a provision on the role, responsibility and performance assessment of external asset managers and related parties (such as custodians, etc.) who may have been delegated certain regulated functions.	<i>These issues need to be addressed somewhere, but not necessarily in the investment policy.</i>
326.	Munich Re	3.109	An investment policy could also be written in a more general, principle oriented way and reference to a limit systems that has to be in place. Risk tolerance levels, solvency requirements and limits on assets could be part of the limit system. The advantage is that the investment policy would have to be changed less frequently.	<i>This is a principles based requirement to be implemented, taking the principle of proportionality into account. However, all written policies have to be reviewed at least annually.</i>

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327.	GC	3.109	The inclusion of the phrase “long term risk-return requirements” is unclear in this context and further clarification would be useful.	<i>The wording was changed. See amended paragraph 3.131.</i>
328.	GDV	3.109	An investment policy could also be written in a more general, principle oriented way and reference to a limit systems that has to be in place. Risk tolerance levels, solvency requirements and limits on assets could be part of the limit system. The advantage is that the investment policy would have to be changed less frequently.	<i>See comment 326 above.</i>
329.	CROF	3.109	<p><i>“The investment policy shall take into account the undertaking’s business, its overall risk tolerance levels, the solvency position and the long-term risk-return requirements and its underlying exposure (gross and net of offsetting transactions).”</i></p> <p>An investment policy could also be written in a more general, principle oriented way and reference to a limit system that has to be in place. Risk tolerance levels, solvency requirements and limits on assets could be part of the limit system. The advantage is that the investment policy would have to be changed less frequently.</p>	<i>See comment 326 above.</i>
330.	Munich Re	3.110	The controls should probably be proportional to the risk involved. When, for example, the risk is quite complex, but the loss potential is very small compared to the overall asset base, it may not be prudent to establish expensive management procedures.	<i>The proportionality principle applies throughout this advice. A higher risk profile means the loss potential is not very small.</i>
331.	GC	3.110	There is reference to “higher risk profile” but it is not clear what it is higher than.	<i>The impact on the risk profile is not immaterial.</i>
332.	GDV	3.110	The controls should probably be proportional to the risk involved. When, for example, the risk is quite complex, but the loss potential is very small compared to the overall asset base, it may not be prudent to establish expensive management procedures.	<i>See comment 330 above.</i>
333.	PwC	. 3.110	In particular, requirements with regards to to the qualifications of the staff dealing with complex products should be included.	<i>Refer to advice 3.29, d).</i>
334.	Munich	3.111	When undertakings use derivative products or any other financial instrument	<i>CEIOPS believes that the minimum requirements for the</i>

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	Re		<p>with <u>derivative</u> characteristics, such as ...</p> <p>We agree, that the risk management principles have to be written down. The question is, whether this really has to be part of the investment policy. We would envision a less-transient investment policy and the operational aspects reflected in handbooks and limit systems.</p>	<p><i>investment policy are adequate. Derivative products or products with similar characteristics may represent higher risk profiles and should therefore be subject to more transparency under the investment policy..</i></p>	
335.	GC	3.111	Hedge funds carry out a range of different investment strategies. Some of these strategies may not be similar to the returns from a derivative contract.	<i>Noted.</i>	
336.	L&G	3.111	There is no reason why derivatives products or any other financial instruments with similar characteristics should be specifically mentioned. The investment policy should specify the range of assets permitted and the way they are used to contribute to an efficient portfolio as well as procedures to evaluate the strategy and the principles to risk management to be applied	<i>Refer to Level 1 text, article 44, (2) under c.</i>	
337.	GDV	3.111	<p>When undertakings use derivative products or any other financial instrument with <u>derivative</u> characteristics, such as ...</p> <p>We agree, that the risk management principles have to be written down. The question is, whether this really has to be part of the investment policy. We would envision a less-transient investment policy and the operational aspects reflected in handbooks and limit systems.</p>	<i>See comment 335 above.</i>	
338.	Munich Re	3.112	We would support this statement, although liquidity management must not necessarily be explained in the investment policy, but could also be documented in explicitly.	<i>Noted.</i>	
339.	Lloyd's	3.112	We suggest that the phrase "claims management" at the end of the paragraph should be "claims management strategy".	<i>The wording was changed accordingly. See amended paragraph 3.128.</i>	
340.	GDV	3.112	We would support this statement, although liquidity management must not necessarily be explained in the investment policy, but could also be documented in explicitly.	<i>Noted.</i>	
341.	Munich Re	3.113	The investment policy shall include quantitative limits on assets <u>or exposures like counterparty credit exposures where parts of both sides of the balance sheet are</u>	<i>See comments 326 and 334 above.</i>	

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			<p><u>taken into account.</u></p> <p>An investment policy could also be written in a more general, principle oriented way and reference to a limit systems that has to be in place. Risk tolerance levels, solvency requirements and limits on assets could be part of the limit system. The advantage is that the investment policy would have to be changed less frequently.</p>	
342.	Lloyd's	3.113	<p>This paragraph should be amended to refer to "internal quantitative limits on assets" so that it is consistent with para 3.107 and to ensure that it is clear that these are internal and not prescribed limits.</p>	<i>The wording was changed to clarify the point. See amended paragraph 3.134.</i>
343.	GDV	3.113	<p>The investment policy shall include quantitative limits on assets <u>or exposures like counterparty credit exposures where parts of both sides of the balance sheet are taken into account.</u></p> <p>An investment policy could also be written in a more general, principle oriented way and reference to a limit systems that has to be in place. Risk tolerance levels, solvency requirements and limits on assets could be part of the limit system. The advantage is that the investment policy would have to be changed less frequently.</p>	<i>See comments 326 and 334 above.</i>
344.	CROF	3.113	<p><i>"The investment policy shall include quantitative limits on assets."</i></p> <p>This paragraph should probably be more general in that quantitative limits can also be set on other exposures, such as counterparty credit exposures.</p> <p>Also, in practice some companies may set quantitative limits as an extension to a more principle-based investment policy. We assume that this "system" of limits will still comply with the requirements of the paragraph and be considered part of the investment policy as part of the implementing measures, as long as the governance around the setting, updating and monitoring of the limits is robust.</p> <p>Finally we recommend that any quantitative limits should have the capacity to vary dynamically with the circumstances, for instance limits defined against benchmarks or concentration limits. This would avoid a need for constant revision to the investment policy in volatile markets.</p>	<p><i>See comments 326 and 334 above.</i></p> <p><i>The limits will be defined by the undertaking and should follow its risk profile and risk strategy. CEIOPS does not see any problem regarding dynamic limits.</i></p>
345.	PwC	3.113 (in	Specific reference to the type of limits to be used might be relevant: nominal	<i>It is expected that this will be</i>

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		addition to other references to quantitative limits, e.g., in 3.62c, 3.100, 3.107 and 3.125	thresholds might prove insufficient compared to economic limits, e.g. in terms of VaR or sensitivities.	<i>explained in more detail under level 3.</i>	
346.	Jos Kleverlaan (DNB)	3.114	this is too limited. This ignores the uncertain nature of cashflows surrounding insurance and investments	<i>The definition is in line with the Level 1 text.</i>	
347.	GDV	3.114-3.120, 3.80	More details should be given on the relationship between liquidity risk management and ALM. In general long term liquidity risk management is part of ALM. Thus the requirements should not be doubled in statements under paragraph 3.80 and 3.114-3.120.	<i>The interrelationships was clarified.</i>	
348.	CEA	3.114-3.120, 3.80	More details should be given on the relationship between liquidity risk management and ALM. In general long term liquidity risk management is part of ALM. Thus the requirements should not be doubled in statements under paragraph 3.80 and 3.114-3.120.	<i>See comment 347 above.</i>	
349.	Jos Kleverlaan (DNB)	3.117, 3.118	Please add: the influence of the uncertainty of expected new business	<i>The wording was changed accordingly. See amended paragraph 3.141.</i>	
350.	RSA Group	3.117 and 3.118	We believe that the requirements of liquidity contingency plans will need to depend on how material liquidity risk is for the firm concerned. Further clarity is also required on what is defined as 'continuous monitoring' and 'regular review'.	<i>The requirement is to be applied taking the principle of proportionality into account. What constitutes an adequate regular review is also subject to proportionality. Level 3 guidance is to be expected.</i>	
351.	ABI	3.117 and	We believe liquidity contingency plans will need to depend on how material	<i>The proportionality principle</i>	

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		3.118	liquidity is for the risks of the undertaking concerned. Most general insurers have liquid investments and will therefore be less exposed to liquidity risk. Therefore, it could prove very time consuming and resource intensive for all insurers to develop detailed plans for remote contingencies when a simple assessment and plan might be more appropriate.	<i>applies and simpler risks should result in simpler plans.</i>
352.	GDV	3.117-3.118, 3.120	<p>Proportionality should be taken into account when requiring a liquidity contingency plan.</p> <p>We agree in principle that an undertaking should have in place liquidity contingency plan. But this should be subject to proportionality. Most general insurers at least have very liquid investments while long term insurers have relatively little exposure to liquidity risk. Therefore it would be a wasteful use of resources to have detailed plans for remote contingencies when a simple assessment and plan would be more appropriate.</p> <p>Illustrations or examples of what is meant by 'continuous' monitoring and 'regular' review would also be helpful.</p>	<i>See comment 351 above..</i>
353.	ROAM	3.117	Rather than developing an emergency plan to face a confirmed liquidity risk we think it would be more suited and less expensive to integrate the management of this risk upstream into the financial management policy (see 3.116 and 3.118).	<i>Noted.</i>
354.	KPMG	3.117	While we agree that (re)insurance undertakings need to have a liquidity contingency plan, in reality for most (re)insurance undertakings the nature of their debt position will not change significantly on a day to day basis, except as a result of adverse claims experience. Even in these circumstances, claims take time to assess and process, so that immediate liquidity is not such a significant issue (compared to banks say). As such, we question the need for "continuous" monitoring of the debt position.	<i>Noted.</i>
355.			Confidential comment deleted.	
356.	CEA	3.117-3.118, 3.120	<p>Proportionality should be taken into account when requiring a liquidity contingency plan.</p> <p>We agree in principle that an undertaking should have in place a liquidity contingency plan. But this should be subject to proportionality. Most general insurers at least have very liquid investments while long term insurers have relatively little exposure to liquidity risk. Therefore it would be a wasteful use of</p>	<i>See comment 351 above.</i>

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			resources to have detailed plans for remote contingencies when a simple assessment and plan would be more appropriate. Illustrations or examples of what is meant by 'continuous' monitoring and 'regular' review would also be helpful.		
357.	AMICE	3.117 and 3.120	We believe that the suggestions by CEIOPS for a detailed liquidity contingency plan are very detailed, hence burdensome, and lack moreover any reference to proportionality, in particular with regard to item (c), review and testing.		<i>See comment 351 above.</i>
358.	Lloyd's	3.119	For consistency with para 3.116 we suggest that the paragraph should be amended to read: "It is the undertaking's responsibility to have sound liquidity management practices which cover both short term and long term considerations and include, for long term considerations, stress test and scenario analyses."		<i>CEIOPS believes that the stress texts and scenario analysis could be used for both short and long term.</i>
359.	Pearl	3.120	Illustrations or examples of what is meant by 'continuous' monitoring and 'regular' review would be helpful.		<i>See comment 351 above.</i>
360.	Munich Re	3.120 a	There appears to be a typographical error in the sentence. Presumably what is meant is "The continuous monitoring of the undertaking's debt position <u>and</u> A analysis of the undertaking's debt capacity." The emphasis of the liquidity contingency plan will presumably be on short-term "fire fighting". Consequently, it would seem that paragraph 3.120a) should place an emphasis on, or perhaps even limit the focus to, short-term considerations.		<i>Correct.</i> <i>CEIOPS believes that a liquidity contingency plan should cover both short and long term.</i>
361.	GC	3.120(a)	This needs an "and" to be added between "position" and "Analysis" and "A" to be replaced by "a". Alternatively split in to two points and re label points that follow.		<i>The typographical error was corrected.</i>
362.	GDV	3.120a	There appears to be a typographical error in the sentence. Presumably what is meant is "The continuous monitoring of the undertaking's debt position <u>and</u> A analysis of the undertaking's debt capacity." The emphasis of the liquidity contingency plan will presumably be on short-term "fire fighting". Consequently, it would seem that paragraph 3.120a) should place an emphasis on, or perhaps even limit the focus to, short-term considerations.		<i>See comment 361 above.</i>

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363.	Ireland S2G	3.120 a)	Typo - Suggest inserting "and" as follows: "The continuous monitoring of the undertaking's debt position and analysis of the undertaking's debt capacity."	See comment 361 above.
364.	CEA	3.120.a	There appears to be a typing error in the sentence. Presumably what is meant is "The continuous monitoring of the undertaking's debt position and analysis of the undertaking's debt capacity."	See comment 361 above.
365.	CEA	3.120.a-b	The emphasis of the liquidity contingency plan should be on short-term considerations. Paragraphs 3.120.a and 3.120.b should place emphasis on short-term considerations and short-term financing options. The potential to raise additional funds from shareholders could also be considered in paragraph 3.120.b.	See comment 351 above.
366.	Munich Re	3.120 b	Again, the emphasis/focus should be on the undertaking's short-term financing options. The potential to raise additional funds from shareholders could also be considered.	See comment 360 above.
367.	GDV	3.120b	Again, the emphasis/focus should be on the undertaking's short-term financing options. The potential to raise additional funds from shareholders could also be considered.	See comment 360 above.
368.	IUA	3.120	It would be useful to clarify 'continuous' and 'regular' review with regular examples.	Refer to comment 351.
369.	Lloyd's	3.120	It is not clear whether the phrase "Analysis of the undertaking's debt capacity" at the end of 3.120(a) is intentional – it is not included in para 3.117, from which the text of 3.120 appears to be taken.	The relevant paragraphs were aligned.
370.	ABI	3.120	Illustrations or examples of what is meant by 'continuous monitoring' and 'regular review' would be helpful.	Refer to comment 351.
371.	PwC	Section 3.3 3.120	See comment above under para 3.53 with regards to 'continuous monitoring'.	-
372.	CROF	3.120	"The undertaking shall have in place a liquidity contingency plan that includes: a) The continuous monitoring of the undertaking's debt position Analysis of the undertaking's debt capacity; b) Identification of the available financing options, including reinsurance, the	

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			<p><i>negotiation of credit lines, committed borrowing facilities and intra-group financing;</i></p> <p>There appears to be a typographical error in the sentence in para 3.120 (a). Presumably what is meant is "The continuous monitoring of the undertaking's debt position and analysis of the undertaking's debt capacity."</p> <p>In para 3.120 b), the potential to raise additional funds from shareholders could also be considered.</p> <p>We note that liquidity risk seems focused on financing activity which is a cash and capital management issue. We believe this section needs to be expanded to cover liquidity risk in (re)insurance operations. We encourage CEIOPs to read the CRO Forum's Best Practice Paper on Liquidity Risk Management which can be found on the CRO Forum website www.CROForum.org. This paper is written along the lines of 8 principles. As a teaser, here is a subset of the executive summary:</p> <p>"The CRO Forum believes that liquidity risk is a risk that must be managed closely both in normal operating environments as well as under the occurrence of extreme liquidity risk circumstances. We believe that liquidity risk is unique to every company and any liquidity risk management program must take into account the characteristics of the specific (re)insurers assets and liabilities in addition to other internal factors such as policyholder servicing and distribution and external factors such as the insurance and capital markets in which the company operates.</p> <p>We believe that adequate liquidity (whether from internal or external sources) must be maintained at all times to manage through even extreme liquidity risk events and that it is inappropriate to expect any amount of required capital to protect against insolvency arising from this risk. The best line of defence is a strong liquidity policy and management framework where liquidity risk is robustly measured, monitored, and managed. This framework should include an operational plan to help the company manage through liquidity stress conditions."</p>	See comment 361 above.
373.	IUA	3.121	We agree with the proposals.	Noted.
374.	XL	3.121 to 3.129	While we broadly agree with the proposals, they seem to expect concentration risk to be monitored at individual entity level. In a diversified group, limits and	Even when limits and policies are set at group level

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		(Concentration risk management)	policies for concentration risk and mitigating actions would likely be set at group level. We would welcome CEIOPS views on the practical interaction between group and legal entity in this area.	<i>monitoring still needs to take place at individual entity level.</i>
375.	CEA	3.121, 3.122	<p>The definition of concentration risk is too wide.</p> <p><i>"Concentration risk means all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position of undertakings."</i></p> <p>The definition of concentration risk is wide as it includes credit risk, market risk, underwriting risk, liquidity risk, and other risks by counterparty, industry or geographical area. However, it should only be related to exposures which are large enough to threaten the solvency of an undertaking.</p>	<i>The definition is in line with the Level 1 text.</i>
376.	KPMG	3.124	It would be helpful if the implications of concentration risk (other than as part of the underwriting elements of the SCR calibration) were expanded upon.	<i>Under the risk management system undertakings should consider all types of concentration risk (see paragraph 3.144) to which they are exposed.</i>
377.	Munich Re	3.128	The wording in this paragraph might benefit from some tightening up. For example, "...shall define the relevant sources of risk concentration like the relevant sectors and geographical areas to be taken into account" might be more clearly expressed as "... shall define the sources of risk concentration relevant to their portfolios. Examples include, exposures emanating from specific economic sectors or geographical areas.".	<i>The wording was changed accordingly. See amended paragraph 3.151.</i>
378.	GDV	3.128	The wording in this paragraph might benefit from some tightening up. For example, "...shall define the relevant sources of risk concentration like the relevant sectors and geographical areas to be taken into account" might be more clearly expressed as "... shall define the sources of risk concentration relevant to their portfolios. Examples include, exposures emanating from specific economic sectors or geographical areas.".	<i>See comment 376 above.</i>
379.	CROF	3.130-3.146	<p><i>"The undertaking shall implement an effective process to regularly identify, document and monitor exposure to operational risk and track relevant operational risk data, including near misses and interrelation between risks."</i></p> <p>It is important that operational risk management set the overall operational risk</p>	<i>Noted. The reference to any</i>

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			<p>framework which includes risk identification, operational risk assessment methodology and setting the risk control framework that cuts across all operational risks. The mentioning of specific functions should be avoided where possible in regulatory papers, to support enterprise risk management with strong risk control instead of silo-approaches. Also see our comments on section 3.4. . Paragraph 3.132 excludes reputation risk from the scope of operational risk. It is hard to see this working in practice as the potential damage to reputation is the consequence of a risk event and not a separate risk. This is also recognized in the paragraphs 3.175 - 3.177, which do stress though the need for a company to understand the risks that could cause significant reputation damage. These risks will include operational risk events with reputation damage as (one of) the loss(es) resulting from them. We believe that understanding your key values and the risk events that could cause significant reputation damage should be sufficient, naturally combined with proper follow-up on the outcomes of this analysis.</p> <p>We fully agree with 3.134 (c) that materiality considerations are important.</p> <p>Advice in paragraph 3.145 refers to the tracking of relevant operational risk data. In the discussion (para 3.137) it states that CEIOPS expects internal loss data collection to occur subject to the principle of proportionality. We believe that both principles of proportionality and of materiality should be included in the advice paragraphs. Internal loss data should be collected at a level that is useful to the company in its ability to monitor the effectiveness of mitigation on material operational risks. The advice focuses only on the collection of data as a specific operational risk management tool. Although implicitly referenced in paragraphs 3.134 and 3.138, we believe there needs to be specific reference to other important elements of management control which are generally used by operational risk managers (e.g. control and risk self assessments, risk self assessments, business continuity plans, etc.) in the advice.</p> <p>In the discussion, other operational risk "tools" can be put as examples - the use of scenario testing approaches, including top-down extreme scenario analysis or forward looking assessments; and business process modelling.</p>	<p><i>specific function should not lead to a silo-approach. See also definition of function.</i></p> <p><i>This paragraph is in line with the Level 1 Text (Article 101 (4) that excludes risks arising from strategic decisions and reputation risks from the operational risk.</i></p> <p><i>Noted. Application of both proportionality and materiality could be further developed at Level 3 guidance.</i></p> <p><i>Other aspects of risk management areas are dealt with elsewhere in the paper.</i></p> <p><i>CEIOPS agrees that tools other than internal data should be used.</i></p>
380.	ABI	3.135, 3.136, 3.139, 3.142,	<u>In general, CEIOPS should elaborate and give more advice on how it expects undertakings to tackle operational risk in its future CPs.</u>	<i>CEIOPS has no intention of interfering in the way undertakings organises</i>

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		3.193, 3.228	<ul style="list-style-type: none"> CEIOPS should link the section on operational risk management to the section on internal control. Management of operational risk is usually addressed by an effective internal control system. We suggest adding the following to paragraph 3.136: "The undertaking should also establish criteria which will clearly distinguish between the operational risk events and e.g. reputational, strategic, compliance risk events". It should be helpful in appropriate risk measurement and capital management. Additionally it should be clarified which function keeps the "ownership" or responsibility to implement an internal control system. Since it could be seen as an instrument or measure of operational risk management one could consider allocating this duty to the risk management function. 	<p><i>themselves as long as the requirements are complied with.</i></p> <p><i>The text requires undertakings to define what constitutes operational risk for them. Also, Level 3 recommends that in the identification of the operational risk event the event should be categorised. CEIOPS believes that these requirements are adequate.</i></p>
381.	GDV	3.135, 3.136, 3.139, 3.142, 3.193, 3.228	<p>In general, CEIOPS should elaborate and give more detail on how it expects undertakings to tackle operational risk.</p> <ul style="list-style-type: none"> More detail is required at Level 3. This is, in particular, on IT-systems, operational risk events and early warning systems. CEIOPS should link the section on operational risk management to the section on internal control. Management of operational risk is usually addressed by an effective internal control system. We suggest adding the following to paragraph 3.136: "The undertaking should also establish criteria which will clearly distinguish between the operational risk events and e.g. reputational, strategic, compliance risk events". It should be helpful in appropriate risk measurement and capital management. Management of operational risk is usually addressed by an effective internal control system. Therefore CEIOPS should consider linking this to chapters (operational risk management and internal control system). Additionally it should be clarified which function keeps the "ownership" or responsibility to implement an internal control system. Since it could be seen as an instrument or measure of operational risk management one could consider allocating this duty to the risk management function. 	<p><i>How undertakings tackle operational risk is up to them, provided that the requirements are complied with. However, CEIOPS will issue Level 3 guidance whenever it is necessary to achieve greater harmonisation.</i></p> <p><i>See comment 380 above.</i></p> <p><i>Function is not a department or business unit. See definition of function. Nevertheless CEIOPS reminds that this section is under the risk</i></p>

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					<i>management system.</i>
382.	Ireland S2G	3.135 a)	This language should be reconsidered to take account of outsourcing. Any outsourced functions should be included in the operational risk management strategy. Suggest the following addition in bold: "(...) should usefully take into account: The entire activities and internal processes in place in the undertaking, including any functions that are outsourced and including any IT system supporting them."		<i>Operational risk arising from outsourced activities should be considered. See also Section 3.7 on outsourcing.</i>
383.	CEA	3.135, 3.136, 3.139, 3.142, 3.193, 3.228	<p>In general, CEIOPS should elaborate and give more detail on how it expects undertakings to tackle operational risk.</p> <ul style="list-style-type: none"> • More detail is required at Level 3. This is, in particular, on IT-systems, operational risk events and early warning systems. • CEIOPS should link the section on operational risk management to the section on internal control. Management of operational risk is usually addressed by an effective internal control system. • We suggest adding the following to paragraph 3.136: "The undertaking should also establish criteria which will clearly distinguish between the operational risk events and e.g. reputational, strategic, and compliance risk events". It should be helpful in appropriate risk measurement and capital management. • Additionally it should be clarified which function keeps the "ownership" or responsibility to implement an internal control system. Since it could be seen as an instrument or measure of operational risk management one could consider allocating this duty to the risk management function. 		<i>See comment 381 above.</i>
384.	ROAM	3.136	<p>We understand that this paragraph deals with the 'incident database' and with the collection process and the treatment of incidents occurred or just avoid.</p> <p>We approve the 'operational risk database' principle because we think it could be an effective tool of mastering operational risks improvement. This database is a means to capitalize on the difficulties encountered, and to follow the events gravity, including near misses events, their implications and their improvements.</p> <p>We wish to know if another exploitation of this 'database' is envisaged, in</p>		<p><i>Noted.</i></p> <p><i>Further exploitation of this database is not currently</i></p>

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			connection with the ORSA for example.	<i>envisaged but could be a possibility in future. CEIOPS will discuss this possibility under Level 3 discussions after the implementation of Solvency II.</i>
385.	AMICE	3.136 and 3.145	<p>(I) We understand CEIOPS' text as a reference to the "incident data base" and the process of collecting and processing incidents incurred or narrowly avoided. We agree that incident data bases can be a good tool for improving the control of operational risk. It enables the insurer to track problems while highlighting the seriousness of incidents and their implications and points to possible or necessary improvements.</p> <p>We would appreciate to know (although not necessarily in the context of this advice) whether CEIOPS considers any other use of such an incident data base in the Solvency II context, for example in connection with the ORSA.</p> <p>(II) It seems difficult, if not impossible in practice to assess all interrelationships between all risks that have occurred or have been narrowly avoided. This would require an immense amount of data and be absolutely unaffordable, probably not only for small and medium size insurers. As an alternative, we believe that communication among the managers concerned would not only be sufficient, but at the end also more effective to assess such interrelationships.</p>	<p><i>See comment 384 above.</i></p> <p><i>CEIOPS agrees, proportionality and materiality principles should apply.</i></p>
386.	IUA	3.137	It is critical that proportionality is adopted, therefore operational risk should be considered by an undertaking in line with their individual circumstances, as opposed to outlining an expectation that an internal database be maintained.	<i>It is essential that all undertakings keep a record or log of their operational risks – the methodology used for this should be proportional to the undertaking. There should be no exceptions to this requirement.</i>
387.	ECIROA	3.137	<p>The operational risks of an undertaking are easily identifiable due to their relatively simple structure.</p> <p><i>Following the principle of proportionality an undertaking will document its operational risks but a database to record them is not necessary.</i></p>	<i>Undertakings can choose whether a full database is proportionate or not for them. However, they have to keep a</i>

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				<i>record or log of some sort.</i>
388.	GDV	3.137, 3.145	<p>The Level 1 text does not give authorisation to expect undertakings to systematically collect operational risk data in an internal data base. It may be stated that insurance undertakings should not be required to set up loss data banks if the benefits of these do not justify the set up and running costs (=amount of avoided losses due to operational risks). Normally, the decision whether or not loss databases should be implemented is made by the individual undertaking.</p> <p>We propose to adapt the sentence in the following way: "The undertaking shall implement an effective process to regularly identify, document and monitor exposure to operational risk and track relevant operational risk data, including near misses and interrelation between risks."</p>	<p><i>See comments 386 and 387 above.</i></p> <p><i>To systematically collect operational risk data in an internal data base is in line with the requirements under Level 1 text to properly identify measure, monitor, manage and report risk. The operational risk management is explicitly covered by article 44(2). An explicit authorisation is not necessary. Level 2 implementing measures and Level 3 guidance are also part of the Solvency II regime. CEIOPS does not understand how operational risk may be "managed" without keeping track of relevant operational risk data.</i></p>
389.	KPMG	3.137	It is unclear why proportionality (nature, scale and complexity of undertakings) is relevant to the need to systematically collect operational risk data.	<i>The method of collecting and keeping the data can be proportionate to the size and nature of the undertaking.</i>
390.	CEA	3.137, 3.145	<p>The Level 1 text does not give authorisation to expect undertakings to systematically collect operational risk data in an internal data base.</p> <p>It may be stated that insurance undertakings should not be required to set up</p>	<i>See comment 388 above.</i>

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			<p>loss data banks if the benefits of these do not justify the set up and running costs (=amount of avoided losses due to operational risks). Normally the decision on whether or not loss databases should be implemented is made by the individual undertaking.</p> <p>The consultation paper should also explain the approach regarding the reconciliation of the internal data base (loss data base in this case) with the financial data base (financial statement data).</p>	<p><i>All undertakings should set up a loss data log of some sort. The reconciliation of the internal data base to the financial data base is out of the scope of this section.</i></p>
391.	Lloyd's	3.139	<p>We agree that operational risk events need to be categorised appropriately and note that the ORIC categorisation is quoted as an example. We strongly agree that each undertaking should be free to choose the operational risk categorisation that best meets its needs and risk profile and therefore it should be emphasised that any reference to ORIC is by way of example only.</p>	<p><i>The footnote is very clear when using "One example" at the beginning and with the final sentence "However, every undertaking should be free to choose the operational risk categorisation that best suits its needs and risk exposures/profile"..</i></p>
392.	ROAM	3.140	<p>Ceiiops asks the undertakings to assess their vulnerability to their high severity events.</p> <ol style="list-style-type: none"> 1. Does the evaluation of the vulnerability imply a quantification of these risks? If yes, we would be favourable to a simple classification like "critical/no critical Severity, high level/low level of Probability" rather than a laborious calculation of 'maximum possible loss'. Indeed, what is the difference between a plane which has lost 1 wing or 2 wings? 2. To our knowledge, no insurance undertaking has developed a model to assess its operational risk. We think that to quantify its operational risks is not relevant. 3. What are the objectives followed through the development of stress and scenarios testing? Are they: <ul style="list-style-type: none"> • to set up possible Contingency Plans? • to ask undertakings to pay capital add-on within the ORSA's framework? • or is it only an exercise for undertakings which chose an internal 	<p><i>Undertakings should measure the risks they face. This measurement could be quantitative or qualitative. CEIOPS believes that all quantifiable risks should be quantified. If operational risk/events are quantifiable then undertakings should quantify them, including high severity events (this doesn't necessarily mean they will have to hold capital against this, but it will help them to assess what mitigants and controls they might need to put in place).</i></p> <p><i>The objective of the</i></p>

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			model?	<i>development of stress tests and scenario analysis in the context is that the undertaking assesses its vulnerability to high severity events.</i>
393.	AMICE	3.140	CEIOPS' paper defines operational risk as the risk of loss arising from inadequate or failed internal processes, or from personnel and systems and external events. To assess this risk, CEIOPS expects the undertaking to identify its exposure to high severity events and to assess "its vulnerability" to these risks through stress and scenario testing. We wonder whether this implies that the operational risk should be quantified again, in addition to Pillar1 calculations. If this is the case, we believe that the different scenarios should be set up by the undertaking in collaboration with the supervisor. An open dialogue with the supervisor is key in this field.	<i>See comment 392 above. Supervisors will have conversations with undertakings but may not be in a position to set the scenarios. This will be up to the individual undertakings.</i>
394.	GC	3.144	"administrative or management body should ... implement ... the risk management framework". We would expect the administrative or management body to oversee implementation rather than actually doing the implementation. Therefore we recommend replacing "implement" with "oversee implementation"	<i>The wording was changed accordingly. See amended paragraph 3.167.</i>
395.	GC	3.144	This paragraph states that "the administrative or management body should ... periodically review ... the operational risk management framework". As carrying out a review every 10 years would satisfy this requirement, we suggest "periodically" is replaced with "frequently and regularly".	<i>The wording was changed to "regularly". What is appropriate is subject to proportionality. See amended paragraph 3.167.</i>
396.	Munich Re	3.145	The undertaking shall implement an effective process to regularly identify, document and monitor exposure to operational risk and track relevant operational risk data, including near misses and interrelation between risks.	<i>See comment 387 above.</i>
397.	IUA	3.145	The principle is sound, but it should be recognised that it may not be possible, or may be disproportionately costly, to establish the proposed interrelation between risks. The data may not be available or may require significant expense to put the requisite systems in place. We would also question whether it might be considered more proportional to have a register-type system when documenting such risks for less complex undertakings, whilst a more sophisticated database could be implemented for more complex undertakings.	<i>The words "and the interrelation between risks" were deleted. See amended paragraph 3.168.</i>

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398.	ROAM	3.145	It seems to us difficult, in practice, to draw <u>all</u> the interrelations between all risks occurred or near misses risks. It would require a disproportionate quantity of data for a hardly or no profit for small and medium size undertakings. On the other hand, we think the communication about these risks with concerned staff members is more effective.	See comment 397 above.
399.	XL	3.145	The principle is sound. However, to implement an effective process to regularly identify, document and monitor exposure to operational risk and track relevant operational risk data, including near misses and interrelation between risks could be a difficult and costly exercise. The data to establish the proposed interrelation between risks may not be available.	See comment 397 above.
400.	CEA	3.145	We support the advice on effective process to identify, document, monitor and track operational risk but think that it will be difficult to track interrelation between risks in practice. It will be extremely difficult to track interrelation between risks in practice. It would require quite detailed data and a sufficient number of events in the different risk categories in order to make any relevant conclusions about the interrelations, not to mention if it also should be statistically significant. This is also only possible to do if the risks are measurable (which is not always the case).	See comment 397 above.
401.	GC	3.146	It would be useful to have illustrations for information purposes at level 3 on what CEIOPS' requirements in practice are with regard to this paragraph.	Noted. CEIOPS will consider this on Level 3
402.	IUA	3.153+3.160	We note that ART is not defined and in our experience there is no definitive line between traditional reinsurance and more innovative structures. We suggest that CEIOPS should consider deleting this section as it adds nothing to 3.151 and 3.152. We note that the language of 3.153.b is common in accounting standards but we find it has no place in a solvency system that relies on substance over form. If 3.153 is retained b, c and d should be replaced by the following: <ul style="list-style-type: none"> o "b) Undertakings should ensure they are aware of the extent of effective risk mitigation provided by ART instruments with particular attention to any limitations that flow from the contract structure or any transformation of the periods over which risk emerges." 	Noted. Please see amendments on the section on "Reinsurance and other risk mitigation techniques" and the new section on financial risk mitigation techniques.

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			<ul style="list-style-type: none"> o "c) Ensure that all risks created by the execution of the transaction are identified'." <p>The advice in 3.160 should be amended accordingly.</p>	
403.	CEA	3.153, 3.160	<p>We propose a number of changes to the wording on alternative risk transfer.</p> <ul style="list-style-type: none"> • We note that ART is not defined and in our experience there is no definitive line between traditional reinsurance and more innovative structures. We suggest that CEIOPS should consider deleting this section as it adds nothing to 3.151 and 3.152. • We note that the language of 3.153.b is common in accounting standards but we find it has no place in a solvency system that relies on substance over form. If 3.153 is retained b, c and d should be replaced by the following: <ul style="list-style-type: none"> - "b) Undertakings should ensure they are aware of the extent of effective risk mitigation provided by ART instruments with particular attention to any limitations that flow from the contract structure or any transformation of the periods over which risk emerges." - "c) Ensure that all risks created by the execution of the transaction are identified'." • The advice in 3.160 should be amended accordingly. 	<i>See comment 402 above.</i>
404.	ABI	3.154	<p>This is contrary to 3.155 which correctly asserts that all risk mitigation techniques should be assessed. We believe 3.154 contradicts the principle of substance over form and that all risk mitigation should be allowed for as stated in the directive.</p>	<i>The paragraph was deleted. This issue is sufficiently covered by CEIOPS Advice on SPVs.</i>
405.	ABI	3.154 to 3.157	<p>These are covered by comments on CP36.</p>	
406.	CROF	3.154-3.157, 3.161	<p>"When undertakings use SPV's the following principles should be considered taking into account the requirements and guidelines set out in CEIOPS Consultation Paper on Special Purpose Vehicles: (refer to 3.161)"</p> <p>These paragraphs address briefly SPV's. Since SPV's are subject of a specific CP</p>	<i>See comment 404 above.</i>

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			(#36), we would suggest to simply to refer to the advice in CP 36, so as to not duplicate and to avoid potential different interpretations between the 2 CP's.	
407.	L&G	3.157	It looks to potentially disadvantage ISPVs versus reinsurers (including reinsurers outside EEA) as the maximum credit for an ISPV is limited to its aggregate value of assets, however, reinsurers are subject to credit risk tests	<i>See comment 404 above.</i>
408.	IUA	3.159(f)	We would hope 'adequate liquidity management' is either qualified for clarity or assessed in a flexible way, and on case by case basis, to take into account differing structures and what may be considered 'adequate'.	<i>Proportionality applies.</i>
409.	GC	3.159	It would be helpful for this paragraph to explicitly state that it relates to both internal and external reinsurance.	<i>CEIOPS does not distinguish between internal and external reinsurance. All requirements apply to both.</i>
410.	Lloyd's	3.159	For consistency with para 3.158, we suggest that the phrase "reinsurance strategy" should be amended to "reinsurance management strategy".	<i>The wording was changed accordingly. See amended paragraph 3.182</i>
411.	CEA	3.159.f	We would like CEIOPS to clarify what is meant by "provision for adequate liquidity management".	<i>The wording was changed. See amended paragraph 3.182</i>
412.	DAV	3.160	We recommend to add: g) Identify the residual risk for the ceding company.	<i>This identification should take place but not as part of the reinsurance management strategy.</i>
413.	Lloyd's	3.160	"Notwithstanding" should be added at the beginning of this para, consistent with the wording in para 3.153.	<i>See new structure on the risk mitigation techniques.</i>
414.	PwC	Section 3.3 3.160 (b)	The wording here may lead some to assume that management has to ensure that any ART arrangements include genuine risk transfer. Some ART arrangements may simply be struck to monetise future cash flows or to provide financing etc., which we assume CEIOPS does not intend to 'ban' when mentioning 'genuine risk transfer'	<i>See comment 402 above.</i>
415.	IUA	3.161	We would echo our comments on 'continuous monitoring' expressed in Para 3.53(d) above. Additionally, at the end of this section, it is unclear what the	<i>See amended paragraph 3.183 (a).</i>

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			outcome of 'some other risks to be considered' entails. We trust there will be opportunities to comment on any further Level 2 proposals on this issue.	<i>The section "Some under risks to be considered" include CEIOPS Level 2 advice on the risk management of other risks not explicitly covered in Article 44 (2).</i>
416.	GDV	3.161	It does not seem to be appropriate for a consultation paper to state as a last sentence to this chapter a placeholder "some other risks to be considered". CEIOPS should make clear what its expectation for level 2 will look like.	<i>No text in the blue box means CEIOPS does not suggest any Level 2 measures for this issue.</i>
417.	CEA	3.161	It does not seem to be appropriate for a consultation paper to state as a last sentence to this chapter that "some other risks to be considered". CEIOPS should make clear what its expectation for level 2 will look like and consult stakeholders on all aspects of its advice.	<i>See comment 415 above.</i>
418.	IUA	3.162	We are comfortable with these proposals.	<i>Noted.</i>
419.	PwC	3.163	Possibly, loss given default could also be included as a primary credit risk factor.	<i>See amended paragraph 3.193.</i>
	ICAEW	3.166	Undertakings should be alert to changes in credit ratings when assessing credit risk. Due to the recent financial crisis, it is questionable whether reliance on credit ratings alone is a reliable tool for assessing credit risk. What other tools would CEIOPS expect to see used in assessing and monitoring credit risk?	<i>CEIOPS will consider this in its Level 3 guidance.</i>
420.	KPMG	3.166	In relation to credit risk, the CEIOPs lessons learnt paper of March 2009 notes that the role of credit rating agencies has been severely criticised, in particular regarding the rating of complex structured products. This paragraph refers to changes in credit ratings, but does not elaborate on what else (re)insurance undertakings should be doing to address potential weaknesses in credit ratings. Some guidance/examples on what CEIOPS believes is a proportionate monitoring process would be useful, particularly for small and medium sized undertakings.	<i>See comment above.</i>
421.	AMICE	3.166	Derivatives are not the only possibility to hedge against credit risk. We suggest the phrasing "... hedging credit risk, e.g. via derivatives ...".	<i>See amended paragraph 3.196</i>

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422.	ECIROA	3.167	<p>Many captives have one counterparty, providing insurance cover only for their parent company. But in reality the "insureds" are multiple entities that are part of the parent group</p> <p>Consideration should be taken when an undertaking can demonstrate intra-group transactions and credit risk in great detail.</p>	<i>Noted.</i>
423.	ECIROA	3.137	<p>The operational risks of an undertaking are easily identifiable due to their relatively simple structure.</p> <p>Following the principle of proportionality an undertaking will document its operational risks but a database to record them is not necessary.</p>	<i>Noted.</i>
424.	ROAM	3.168	<p>We notice that Ceiops proposes the 'strategic' and 'reputational' risks in addition to the risk management system. But these risks have not been detected at level 1. According to Ceiops definitions, we think it is very difficult to quantify these risks in consideration of their perimeter and potential implications. Besides, we do not support the communication of strategic data.</p> <p>1. We wish on the one hand to understand Ceiops initiative and, on the other hand, we wish an exploration by Ceiops of these risks (perimeter, implications, etc.) as well as a clarified definition.</p> <p>2. If these risks would be quantifiable, we wish Ceiops to explain the implications of these 2 new risks for capital add-on.</p> <p>3. Lastly, we notice more and more interference of the supervisor into the undertaking strategy and into his "industrial secrets". Consequently, we ask for the implementation of protection rules to prevent the leaving of a supervisor to the competition with a quantity of confidential data.</p>	<p><i>The Level 1 text in article 44(2) requires undertakings to include its risks in the risk management system whether the risks are included in the SCR calculation or not. Strategic and reputational risks are just examples of other risks, i.e. risks not covered by the SCR calculation. . If these risks are material, and from the recent crisis we have learnt that they can be then they should be adequately considered in the ORSA of the undertaking. As for capital add-on please see also CEIOPS Advice on Capital Add-ons.</i></p> <p><i>Rules on preventing workers from the supervisory authority leaving to the competition are outside the scope of Solvency II. However CEIOPS highlights</i></p>

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				<i>that even former supervisors are obliged to professional secrecy.</i>
425.	Munich Re	3.169	The process of risk management should be capable of identifying, <u>measuring</u> and mitigating any credit risk in relation to internally defined limits.	<i>The wording was changed accordingly. See amended paragraph 3.198.</i>
426.	GDV	3.169	The process of risk management should be capable of identifying, <u>measuring</u> and mitigating any credit risk in relation to internally defined limits.	<i>The wording was changed accordingly. See amended paragraph 3.198.</i>
427.	PwC	3.169	For most undertakings, credit risk might also deserve a written policy.	<i>This would be part of how the proportionality principle should apply. It is obvious for CEIOPS that if credit risk, or any other risk, is material it should be covered by a written policy. CEIOPS also expects to elaborate on these policies via Level 3 guidance and only addresses the required content of the asset-liability management and investment policies as these are explicitly singled out for implementing measures by Article 50 of the Level 1 text</i>
428.	CROF	3.169, 3.170	<p><i>Para 3.169 "The process of risk management should be capable of identifying, <u>measuring</u> and mitigating any credit risk in relation to internally defined limits."</i></p> <p><i>Para 3.170 "The undertaking should be alert to changes in <u>individual</u> credit ratings as well as <u>credit portfolio risk</u> through regular appropriate and proportionate monitoring processes, and capable of evaluating relevant parameters like probabilities of default even where exposures are unrated. Exposure to speculative grade assets should be prudent and undertakings facing credit risk exposures should be capable of hedging credit risk via derivatives to</i></p>	<p><i>The wording was changed accordingly. See amended paragraph 3.198</i></p> <p><i>The wording was changed accordingly. See amended paragraph 3.199</i></p>

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			<p>protect against a protracted fall in credit quality or turn in the credit cycle. "</p> <p>Changes in credit rating should not only involve ratings from agencies, but also indications from the capital market (e.g. spreads) for larger single exposures.</p> <p>There should be a clear and market consistent definition of "speculative grade assets". The investment in these assets has already been sufficiently limited by 3.108 – 3.113 (CEIOPS' advice regarding "policy on investment, including derivatives and similar commitments").</p>	<p><i>CEIOPS does not propose to use a specific regulatory definition here.</i></p>
429.	Munich Re	3.170	<p>The undertaking should be alert to changes in <u>individual</u> credit ratings <u>as well as credit portfolio risk</u> through regular appropriate and proportionate monitoring processes, and capable of evaluating <u>relevant parameters like</u> probabilities of default even where exposures are unrated. Exposure to speculative grade assets should be prudent and undertakings facing credit risk exposures should be capable of hedging credit risk via derivatives to protect against a protracted fall in credit quality or turn in the credit cycle.</p> <p>Changes in credit rating should not only involve ratings from agencies, but also indications from the capital market (e.g. spreads) for larger single exposures.</p> <p>There should be a clear and market consistent definition of "speculative grade assets". The investment in these assets has already been sufficiently limited by 3.108 – 3.113 (CEIOPS' advice regarding "policy on investment, including derivatives and similar commitments").</p>	<p><i>The wording was changed accordingly. See amended paragraph 3.199</i></p> <p><i>As for the proposed deletion CEIOPS believes that the level of detail is in line with other Level 2 requirements.</i></p> <p><i>'Speculative grade assets' are assets with rating lower than 'BBB-' of S&P or similar in accordance with classification of rating agencies.</i></p>
430.	GC	3.170	<p>It is not clear what is meant by "... undertakings facing larger credit risk exposures should be capable of hedging credit risk via derivatives ..." Does this mean they should hedge it, should have facilities in place enabling them to do so, or should only have larger credit risk exposures if there is a market that in theory would enable them to hedge this credit risk via derivatives?</p>	<p><i>This means they should be capable of hedging the risks. The decision to hedge or not is from the undertaking.</i></p>
431.	GDV	3.170	<p>The undertaking should be alert to changes in <u>individual</u> credit ratings <u>as well as credit portfolio risk</u> through regular appropriate and proportionate monitoring processes, and capable of evaluating <u>relevant parameters like</u> probabilities of default even where exposures are unrated. Exposure to speculative grade assets should be prudent and undertakings facing credit risk exposures should be capable of hedging credit risk via derivatives to protect against a protracted fall in credit quality or turn in the credit cycle.</p>	<p><i>See comment 428 and 429 above.</i></p>

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			<p>Changes in credit rating should not only involve ratings from agencies, but also indications from the capital market (e.g. spreads) for larger single exposures.</p> <p>There should be a clear and market consistent definition of "speculative grade assets". The investment in these assets has already been sufficiently limited by 3.108 – 3.113 (CEIOPS' advice regarding "policy on investment, including derivatives and similar commitments").</p>	
432.	IUA	3.179	We support the overall approach expressed in Para 3.179. We also agree with the text in providing that the Risk Management function will have responsibility for the design and operation of internal models, whilst drawing on relevant expertise from other functions (Para 3.183).	<i>Noted.</i>
433.	ECIROA	3.179	<p>See comments above, these undertakings are too small to establish their own risk management function.</p> <p>Under the principle of proportionality these functions can be performed by the undertaking's own staff, as part of other duties or can be outsourced to the professional licensed Captive Management Company. Alternatively, the proportionality principle should allow an undertaking to demonstrate the expertise of the risk management function of the parent company and that they can comply with the Group function's requirements.</p>	<i>Noted.</i>
434.	GC	3.179 – 3.190	See 3.53	<i>See comment 244 above.</i>
435.	ROAM	3.179	Is it possible for Ceiops to clarify the notion of "independence" of the risk management function with the operational business so as to be consistent with the paragraph 3.47? It seems namely delicate to us to assert that a member of the board or a chief executive officer, for example, are independent from operational activities.	<i>The wording was made clearer. See amended paragraph 3.209</i>
436.	AMICE	3.179 and 3.190	<p>In line with our general request for flexibility, AMICE members regard it crucial to allow this function to be arranged in a centralised way within a group. We understand CEIOPS' draft advice to provide for this possibility, but would appreciate a specific reference. This would allow insurers to start early enough to align their structures, where necessary, in time.</p> <p>Moreover, we are not certain how CEIOPS envisages the "independence" of the risk management function from operational business in the case of an insurer</p>	<p><i>The centralised risk management within a group will be covered by a future CEIOPS Advice.</i></p> <p><i>The wording was made</i></p>

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			that decides to place the responsibility for risk management in house, but with the CEO. Would this be excluded because a CEO is by definition at the same time at the head of the operational function? We ask CEIOPS to be more specific or to explain its concept in this regard when finalising its advice to the Commission.	<i>clearer. See amended paragraph 3.210</i>
437.	DAV	3.183	The term "strictly actuarial capacity" is not defined and hence misleading and/or unclear. Moreover, the use of the term "calculation kernel" in the next sentence seems to suggest that actuarial work is restricted to calculation. Instead we think that actuarial work also consists of model choice, professional judgment etc. While we agree that the risk management function goes beyond actuarial work, the wording of 3.183. is an inadequate description of the relationship of both functions.	<i>The undertaking is free to organise itself. See definition of "Function". Level 3 guidance may in future give some indications if considered necessary. However, paragraph 3.214 was amended. The reference to the "calculation kernel" refers to the internal model and meant precisely to highlight that it is not just calculation.</i>
438.	ICAEW	3.183	Noted that the responsibility for the internal model and compliance with Solvency II rests with the risk management function. As many experts within a firm will have input into the internal model, ORSA and general compliance with Solvency II, it would be useful to have some examples of how CEIOPS might expect this to be organised in practice. Is CEIOPS expecting the firm to use its existing governance functions (enhanced for the considerations in this paper where required) and then layer the ORSA and the internal model over the top? It is assumed that CEIOPS is looking for firms to achieve greater embedding of the ORSA and the internal model than this but there is a danger that firms fall into the "layered" approach if practical guidance is not available.	<i>The way undertakings will organise is left open. Level 3 guidance may in future give some indications if considered necessary.</i>
439.	ICAEW	3.183	In making the partial or full internal models the responsibility of the risk management function, there is a risk that the function's focus on other areas of risk management is reduced while it gets to grips with this new task. Firms will need to assess early on if more resource is required to meet its	

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			<p>business as usual tasks, implement any enhancements arising from the other parts of this paper <i>and</i> take on the internal models piece. This is likely to have cost implementations and firms will also have to ensure that the function is organised properly in order to cope with the additional workload, especially given the defined timescales in place.</p> <p>It would be extremely useful to have some practical guidance from CEIOPS around how it envisages firms will achieve a robust framework of governance around the internal models.</p>	<i>The Advice on internal models approval also covers governance issues.</i>
440.	HAS	3.183	<p>According to Point 3.183, 'Article 43(5) requires the risk management function to take on board a set of additional tasks that relate to the use of partial or full internal models. By contrast the Level 1 text does not explicitly assign any task with regard to internal models to the actuarial function although the actuarial function may contribute to the effective implementation of the risk management system which includes the internal model. CEIOPS understands the Level 1 text to assign "ownership" of an internal model to the risk management function as opposed to e.g. operational business areas, staff working in a capital management or in a strictly actuarial capacity. The concept aims to ensure that the model is designed and maintained as an effective risk management tool and is more than a calculation kernel. Since the Level 1 text does not distinguish between different parts of the internal model CEIOPS interprets this to mean that the risk management function is responsible for the design, maintenance and monitoring, but this does not preclude the risk management function from calling upon expertise from other functions notably the actuarial.'</p> <p>CEIOPS' interpretation of the Level 1 text can not be justified when it concludes that the actuarial function may contribute to the effective implementation of the risk management system. Actually, the Level 1 text reads as follows: 'Insurance and reinsurance undertakings shall provide for an effective actuarial function to... (i) contribute to the effective implementation of the risk management system referred to in Article 43...' In our interpretation, the Level 1 text implies that the actuarial function shall contribute to the effective implementation of the risk management system. Therefore, while we share CEIOPS' interpretation of the "ownership" of an internal model to the risk management function, our opinion is that the risk management function must, and not may, call the expertise of the actuarial function. Indeed, it would not be possible to design and implement an effective internal model without the contribution of the actuarial function which is</p>	<p><i>The wording was changed.</i></p> <p><i>See amended paragraph 3.214</i></p>

Template comments

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			<p>responsible for the calculation of the technical provisions since technical provisions, the value of the assets and liabilities are heavily interrelated with any potential internal model.</p> <p>Consistency between the methods used for the calculation of the technical provisions and used by an internal model is so important that it is acknowledged by the Level 1 text in article 119(2) ('The methods used to calculate the probability distribution forecast shall be based on adequate actuarial and statistical techniques and shall be consistent with the methods used to calculate technical provisions.')</p> <p>Therefore our recommendation for the Level 2 guidance is that, when designing, building, implementing, monitoring, and reporting on an internal model the actuarial function must be effectively utilized by the risk management function.</p>	<i>This is too specific and could be interpreted as CEIOPS deciding on the organisation of an undertaking.</i>
441.	RSA Group	3.183	<p>We disagree that the ownership of the internal model should be prescribed in rules or guidance. The requirements should be flexible to accommodate differences in business models. We agree that the internal model is an integral part of risk management however the internal model requires significant input from the actuarial and other functions.</p> <p>To avoid duplication of this resource within the risk management function the internal model process should be co-owned by risk management, actuarial and other functions. The responsibilities defined in the Consultation, if they need to be defined and prescribed, could be split across functions, for example, risk management function to own the implementation of the model output and actuarial to own the design, testing, validation and maintenance.</p>	<i>This suggestion is not in line with the Level 1 text.</i>
442.	ABI	3.183	<p>Whilst we agree the model should be owned by the risk management function as required by the Directive (Article 43), we believe the requirements should be flexible to accommodate differences in business models. We agree that the internal model is an integral part of risk management however the internal model requires significant input from the actuarial function.</p>	<i>Covered by new amended paragraph 3.214</i>
443.	XL	3.183	<p>"Since the Level 1 text does not distinguish between different parts of the internal model CEIOPS interprets this to mean that the risk management function is responsible for the design, maintenance and monitoring, but this does not preclude the risk management function from calling upon expertise from</p>	<i>See comment 442 above.</i>

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			<p><i>other functions, notably the actuarial"</i></p> <p>The internal model will require <i>significant</i> input from the actuarial function.</p>	
444.	KPMG	3.183, 3.291	<p>We agree that the actuarial function should be involved in advising the risk management function on the actuarial elements of the internal model and note that "a full or partial integration of these functions is acceptable". However it is not clear whether this could compromise the independence of the risk management function, which remains responsible for the design and functioning of the internal model.</p> <p>We believe it would be helpful if CEIOPS were to produce some examples of how this could work in practice.</p>	<p><i>See comment 440 above.</i></p> <p><i>CEIOPS may work on examples under the Level 3 guidance discussions.</i></p>
445.	CEA	3.183, 3.187, 3.188	<p>More clarity is needed on the responsibilities of the risk management function with regards to internal models.</p> <p>We agree with CEIOPS' interpretation that Article 43(5) of the Framework Directive assigns functional responsibility for the design and operation of internal or partial models to the risk management function, and in particular agree with the expectation that in practice the RM function will draw on relevant expertise from the other functions. The RM function will be responsible for the output of the internal model, but responsibility for input data is not clear. It will be hard for the RM function to be responsible for output data if it cannot control its input. One way to handle it in practise would be to clearly state that the responsibility of the RM department is to set the requirements of input data (and not just the model itself) on the operational units. We believe that this document should consider this issue.</p>	<p><i>When CEIOPS refers to internal models it covers not only the modelling but all features of the internal models, including the quality, of the input data.</i></p>
446.	Oliver Wyman	3.190-3.192	<p>We fully support the broad mandate and organizational requirements for the risk-management function. However, we would suggest an explicit statement that risk management is the responsibility of the administrative or management body which can not be delegated; consistent with this, we believe it is necessary that the responsible senior manager of the risk-management function is a member of or has direct access to executive management. Regarding the tasks of the risk-management function, we believe that in assisting the administrative or management body, the risk-management function needs to go beyond providing 'specialist analysis and quality reviews', but needs to include strategic</p>	<p><i>See amended paragraph 3.210.</i></p>

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			advice and challenge of management action, business plans etc. Also, it should be clarified that 'monitoring the risk management system' and 'maintaining a view on the risk profile includes evaluating weaknesses and adverse developments, and escalation as appropriate. Finally, the risk-management function should also be made explicitly responsible for preparing and executing decisions of the administrative or management body on risk appetite, risk policy, limit systems etc.	
447.	Lloyd's	3.190	We consider that the phrase "not responsible for the results of operational business" is not as clear as "independent of the operational business" (as in para 3.179) and suggest that the wording in this para should be amended to be consistent with 3.179.	<i>The wording was changed accordingly. See amended paragraph 3.220</i>
448.	GDV	3.190	Risk management function should also be given "appropriate standing" in the undertaking. Since the compliance function (3.219) and the internal audit function (3.231) should be given "appropriate standing" in the organisation, "appropriate standing" should also be added as a principle to the risk management function.	<i>See paragraph 3.10/3.32</i>
449.	PwC	3.190	Explanation, if there are exceptions for small entities which go further than the general principle of proportionality.	<i>There are no exceptions for qualitative requirements; the principle of proportionality only affects the "how" not the "if".</i>
450.	CEA	3.190	Risk management function should also be given "appropriate standing" in the undertaking. Since the compliance function (3.219) and the internal audit function (3.231) should be given "appropriate standing" in the organisation, "appropriate standing" should also be added as a principle to the risk management function.	<i>See comment 228 above.</i>
451.	Munich Re	3.191	Add: e) Identifying and assessing emerging risks.	<i>The wording was changed accordingly. . See amended paragraph 3.221</i>
452.	GDV	3.191	Add: e) Identifying and assessing emerging risks.	<i>See comment 451 above.</i>
453.	PwC	3.191	The advice should promote involvement of the risk management function in	<i>CEIOPS will not change the</i>

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			proposing and assessing mitigation solutions for different risks.		<i>text as the tasks named are mandatory.</i>
454.	CROF	3.191	"The tasks of the risk management function shall include:[...]" Add: e) Identifying and assessing emerging risks.		<i>See comment 451 above.</i>
455.	FEE	3.192 (3.183)	Paragraph 3.192 and the associated text in 3.183 assigns responsibility for how the internal model is integrated into the risk management system and to the risk management function. Overall responsibility for this should sit with the board, although it is sensible for the day to day responsibility for this to be assigned to the risk management function. However, we note that many different functions of the organisations have input into the internal model. Separating responsibilities for the model too strongly from the operational areas of the business might adversely impact on its effectiveness as a risk management tool. As noted in our comments in respect of paragraph 3.51 above, this is an area where additional practical examples would be useful. It is not, for example, clear how the internal model is expected to interact with the ORSA process. There is a risk that, without practical examples, firms may apply the ORSA and internal model as additional layers on top of their existing governance structures, rather than fully embedding them, which we believe to be the intention of CEIOPS. By assigning responsibility for the risk model to the risk management function, there is a danger, during the transitional phase, that the resources of the risk management function will be diverted towards applying this new responsibility, risking insufficient attention being paid to other areas of risk management. This may create short term resourcing challenges until undertakings have had time to assess their long term staffing needs for their increased responsibilities. Practical examples may make it easier for firms to assess their resource needs		<i>See comment 446 above.</i> <i>The ultimate responsibility is always of the administrative or management body.</i>
456.	XL	3.192	We agree that the risk management function shall be responsible for the way in which an internal model is integrated with the undertaking's internal risk management system and the day-to-day functions of the undertaking.		<i>Noted.</i>
457.	Oliver Wyman	3.193	Currently, the text discusses the Compliance Function in the section on 'Internal Control'. While this may be pre-judged by the Level 1 text, it is substantially incorrect, as the compliance function typically covers only controls of the legal and regulatory environment, whereas other controls (in particular operational		<i>CEIOPS believes that the compliance with internal provisions (strategies, policies, processes,...) could be done by</i>

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			controls) are managed by a range of functions, such as internal audit, risk management ('Operational Risk Management'), or 'Risk Controllers' from within the businesses. While we think that none of these current models are ideal, and neither should be pre-scribed, it should be made clear in the Level 2 text that 'Internal Controls' require broader organizational embedding than through the 'Compliance Function'.	<i>the compliance function but not necessarily.</i> <i>See amended paragraph 3.248.</i> <i>Each undertaking should be free to, within the framework of Level 1 and 2 text, organise itself.</i>
458.	IUA	3.193	The principles outlined are commensurate to what we would expect to see in an internal control framework and are in line with existing UK statutory and other established corporate governance measures.	<i>Noted.</i>
459.	IUA	3.193	Allowing for direct control of the internal audit function by a management or administrative body is probably not the most appropriate wording given the emphasis on independence of that function. We assume that it is meant that the internal audit function reports its findings to the Board or other designated entity and operates independent of other operational entities for the purposes of the audit. Thus, whilst it is accountable to the management entity in fulfilling their function there should be no element of direct control (Para 3.231) and therefore not referenced in the text.	<i>The wording was changed accordingly. See amended paragraph 3.261.</i>
460.	ECIROA	3.193	These undertakings are too small to have their own dedicated compliance function. It is provided by the outsourced management company, or by the parent's compliance function. <i>Under the proportionality principle an undertaking should not be required to have a dedicated compliance function. An undertaking can demonstrate that they are subject to the rules of the Compliance function of their Parent Company.</i>	<i>Noted.</i>
461.	PwC	3.193	In terms of Article 45 of the Level 1 Directive, the distinction between the internal control system and the compliance function may not be totally clear. This distinction could be reinforced in Level 2.	<i>The compliance function is part of the internal control system.</i>
462.	GDV	3.195ff,	The reference on COSO framework should be clarified. It does not seem to be appropriate to just copy and paste a COSO-standard to	<i>Footnote 21 was amended to clarify the point.</i>

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		3.197 - 3.213	the level 2 implementing measure since this standard is a holistic concept of enterprise risk management (ERM). In this level 2 measure this creates an overlap with already stated requirements for risk management. COSO could be recommended as an example for internationally accepted standards but not copied itself. Undertakings should be given clearly stated principles within they can freely decide how to implement an internal control system.	
463.	CEA	3.195ff, 3.197, 3.213	<p>The reference on COSO framework should be clarified.</p> <p>What is meant by the reference to the COSO framework? It does not seem to be appropriate to simply copy and paste a COSO-standard to the level 2 implementing measure since this standard is a holistic concept of enterprise risk management. In this level 2 measure this creates an overlap with already stated requirements for risk management. COSO could be recommended as an example for internationally accepted standards but not copied itself. Undertakings should be given clearly stated principles within which they can freely decide how to implement an internal control system.</p>	<i>See comment 462 above.</i>
464.			Confidential comment deleted.	
465.	CEA	3.196	We presume that paragraph 3.196.a includes safeguarding of assets and adequacy of technical provisions. If not, these essential elements of internal control should be included to the text.	<i>3.226 c does.</i>
466.	AMICE	3.196	<p>(I) AMICE's members agree that an effective internal control system should aim to secure effectiveness and efficiency of the undertaking's operations. However, we believe that diligence is required when uniformly defining "effectiveness" and "efficiency". Many mutual insurers pursue qualitative objectives in addition to and/or (partially) replacing quantitative ones found in public-limited type undertakings (e.g. increasing shareholder value).</p> <p>(II) We note that Art 45 of the Framework Directive requires that the compliance functions shall include advising on compliance with laws, regulations, and administrative provisions adopted pursuant to the Solvency II framework directive.. We note, in contrast, that CEIOPS writes about the internal control system that it should secure at least compliance with the (= all) applicable laws, regulations and administrative provisions.</p> <p>If there is – as we seem to note – a contradiction, we ask CEIOPS to clarify it.</p>	<p><i>The text refers to "in view of its risks and objectives". The latter may be qualitative.</i></p> <p><i>The Level 1 text does not describe the scope of the tasks comprehensively (shall include)</i></p>

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467.	ABI	3.198	We welcome the application of the proportionality principle with respect to the internal control system.	<i>Noted.</i>
468.			Confidential comment deleted.	
469.			Confidential comment deleted.	
470.	KPMG	3.202	We agree strongly with the comment in paragraph 3.202 that the internal control system should be built on a strong control culture within the (re)insurance undertaking.	<i>Noted.</i>
471.	CROF	3.207	<p><i>"The daily control activities could, depending on the particular circumstances of the undertaking, include approvals, authorisations, verifications, reconciliations, management reviews, appropriate measurements applicable to each business area and unit, physical controls, checking for compliance with agreed exposure limits and operating principles/instructions and follow-up on non-compliance. The control activities should be proportionate to the risks coming from the controlled activities and processes."</i></p> <p>This paragraph sets some principles on what should be included in the daily control activities. As stated before we suggest to clearly defining the "three lines of defence" approach. Some of the controls mentioned in this paragraph are actually review and control activities that should be performed by the second and third line of defence.</p> <p>As a result, this paragraph may need to be split into parts addressing the roles of the various lines of defence separately.</p>	<i>The approach is in line with the Level 1 text which does however not prescribe a certain approach.</i>
472.	ABI	3.210	The requirement to allow reporting by jumping reporting lines is not sufficiently robust. Good practice would require the introduction of formal whistleblowing procedures allowing staff to inform an independent nominated individual of practices they consider to be improper. Introducing requirements for anonymity should also occur.	<i>CEIOPS has introduced a new requirement applicable to all key functions. New paragraph 3.15 and 3.33 "In addition to the referred above reporting procedures, the personnel who are responsible for key functions should also have direct access to the administrative or management body"</i>

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473.	IUA	3.212	Monitoring of <u>all</u> personnel when performing their duties may be quite onerous to implement. Perhaps this should be slightly refined to 'all <u>relevant</u> personnel'?	<i>CEIOPS thinks that it is necessary that all the personnel take part in monitoring when performing their normal duties.</i>
474.	IUA	3.213	We would echo our comments on 'continuous monitoring' expressed in Para's 3.53(d) and 3.161 above.	<i>See comment 473 above.</i>
475.	PwC	Section 3.4 3.213	See comment above under para 3.53 with regards to 'continuous monitoring'.	<i>See comment 473 above.</i>
476.	ROAM	3.214 & 3.215	We understand the compliance function is a separate function, which must be integrated into the internal control process. We wish Ceiops to clarify if a person must be necessarily appointed to head this function or if the principle of proportionality can exempt the small undertaking of this appointment, all the more so as the compliance mission is inserted into the internal control process (art.45)	<i>There has to be a capacity within the undertaking to handle its compliance responsibilities. Proportionality should apply as in all other requirements. Persons should be appointed as responsible for the key functions (not necessarily "head of function"). One person could be responsible for more than one function, with the exception of particular situation of the internal audit function.</i>
477.	KPMG	3.214 3.223	to There is nothing to suggest that the Compliance function should be independent of other business operations. Whilst this is not a requirement of the Directive, we consider that for at least the large (re)insurance undertakings, this would improve the internal control framework. It would be helpful if CEIOPS were to provide examples of acceptable governance arrangements in this area.	<i>CEIOPS has clarified this issue. See amended paragraph 3.10.</i>
478.	AMICE	3.217	The start of this paragraph with "In order to assess ..." deems us too demanding and perhaps unrealistic. We suggest a change to "In order to be in a position to assess ...".	<i>The assessment of significant changes actually has to take place.</i>

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			The reference in this paragraph to "statutes" is probably meant to refer to laws (and not to "statutes" of the insurer). We suggest simplifying and clarifying by writing "... should monitor any projects to change existing or to introduce new legislation and/or regulation." This would then include legislation/regulation at sub-national, national, European, and global level.	<i>The wording was changed. See amended paragraph 3.247.</i>
479.	IUA	3.218	Para 3.218 states that "...The compliance function could also ensure that the undertaking complies with other applicable laws and regulations whether insurance specific or not." In line with the importance of the compliance function within the business structure we think that 'could' should be amended to 'should' in this regard.	<i>CEIOPS would expect the compliance function to have this responsibility in large undertakings but does not consider it appropriate as a requirement for all undertakings.</i>
480.	PwC	3.218	The role of the compliance function is under considerable debate in other financial sectors ⁴ . One key concern currently is that the remit of the compliance function is so wide (and continuously widening) and that inadequate resources are available to ensure it can perform effectively. Within the limitations of the Level 1 text (which is contrary in some aspects to the way best practice in compliance functions is evolving in other financial sectors: for example, compliance functions in banks are not currently responsible for compliance with prudential requirements, except very occasionally in an advisory capacity). CEIOPS should strive to ensure that compliance function's remit is manageable, fully leveraging other expertise within the firm (such as legal department, human resources, etc.) as well as the other control functions. An expectation that the compliance function is responsible for overseeing compliance with all regulations to which the organisation is exposed (including, for example, employment law) may be impractical.	<i>The way "function" is defined should solve this problem. Function is the administrative capacity to undertake particular governance tasks, not a department, business unit or any other part of the organization. The tasks of the function may therefore be distributed to different units, as long as all tasks are complied with.</i>
481.	PwC	3.221 (and 3.261)	Access rights to the relevant systems and staff members might be recommended for the risk management function, in addition to the internal audit, compliance and actuarial functions.	<i>The idea was introduced in the Advice for all key functions. See new paragraph 3.11.</i>
482.	ROAM	3.222	We understand by "compliance plan" the identification and the follow of	<i>CEIOPS does not mean a</i>

⁴ PwC will shortly be issue its report on a study of compliance function effectiveness covering over 70 financial institutions in Continental Europe. A copy will be made available to CEIOPS once it is published.

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			<p>compliance risks.</p> <p>We think this 'plan' can be inserted into the risk mapping of the undertaking, if the risks are correctly identified as compliance risks.</p>	<i>"map" but a compliance assessment plan.</i>
483.	AMICE	3.222 and 3.227	We regard the explicit request to establish a "compliance plan" as overshooting the target and would regard this obligation as a natural part of having "a suitable control environment, appropriate control activities, ... and adequate monitoring mechanisms (as referred to in 3.225)".	<i>CEIOPS believes it is important to stress this idea.</i>
484.	FFSA	3.224	<p>Impact of risk profile</p> <p>We support the view that the internal control system "shall secure the effectiveness and efficiency of operations in view of its objectives" but also of its risks. In fact, an adequate risk control framework should closely follow the risk profile of an undertaking.</p> <p>Interaction with internal audit</p> <p>We recommend also specifying the interaction between internal control system and internal audit needs to be identified by the undertaking.</p>	<p><i>Noted.</i></p> <p><i>CEIOPS will further elaborate on this in its Level 3 work.</i></p>
485.	Lloyd's	3.224	We suggest that this para should be amended to read "The internal control system shall <i>be designed to</i> secure the undertaking's compliance..."	<i>Undertakings "owe" a result not just an effort.</i>
486.	CROF	3.225	<p><i>"The undertaking shall have in place a suitable control environment, appropriate control activities, effective information and communication and active monitoring mechanisms."</i></p> <p>The CRO Forum believes that an effective and efficient internal control framework is based on the identification and assessment of all the significant risks that can impact the company's objectives. This is why the responsibility for setting up an internal control framework belongs within the Risk Management function, realizing enterprise risk management with strong risk control. Compliance should set the specific controls for compliance risk within the internal control framework but not be responsible for the framework itself.</p> <p>A strong internal control framework is based on assessment of all significant risks and therefore it is important that regulation avoids reversion to a silo approach to risk management. The inclusion of Compliance in the Internal Control section seems to support this view, but it would be good to have formally</p>	<i>The system of governance comprises different functions. The administrative or management body is responsible for setting up all these functions.</i>

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			<p>reflected that an ERM approach is advised in this paper</p> <p>In spirit of the above and reference to paragraph 3.197, it is not understood why the paper seem to follow COSO-IC instead of COSO-ERM. The latter is published later based on market needs, would better fit solvency or risk management related regulations and encompasses internal control as well. Internal control should be risk based and control activities should mitigate relevant risks in line with management's risk response or law/regulations where applicable. This principle should also drive the assessment of the effectiveness of an internal control framework, while effectiveness is currently undefined in paragraph 3.213 but could be read in the context of testing control effectiveness instead. As it comes to control deficiencies as outlined in paragraph 3.210 and 3.211, it is important to put the focus on significant deficiencies. This raises the question why these requirements are not outlined in a broader risk perspective, as risk is ultimately the context in which the significance of control deficiencies need to be assessed.</p>	<p><i>The Paper follows neither. The Level 1 text does not prescribe any specific approach.</i></p> <p><i>This is much too detailed for the purpose of this Paper.</i></p>
487.	PwC	3.224, 3.268	Explicit guidance on overall data governance and management might be consistent with the relevance of the issue, and not just for actuarial valuations, but for the wider internal control and risk management system.	
488.	IUA	3.226	It occurs that the principle of the compliance function (and indeed internal audit (Para 3.245)) having its own appropriate standing within the undertaking might also be applicable to the risk management function.	<i>See comment 448above.</i>
489.	GC	3.226	Further clarification on the meaning of the term 'appropriate standing' would be useful in order to understand what is required.	<i>See comment 448 above.</i>
490.	Munich Re	3.227	The meaning and the purpose of a „compliance plan“ is not clear to us. Drafting such a plan of “intended activities” could result in a purely bureaucratic exercise without any added value to the compliance function.	
491.	GDV	3.227	The meaning and the purpose of a „compliance plan“ is not clear to us. Drafting such a plan of “intended activities” could result in a purely bureaucratic exercise without any added value to the compliance function.	
492.	PwC	3.227	The Level 2 advice needs to reinforce the fact that it is management's responsibility to establish an appropriate compliance management/monitoring plan, covering all areas of compliance risk, with the compliance function's	<i>All system of governance is the responsibility of the administrative and</i>

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			support and advice in those areas for which the compliance function is responsible (see comments above).		<i>management body.</i>
493.	CROF	3.227	<p><i>"The intended compliance activities shall be set out in a compliance plan that ensures that all relevant areas of the undertaking are appropriately covered, taking into account their susceptibility to compliance risk."</i></p> <p>The meaning and the purpose of a "compliance plan" needs to be defined.</p>		<i>See comments 482 and 488 above</i>
494.	ECIROA	3.229	<p>These undertakings are too small to have their own independent audit function. The internal audit function of their parent company qualifies as it is objective and independent from the captive.</p> <p><i>Under the principle of proportionality an undertaking can outsource their audit function to their Parent's internal audit function or they can appoint an independent external audit company.</i></p>		<i>Noted.</i>
495.	KPMG	3.229	We support the overall aim within this guidance of ensuring that internal audit is an independent function reporting directly and regularly to the governing body, sufficiently resourced and with an appropriate high level of profile within the organisation. We would suggest that this is further bolstered regarding links with the external auditors. In particular the planning of internal audit activities should include liaison with the external auditors to ensure the external auditors concerns are factored in the audit plan.		<i>Noted.</i>
496.	ECIIA	3.230	<p>This seems to draw on an older definition than the current one. We recommend using the current - IIA endorsed - definition:</p> <p><i>"Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes."</i></p>		<i>It was not the intention of CEIOPS to give a definition of internal audit but rather describe the function in the context of level 2.</i>
497.	Ireland S2G	3.231	The recommendations in the CEIOPS advice (3.245 to 3.248) seem sensible - in that the internal audit function has to be wholly independent and objective and (unless outsourced) needs to be a separate unit without any other duties and that internal audit should have complete and unrestricted rights to information to produce a risk-based plan for future audits and an annual written report on its findings.		<i>Noted.</i>

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			<p>However, given that many insurance companies are part of a group and that "group internal audit" is responsible for the review of the companies within the group, it is important to consider how the requirements of the directive should be addressed from a practical perspective. It is not our expectation that individual companies within a group should each be required to create an internal audit function. The expected relationship between group internal audit and individual entities should be encapsulated within the regulatory framework (Level 2/3). From a practical perspective, the board of the subsidiary entity should review (at a minimum annually) the group internal audit risk evaluation and plan and consider, based on local materiality / requirements / risk profile, the adequacy of this plan from the perspective of the local subsidiary. Where the board believes that aspects relevant to the local subsidiary are not adequately addressed, this should be communicated, via the audit committee of the local subsidiary, to group internal audit for subsequent amendment.</p> <p>The language here where it states that the internal audit function should operate "under the direct control of the administrative or management body" should be reconsidered. It should state that a process should be in place whereby the administrative or management body can give direction and have oversight of the audit function.</p>	<p>See comment 2 above.</p> <p>The wording was changed. See amended paragraph 3.261</p>
498.	ABI	3.231	This is an area where would imagine that for groups it would be possible to have one internal audit function to audit the whole group.	See comment 497 above.
499.	ECIIA	3.231	<ul style="list-style-type: none"> - We agree with the principle of organisational independence, which is codified within our <i>International Standards</i>. However, operating under the direct control of the administrative or management body may not be the way to achieve this. Certainly, it would be better if this guidance supported the idea of a dual reporting line with one line definitely to the audit committee or its equivalent. - "Impartiality" is less about organisational independence and more about objectivity, which is a core requirement of our <i>Code of Ethics</i>. We recognise that it is a matter of personal professionalism and behaviour, rather than of structures and processes. We recommend that CEIOPS include a section on objectivity, separately from independence. 	<p>The wording was changed. See amended paragraph 3.261</p> <p>The idea of CEIOPS is that the internal audit should have a direct reporting line to the administrative or management body.</p> <p>This would be too much detail for the purpose of this Paper.</p>

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500.	ROAM	3.231	<p>The independence requirement of the internal audit function with the operational functions seems to be unrealistic for small size undertakings because of the nearness between employees, except to resort to a consulting firm audit or statutory auditor (cf. paragraph 3.15).</p> <ol style="list-style-type: none"> 1. We approve the principle according to which the internal audit function operates under the direct control of the administrative or management body, reporting to this body or an audit committee. 2. Until now audit missions are fulfilled by Auditors in small undertakings. <ul style="list-style-type: none"> - Can the Auditors still fulfil the internal audit function? - If not, we wish Ceiops to specify the tasks which are not executed today by the Auditors and which will be on the remit of the internal audit manager under Solvency 2 ? 	<p><i>CEIOPS acknowledge the issue, but first of all it is a requirement from Level 1 text, and second CEIOPS believes this can be solved e.g. by outsourcing.</i></p> <p><i>In CEIOPS' view <u>the statutory auditor (=external) of the undertaking – as opposed to an external auditor – cannot perform the tasks of the internal audit. The tasks of statutory auditing are stated in the resp. directive and national legislation.</u></i></p>
501.	CEA	3.231	<p>The internal audit function should be accountable to the administrative or management body.</p> <p>We agree that the internal audit function needs to be independent from the operational activities it audits. However, we do not agree with the text in the end of paragraph 231 ("...the internal audit function operates under the direct control of the administrative or management body..."). The wording should be amended to say that "The principle of independence entails that the internal audit function is accountable to the administrative or management body, reporting to this body or an audit committee". We do not think that it is appropriate to use the term "direct control" in this context. The internal audit function is not under the direct control of the management or administrative body; rather it reports to this body. The internal audit function should be independent.</p>	<p><i>The wording was changed. See amended paragraph 3.261</i></p>
502.	AMICE	3.231	<p>This paragraph states that the internal audit function needs to be independent from the organisational activities audited. The principle of independence means that the internal audit function operates under the direct control of the administrative or management body. This means that independence is preserved.</p>	<p><i>Noted.</i></p>

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			<p>AMICE welcomes such independence that clearly delineates the role of the internal audit (and we do not necessarily see a complete contradiction with what we wrote in our comment on para. 3.15).</p> <p>Members consider that any individual member of management should not have the possibility to suppress an audit of activities under his responsibility.</p>	
503.	IUA	3.232	<p>The dangers of potential conflicts of interest regarding remuneration are well known, particularly through such scandals as Enron, where remuneration through options and bonuses far outweighed basic salary. However, it is our understanding that, for most internal auditors in the insurance industry, the bonus potential is a percentage of salary, not a multiple of salary, so the same magnitude of danger is not generally present. Furthermore, structurally it would be difficult for businesses to give any kind of bonus that does not bear <u>some</u> relation to the performance of the company. Companies would have to give internal auditors separate and distinct remuneration packages. In a catastrophe affected year, if the only employees of an insurer to receive bonuses were internal auditors, this could create ill feeling. We would suggest that the wording is changed to "<i>the function is <u>mostly</u> compensated according to its own objectives</i>", which would bring materiality and proportionally into the consideration.</p>	<p><i>Noted.</i></p> <p><i>The reference to remuneration was deleted. This issue is covered by CEIOPS Advice on Remuneration Issues.</i></p>
504.	L&G	3.232	<p>The impartiality requirement means internal audit can only be compensated based on their own objectives, not in relation to the performance of the business units it reviews. This is a change to current practice</p>	<p><i>See comment 503 above.</i></p>
505.	ECIIA	3.232	<ul style="list-style-type: none"> - We agree with the principle of adequate resourcing, which is codified within our <i>International Standards</i>. We would like to see more information on the point. "Adequate" is a function both of numbers and of quality of people. It is important that those performing internal audit work are fully commensurate with the profession's body of knowledge. In this respect, the IIA has developed a competency framework defining the skills and competencies required for a professional internal auditor. The Institute's professional certification program (<i>Certified Internal Auditor- CIA</i>) will further contribute to the required professionalism for each individual performing internal audit activities - The points on remuneration are interesting. It is certainly important that 	<p><i>This is at least partly an proportionality issue and it is difficult to give more detailed requirements at level 2, or even level in 3 guidance.</i></p> <p><i>Noted. See comment 503</i></p>

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			their remuneration does not give internal auditors a conflict of interest. Professional internal auditors who are members of the Institute subscribe to the <i>Code of Ethics</i> and <i>International Standards</i> and, therefore, would be bound to avoid any such conflict of interest. However, it may be difficult to attract high calibre candidates to work in the internal audit activity if their remuneration is materially lower than that provided to peers in the operational areas of the organisation	above.
506.	Ireland S2G	3.232	If the internal audit function is a centralised function within an organisation, it would not be possible for the undertaking to ensure that the internal audit function "is compensated according to its own objectives, not in relation to the performance of the business unit it reviews". The undertaking will be charged for the use of the internal audit function and will not have control over its remuneration. This language needs to be reconsidered.	See comment 503 above.
507.	PwC	3.232 (see also 3.6)	Compensation according to own objectives and not in relation to the performance of business units might be recommended for all the control functions, not just the internal audit function.	See comment 503 above.
508.			Confidential comment deleted.	
509.	ECIIA	3.233	Again, as noted above, we agree with this principle but feel that more can be made of personal objectivity and the behavioural aspects of this. The <i>International Standards</i> require the Chief Audit Executive to tell the audit committee, or equivalent, on a regular basis about the organisational independence of the internal audit activity. We recommend such positive reporting to help to support this important characteristic.	CEIOPS will consider further developing Level 3 guidance on this.
510.	ECIIA	3.234	We support this principle, which is also recognised in the <i>International Standards</i> . Given the importance of the professionalism of internal auditors in fulfilling their role in governance, we recommend that the charter or strategy should also recognise the existence of the <i>Definition of Internal Auditing</i> , the <i>Code of Ethics</i> , the <i>International Standards</i> .	Noted. CEIOPS will consider further developing Level 3 guidance on this..
511.	ECIIA	3.235	We agree with the principle of unfettered access, which is also recognised in the <i>International Standards</i> . However, the advice relates only to information. It is also important that internal audit has unfettered access to the people who work	Refer to paragraph 3.263. See also new paragraph 3.11

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			for the organisation	
512.	IUA	3.236	Would 'business units' also include the Risk Management and Compliance functions? If not, it probably should. Equally, control failings should also be, as a matter of good governance, communicated to the Risk Management and Compliance functions, unless the failings are specific to those functions.	<i>Yes it does. CEIOPS does not consider it the task of risk management to deal with control failings and according to the Level 1 text the compliance function is only responsible for "external" compliance.</i>
513.	GC	3.236	The requirement for all business units to have an obligation to inform the internal audit function when control deficiencies are recognised seems onerous. We suggest that "significant" control deficiencies are reported to internal audit.	<i>Refer to the second sentence of the paragraph.</i>
514.	ECIIA	3.236	<p>While we agree that the internal audit activity needs to be well informed about incidents related to control deficiencies, we believe that the function outlined here is a function of the organisation's management. They need to establish mechanisms for recording not only control deficiencies but also risk incidents in the broader sense. They need to be and be seen to be responsible for the management of the organisation's risks.</p> <p>The information collected by management is part of the organisation's information. Therefore, as noted above, internal audit will have unfettered access to it and is likely to refer to it frequently. In addition, the internal audit activity will include the whole system of reporting, analysing and responding to incidents as one of the parts of the risk management framework which it may wish to evaluate.</p> <p>We believe that this distribution of responsibilities better reflects the requirements of effective systems of internal control and risk management and will result in more effective governance.</p>	<p><i>This part of the text handles only the internal audit.</i></p> <p><i>It is not the intention to imply that mechanisms for management reporting and information are not equally important.</i></p>
515.	CEA	3.236	<p>Business units should inform relevant functions when control deficiencies are recognised, losses are sustained or there is a definite suspicion concerning irregularities.</p> <p>The current wording states that business units should have an obligation to inform the internal audit function. Depending on the nature of the issue, it may</p>	<i>See comment 512 above.</i>

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			also be appropriate to inform the risk management and compliance functions.			
516.	FFSA	3.237-3.238	<p>We support the views expressed in the articles 3.237 and 3.238 linked to :</p> <ul style="list-style-type: none"> - the application of the principle of proportionality for the staffing of this function;* - the methodology to define the audit plan (risk analysis and reference to audit cycle principle).* 	<i>Noted.</i>		
517.	ABI	3.237	We welcome this illustration of how the proportionality could apply in practice.	<i>Noted.</i>		
518.	ECIIA	3.237	We believe that the default advice should be an in-house internal audit activity, lead by an appropriately qualified Chief Audit Executive (CAE) in-house. In cases where total outsourcing is selected as the method for obtaining internal audit services, a senior executive should be the custodian of internal audit, with the responsibility to oversee, manage, inform and take responsibility and accountability for the effective functioning of the outsourced internal audit activity.	<i>In CEIOPS view this is a matter of proportionality. In the case of outsourcing the general principles of outsourcing in section 3.7 apply.</i>		
519.	XL	3.237	We welcome this example of how proportionality could apply in practice.	<i>Noted.</i>		
520.	CEA	3.237	<p>The administrative or management body remains responsible for ensuring a system of internal audit even if this function is outsourced.</p> <p>We suggest that the following sentence is added at the end of paragraph 3.237: "Regardless of whether internal audit activities are outsourced, the administrative or management body remains ultimately responsible for ensuring that the system the internal audit is adequate and operates effectively".</p>	<i>The general principles of outsourcing apply also to outsourcing of Internal Audit.</i>		
521.	AMICE	3.237	<p>We detect in this paragraph a tendency by CEIOPS to regard is as an exception that the internal audit function can indeed be outsourced (para 3.15 seems to be phrased in a more neutral way). This would seem to us a severe case of ignoring the principle of proportionality. For the case that our interpretation of CEIOPS' thinking is correct and our fears therefore are justified, we raise serious objections to this view.</p> <p>We suggest changing this sentence as follows: "The internal audit function does not require a full time staff member but this depends on the scale, nature and complexity of the business. It can also be entrusted to a qualified party."</p>	<p><i>In CEIOPS view this is mostly a question of proportionality and this is also reflected in the text.</i></p> <p><i>See amended paragraph 3.20</i></p>		

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522.	ABI	3.238	We support the methodology, based on risk analysis suggested by CEIOPS for the audit plan and the reference to the audit cycle and the proportionality principle.	<i>Noted.</i>
523.	ECIIA	3.238	<p>Having a plan of work is recommended by the <i>International Standards</i>. However, this advice is too rigid.</p> <p>Best practice is moving away from annual and multi-year plans to rolling plans and other options. This allows internal audit activities to remain flexible in the facing of changing risk profiles. At the same time, if the purpose is to provide “an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance”, then the internal audit activity needs to complete work to support such an evaluation. It is unlikely that this can extend over several years.</p> <p>We support the idea that internal audit plans should be focused on the organisation’s risks. We would like to point out to CEIOPS that in best practice this means that the internal audit activity plans its work based on the organisation’s analysis of risks, rather than undertaking their own. In order to do so, of course, internal audit must form a view on the effectiveness of the organisation’s management of risks.</p> <p>In addition, best practice internal audit activities do not plan solely on a basis of risks but also with regard to the assurance needs of the organisation. These are linked together but not necessarily identical to one another.</p>	<p><i>In CEIOPS view the text does not exclude the rolling plans or their options. As it might be impossible in some cases to audit every aspect of the governance system and all parts of the undertaking every year, continuity and adequate scope might be achieved through multiyear planning.</i></p> <p><i>CEIOPS thinks that it is of great importance that some independence is maintained also in risk identification.</i></p> <p><i>In CEIOPS’ opinion the need of risk based planning do not exclude performing also assurance activities.</i></p>
524.	ROAM	3.238 à 3.242 + 3.247	<p>We wish audit’s usual rules are applied as well as the principle of proportionality.</p> <p>Indeed, we do not wish an increase in the number of rules (audit plan for several years, frequency, perimeter) because we think that the effects would be counterproductive for small insurance undertakings.</p> <p>We also underline that the process to identify, assess, mitigate, manage, monitor and report the operational risks (see paragraph 3.134) contribute to the risks analysis (systematic assessment of the risk’s causes and consequences).</p>	<p><i>Noted. The proportionality principle is always applied.</i></p> <p><i>CEIOPS do not know which "usual rules" are referred to here.</i></p>
525.			Confidential comment deleted.	
526.	AMICE	3.238 and 3.247	Expecting from every insurer an audit plan spanning (potentially) several years, is in our view not appropriate and does not adequately reflect the proportionality	<i>See above.</i>

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			<p>principle. We feel that the process of identifying, assessing, mitigating, managing, monitoring and reporting the operational risks (as referred to in par 3.134) can already be seen as a kind of audit plan.</p> <p>A request to establish an audit plan spanning (potentially) several years is a particularly striking example of why a preparation period of 12 months between the finalisation of level 2 measures and the entry into force of the Solvency II framework is extremely short and probably not sufficient.</p>	<i>This is out of CEIOPS' powers.</i>
527.	IUA	3.239	<p>It is certainly good practice that all activities are reviewed periodically. However, this has to be balanced with the fact that internal audit functions have limited resources and the emphasis of Solvency II is on a risk based approach. It should be recognised that, with a risk based approach, the cyclical plan may need to be modified swiftly if concerns on any area arise, even if that area has already been audited recently, and the areas with the most perceived risk should be focussed upon, at the potential expense of areas for which the Audit committee has fewer concerns.</p>	<i>Agreed. This can be achieved through risk based and proportional internal audit.</i>
528.	ECIIA	3.239	As long as the internal audit activity is planning with regard to the risks of the organisation and the assurance needs, this cycle principle is unnecessary and even unhelpful. It is no longer best practice.	<i>See comments 523 and 527 above.</i>
529.			Confidential comment deleted.	
530.	ECIIA	3.240	<p>Clearly, the audit plan should be realistic. It is also useful to include an indication of what is not being covered to assist those responsible for governance in understanding the assurance they will receive.</p> <p>We recommend that it should be approved by the audit committee, or its equivalent.</p>	<i>CEIOPS understands audit committee being usually a committee of administrative or management body.</i>
531.	Ireland S2G	3.240	If the internal audit function is a centralised function within an organisation, it would not be possible for the administrative or management body of the undertaking to approve the budget. This language needs to be reconsidered.	<i>Noted.</i>
532.	ECIIA	3.241	We support this principle, which is included in the <i>International Standards</i> . The advice is ambiguous. We recommend that the responsibility for remediating failures in risk management and control systems lies with the management of the organisation. Therefore, as for all actions and projects, management should have a system for monitoring successful completion. The internal audit activity	<i>Noted.</i>

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			should review whether this is working correctly	
533.	ECIIA	3.242	<p>Best practice states that the internal audit activity should communicate the result of its work to those who can act upon those results.</p> <p>In many organisations and cultures, this will require a written report. However, this is not essential as long as the line managers and those responsible for governance understand the evaluations and they take prompt action to address any deficiencies. We recommend that the advice focuses on these desired outcomes, rather than concentrating on one way to achieve them.</p> <p>We recommend that periodic reporting on the assurance that internal audit is providing should be made to the audit committee, or its equivalent, as well as to the management body.</p> <p>The <i>International Standards</i> require internal auditors to include in such reports: the internal audit activity's purpose, authority, responsibility and performance relative to its plan; and significant risk exposures and control issues, including fraud risks, governance issues.</p> <p>Consistent with the comments against 3.241, we note that it would reinforce the responsibilities of management better if it is the management team who are responsible for reporting on how previous issues and deficiencies raised by internal audit have been addressed. Internal audit may comment on the effectiveness of this follow-up but need not take the primary responsibility for it</p>	<p><i>Not agreed, CEIOPS thinks that written reports are necessary.</i></p> <p><i>See comment 531 above.</i></p> <p><i>Noted.</i></p> <p><i>Noted.</i></p> <p><i>Noted.</i></p>
534.	Ireland S2G	3.242	<p>This section states "(...) the internal audit function shall at least annually produce a written report on its finding to be submitted to the administrative or management body." It is not our expectation that that this written report would necessarily cover only one undertaking. We would expect that this could cover more than one entity within the group and that the board of the subsidiary entity would review this group internal audit risk evaluation and plan and consider, based on local materiality / requirements / risk profile, the adequacy of this plan from the perspective of the local subsidiary.</p>	<p><i>The advice in group context is being developed in other work stream.</i></p> <p><i>In CEIOPS opinion the reporting should cover both group and solo entity perspective.</i></p>
535.	ECIIA	3.243	As noted above, this is consistent with the <i>International Standards</i> .	<i>Noted.</i>
536.	ECIIA	3.244	The effectiveness of the internal audit activity goes beyond the matters addressed here: the nature of documentation. We recommend that CEIOPS includes in its advice a requirement to following the internationally recognised	<i>CEIOPS does not consider it appropriate to require undertakings to comply with</i>

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			standards for internal audit, the <i>International Standards</i> . These encompass documentation requirements and other elements of effectiveness.		<i>the standards of any specific national or international standard setter for internal audits.</i>
537.	Munich Re	3.245 – 3.248	We agree with CEIOPS' advice in paragraphs 3.245 and 3.246. It might, however, be appropriate to exclude certain activities from the audit universe in paragraph 3.247, e.g. activities of a more strategic nature. At least it should be made clear that the business strategy as such is not subject to audits by the internal audit function. We furthermore recommend to limit the reporting requirements in paragraph 3.248, second sentence to major deficiencies of the internal control system; that would correspond with the requirement to report on major compliance problems only in the same sentence.		<i>Noted.</i> <i>Not agreed.</i>
538.	Lloyd's	3.245	It is important that internal audit forms an overall conclusion/opinion and therefore we suggest that this para should make reference to internal audit being free to express its opinions (as well as its findings), in line with the wording in para 3.233.		<i>The wording was changed. See amended paragraph 3.276.</i>
539.	ECIIA	3.245	Include "objectivity" as well as independence. Include reporting to the "audit committee" or equivalent.		<i>Noted.</i> <i>See comment 531 above.</i>
540.	GDV	3.245-3.248	We agree with CEIOPS' advice in paragraphs 3.245 and 3.246. It might, however, be appropriate to exclude certain activities from the audit universe in paragraph 3.247, e.g. activities of a more strategic nature. At least it should be made clear that the business strategy as such is not subject to audits by the internal audit function. We furthermore recommend to limit the reporting requirements in paragraph 3.248, second sentence to major deficiencies of the internal control system; that would correspond with the requirement to report on major compliance problems only in the same sentence. We would ask for the word "any" to be deleted from this paragraph. The wording would be more logical without this word.		<i>See comment 537 above.</i>
541.	ECIIA	3.246	Agreed. Add more on the access to people – not just staff – who work for the undertaking		

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542.	ECIIA	3.247	Agreed. See notes above about risk based planning and assurance needs.	<i>Noted.</i>
543.	CEA	3.247	Tasks which are solely the responsibility of the administrative or management body of an undertaking should be excluded from the audit universe. An example of this would be the setting of an undertaking's strategy.	<i>Noted.</i>
544.	AMICE	3.247	This paragraph states that every activity and every unit of the undertaking shall fall within the scope of the internal audit function. We believe that materiality is an inherent principle of all auditing activity.	<i>Agreed. By this point CEIOPS means that the Internal Audit should have the possibility to audit which ever unit if necessary.</i>
545.	Lloyd's	3.248	Given that it is the role of management to ensure that internal audit recommendations have been implemented, we suggest that the word "implemented" at the end of this paragraph should be replaced with "followed up" (in line with the wording at the end of para 3.242.	<i>Noted.</i>
546.	ECIIA	3.248	As noted above, a written report may or may not be necessary.	<i>See comment 534 above.</i>
547.	CEA	3.248	We would ask for the word "any" to be deleted from this paragraph. The wording would be more logical without this word.	<i>CEIOPS means "any".</i>
548.	Munich Re	General comment Section 3.6	As the Solvency requirements refer to single insurance undertakings as well as to (re)insurance groups, we would appreciate if CEIOPS also gives advice about the tasks and meaning of the actuarial function within a group. Part 3.6., actuarial function, of this Consultation Paper deals only with undertakings but does not consider the actuarial function from a group's point of view.	<i>Article 246 of the Level 1 text explicitly states that the requirements for solo undertakings in terms of the system of governance apply mutatis mutandis at the level of the group. Hence, the tasks and meaning within a group are the same as at a solo level. In any case, CEIOPS will issue a Consultation Paper that deals with this issue in relation to groups.</i>

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549.	Dutch Actuarial Society (AG)	3.249	In line with the proposed responsibilities (activities a-h) we have the opinion that the actuarial function holder should be responsible for the technical provision component of the SCR. The actuarial function holder has the responsibility for the technical provision as part of the balance sheet and the profit & loss account. For the quantification of the risks the technical provisions are calculated based on stressed scenarios. The stressed liability component of the SCR should be the responsibility for the actuarial function holder too. That could be realised via Article 47(1) i.	<i>CEIOPS believes that the task referred to could be attributed either to the Actuarial Function or Risk Management Function according to the organisation of the undertaking.</i>
550.	Oliver Wyman	3.249	While we agree with the overall roles and responsibilities set out for the Actuarial Function, we observe that the industry seeks guidance as to how the Actuarial Function may be organised and structured. For instance, to what extent can different organizational units perform different elements of the actuarial function, or for a group, to what extent can selected tasks be outsourced to a group actuarial function. Many entities – in particular larger and more complex ones, currently face issues with the organizational design of actuarial tasks and tasks that need actuarial expertise, and the co-ordination with other functions such as risk management.	<i>According to current level 1 text recital 31 "the identification of a particular function does not prevent the undertaking from freely deciding how to organise the function in practice unless it is otherwise specified" in the Directive.</i>
551.	IUA	3.249	Despite some additional paragraphs in 3.279 - 3.282, we are, as yet, unclear on the <u>exact</u> nature of such an opinion and therefore we remain uncertain as to the implications for the actuarial function in particular and the business as a whole. As such further guidance is necessary in this regard.	<i>The opinion should be given taking into consideration in particular paragraph 3.315 of the Advice and considering the actuarial nature of the issues under analysis.</i> <i>In any case, the opinion will not assume the same nature as e.g. a certification. See also comment 655.</i> <i>In the future, CEIOPS will work on Level 3 if it is considered necessary to achieve an adequate level of harmonization among MS and/or undertakings.</i>

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552.	XL	3.249 to 3.309 – (Actuarial Function) specifically 3.253	We do not agree with the option now favoured by CEIOPS (Option 3). Previously, in the Issues Paper "System of Governance" CEIOPS had suggested that actuarial functions should rely on standards that are widely accepted in the industry and the profession. This seemed a more pragmatic and realistic approach. We would therefore support Option 2.	<i>CEIOPS will took into account feedback received on the options which are subject to Impact Assessment. The final advice was kept rather general since it was concluded that further discussion is needed.</i>
553.	Institut des Actuaire	3.249	The Actuarial function is too limited to liabilities (points a to f); it deals with also ALM and even Asset management. The Actuarial function is a limited scope in comparison to the work traditionally done by Actuaries.	<i>The actuarial function is not limited to liabilities. According to article 48 (1) i) insurance and reinsurance undertakings shall provide for an effective actuarial function to undertake among other things contribution to the effective implementation of the risk management system referred to in Article 44, i.e. underwriting and reserving, ALM,...</i> <i>In any case, the Level 1 text only addresses the tasks that are obligatorily undertaken by the actuarial function, while not impeding actuaries within the undertaking to perform other tasks, such as the contribution foreseen under Article 48(1)(i) regarding the contribution to the implementation of the undertaking's risk management system.</i>
554.	Institut	3.249 g)	Institut des Actuaire suggests to specify to whom the actuarial function of the	<i>In para 3.312. it was indicated</i>

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	des Actuaire		<p>insurance and reinsurance undertakings provide an opinion on the overall underwriting policy (this subject is developed in a next paragraph of this CP).</p> <p>To provide professional advice and ensure that board members have sufficient understanding and information about the actuarial function holder's opinions, Institut des Actuaire suggests requiring that actuarial function responsible have direct access to board members.</p>	<p><i>that "the actuarial function shall annually express an opinion on the overall underwriting policy and the adequacy of the significant reinsurance arrangements as well as expected cover under stress scenarios and report these views to the administrative or management body and senior management".</i></p> <p><i>CEIOPS also clarified in the final advice document that the performers of key functions should have direct access to the members of the administrative or management body. See new paragraphs 3.15 and 3.33.</i></p>	
555.	Institut des Actuaire	3.249 h)	<p>Institut des Actuaire suggests to specify to whom the actuarial function of the insurance and reinsurance undertakings provide an opinion on the adequacy of reinsurance arrangements.</p> <p>To provide professional advice and ensure that board members have sufficient understanding and information about the actuarial function holder's opinions, Institut des Actuaire suggests requiring that actuarial function responsible have direct access to board members.</p>	<p><i>See comment 554 above.</i></p>	
556.	Institut des Actuaire	3.249 i)	<p>This contribution of the actuarial function (contribution to the risk management system) is not developed after this paragraph within CP33. This has to be developed at the level 2 and 3.</p>	<p><i>CEIOPS has updated its final Level 2 advice in order to include some ideas related to the contribution of the actuarial function to the risk management system.</i></p>	

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					<i>In any case, according to Recital 31 it is up to the undertaking how to organise functions in practice unless this is otherwise specified in the Directive.</i>
557.	DAV	3.250.	The DAV welcomes the description of the actuarial function as a measure of quality assurance, a role which goes beyond the explicit tasks listed in 3.249. (or Art. 47 of the Framework Directive)		<i>The CP describes the general scope of the tasks listed in the Level 1 text but does not intend to go beyond these.</i>
558.	GC	3.250	The Groupe welcomes the description of the actuarial function as a measure of quality assurance, a role which includes but is not necessarily limited to the explicit tasks listed in 3.249. (or Art. 47 of the Framework Directive)		<i>See Comment 557 above.</i>
559.	Ireland S2G	3.250 & Articles 47, 75-85	<p>Further consideration needs to be given to the enforcement of compliance with the standards covered by this part of the guidance. We believe that a consistent, effective compliance enforcement process should be applied to all undertakings.</p> <p>Compliance could be encouraged by requiring certification by the management body that the technical provisions comply with Articles 75-84.</p> <p>Pillar 3 disclosure could also aid assessment of compliance.</p> <p>We believe that the actuarial function should certify that it complied with the relevant standards when providing advice to the management body.</p> <p>We believe that there should be a requirement for the actuarial function to notify the supervisor (with appropriate protection) if, in its opinion, there is a significant risk to the undertaking's ability to meet liabilities to policyholders based on the technical provisions established by the undertaking.</p>		<p><i>According to Article 40 the administrative or management body of the insurance or reinsurance undertaking has the ultimate responsibility for the compliance, by the undertaking concerned, with the laws, regulations and administrative provisions adopted pursuant to the Directive.</i></p> <p><i>According to Article 55(2) the Solvency and Financial Condition Report (which contain among other things a description, separately for assets, technical provisions, and other liabilities, of the bases and methods used for their valuation, together with an explanation of any major</i></p>

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				<p><i>differences in the bases and methods used for their valuation in financial statements), shall be subject to approval by the administrative or management body of the insurance or reinsurance undertaking.</i></p> <p><i>Regarding the certification of compliance with relevant standards by actuarial function, this function, as well as the other key functions, has to comply with the Level 1, 2 and 3 requirements and guidance and any actuarial technical standards to be endorsed by CEIOPS.</i></p> <p><i>CEIOPS believes that the role of the actuarial function is to notify the administrative or management body, as this has the ultimate responsibility for the compliance with laws, regulations and administrative procedures.</i></p>
560.	Institut des Actuaire	3.250	One can not build a European single market for financial and insurance services with different national regulations about actuarial responsibility. More precisely, several European countries have national regulation giving power and delegation to "Responsible Activity" whereas other countries don't know this function. This problem has to be resolved in the Level 2 text to avoid ambiguous decision during the implementation of Solvency II.	<p><i>CEIOPS acknowledges that in some MS a Responsible Actuary acts as an independent actuary. However, it is important to highlight the fact that the appointment of a Responsible Actuary is not a Solvency II</i></p>

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				<i>requirement.</i> <i>In any case, CEIOPS is considering developing some advice on how this Responsible Actuary will interact with the responsibilities of the Actuarial Function in its future Level 3 guidance.</i>
561.	Deloitte	3.252	<u>Feedback on option 1</u> We believe that such an option would result in an unnecessary burden for CEIOPS and is likely to create issues for the profession, particularly in member states where technical standards have already been developed. <u>Feedback on option 2</u> We believe that such standards do not elaborate a level of detail that is sufficient to ensure consistency between member states. <u>Feedback on option 3</u> We agree with CEIOPS that this would be the most suitable option. However, care needs to be taken to ensure that: <ul style="list-style-type: none"> – the newly formed body has clearly defined terms of reference, particularly in relation to its scope – the body is chaired by an independent person. Ideally we believe that this person should not work for a regulated undertaking. These considerations will help to ensure that standards are defined in an appropriate framework.	<i>See comment 552. .</i>
562.	Institut des Actuaire	3.252	Institut des Actuaire expects that CEIOPS will take every opinion from the stakeholders involved in these options, including the actuarial associations.	<i>See comment 552 above.</i>
563.			Confidential comment deleted.	

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564.	Pearl	Paras 3.253, 3.257, 3.295	<p>Whilst we are relatively comfortable with Option 3, as this should help to promote convergence and consistency within Europe, we believe it will take time to develop actuarial standards that are agreed across the EU so it is important to consider how the transition period will work. Once agreed the standards should not be applied retrospectively and there should be sufficient time to transition to them if significant database, modelling or other software or process developments are required to implement them. We would recommend that appropriate flexibility is built into these standards to allow for local variabilities, where appropriate.</p> <p>CEIOPS should also advise on how a conflict between diverging views between national technical standards and CEIOPS would be handled and resolved.</p>	See comment 552 above.
565.	Munich Re	3.253	<p>We do not agree with CEIOPS selecting Option 3 which means the function should rely on European technical standards. Especially for worldwide operating undertakings and groups would appreciate to rely not only on European technical standards, as their business might also need expertise developed based on non-European business. Additionally the development of new technical standards might take much more efforts to be accepted, and as a consequence could lead to inappropriate estimations for technical provisions.</p> <p>Therefore we would suggest to take Option 2, where the actuarial function should rely on technical standards that are widely accepted in the industry and the profession.</p>	See comment 552 above.
566.	FFSA	3.253	<p>With regard to the standards to be applied by the actuarial function in exercising its tasks, we recommend :</p> <ul style="list-style-type: none"> - option 2 : The function should rely on technical standards that are widely accepted in the industry and the profession. 	See comment 552 above.
567.	Dutch Actuarial Society (AG)	3.253	<p>We favour a combination between option 2 and 3: the function should rely on technical standards that are widely accepted in the industry and the profession. Such technical standards should be endorsed by a body of representatives of different stakeholders. The main arguments for our preference are:</p> <ul style="list-style-type: none"> – The insurance products in the European market are comparable, but there are major differences in the details of the products. Profit sharing, surrender values, levels and scope of guarantees are some of the most noticeable 	See comment 552 above.

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				<p>differences between the products in the different countries. It would be impossible to define level 3 implementing measures for technical standards at such detail that these would cover all the aforementioned differences.</p> <ul style="list-style-type: none"> – In the current market the sharing of knowledge and best practices are relatively easy to realize. Universities, Forums, the industry and the actuarial associations maintain the highest standards and adjust those quickly to reflect changed market conditions. – Last but not least, self regulation is one of the most components used for the development of new European legislation. 	
568.	Dutch Actuarial Society (AG)	3.253 3.255	to	<p>We understand the position of CEIOPS to envisage the need of convergence in the guidelines to be used for actuarial standards within Europe. Currently such standards do not fully exist from a regulatory perspective as different jurisdictions in Europe have different regulations and different professional standards through actuarial associations.</p> <p>Although there are huge differences between jurisdictions, we also see that in recent years through the international activities of several insurance companies and its actuaries, convergence of techniques is happening. We believe the Groupe Consultatif, lead by the national actuarial associations, can play a role in the development of guidelines and standards through Europe. However, we would like to emphasise that this can only work on a rather strict principle based approach through guidance notes (and thus technical standards should not be included in level 2 or level 3 implementing measures).</p>	See comment 552 above.
569.	DAV	3.253.		<p>DAV supports option 3, provided that the mentioned body of representatives of different stakeholders will comprise sufficient actuarial expertise. This could be achieved by making representatives of the Groupe Consultatif and/or the national actuarial associations part of this body. Fully qualified actuaries should represent the majority in this body.</p>	See comment 552 above.
570.	ICAEW	3.253		<p>Option 3 would appear to be the most sensible option as it gives the opportunity to bring together input from all stakeholders. However, this may be difficult to manage in the timescales available so this should be borne in mind when arranging debates.</p>	See comment 552 above.
571.	IUA	3.253		<p>We are comfortable with harmonising actuarial standards. On balance, we would</p>	See comment 552 above.

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			<p>favour Option 2, relying on technical standards that are widely accepted in the industry and the profession. Option 3 is, prima facie, persuasive but it may be difficult formulating and agreeing technical standards at a European level and may be counter-productive in that to secure agreement a set of standards may be approved that are not as high as those already widely accepted in some EU jurisdictions. Furthermore, conflicts between national association rules and a pan-European approach would need to be considered and resolved. It may be difficult to maintain a consistent national association / European approach without adopting minimum standards. Even if considered the best option, Option 3 would likely be a longer term approach given the Solvency II implementation timeframe, and would therefore likely require an interim measure. We feel it might be unrealistic to expect a full set of agreed European standards to be achieved before the 31st October 2012.</p> <p>Clearly, even in applying Option 2 a degree of supervisory flexibility will be required in assessing the actuarial standards in different EU States.</p>	
572.	GC	3.253	<p>The Groupe believes - in agreement with CEIOPS - that Option 3 is preferable to the others. Option 1 could be a very significant burden for CEIOPS, while Option 2 would not seem consistent with the objective of maximum harmonization. The Groupe welcomes the reference both to development (to which it believes it should contribute in a leading role) and endorsement (which should ideally be by the competent authorities).</p>	See comment 552 above.
573.	HAS	3.253	<p>We agree with Option 3 since in our opinion the standards</p> <ul style="list-style-type: none"> • need to be formulated on a European level, with a view to related global achievements • must avoid self regulation • must incorporate the interest of all stakeholders <p>At the same time, we believe that the actuarial profession must be given a higher role than other stakeholders. Thus we envisage a system where such standards are developed by the actuarial profession and the draft documents then are exposed to public debate where all stakeholders have the right to participate and the final decision is made by a panel especially brought to life for approval of such standards consisting of a balance of the various stakeholders.</p>	See comment 552 above.

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574.	UNESPA	3.253 & 3.262 3.283;3.295	<p>In terms of the actuarial function, we consider that this should be studied in greater depth; given the current level of regulation, our position on this issue should be understood as an initial opinion as we await further details.</p> <p>In principle, we consider the following to be the most appropriate options:</p> <ul style="list-style-type: none"> • Para 3.253 Option 3, as the techniques are being prepared by a carefully selected group of European experts and participants, these should be standardised and harmonised. • Para 3.262 Option 2, relating to the definition of tasks in the actuarial function by CEIOPS, although only establishing some minimums. • Para 3.283 Option 2, relating to the requirement for an annual report, but with the characteristics for each company established. <p>With regard to paragraph 3.295, whilst the concept that the actuarial function should depend on European standards developed and approved by a body representing all interested parties, including CEIOPS, seems to us to be an appropriate approach in principle, this needs to be more specific about how this body would work in practice. Once the specific functions and regulations for this body have been established, we will give our definitive opinion on this issue.</p>	See comment 552 above.
575.	L&G	3.253	<p>If option 1 is allowed then CEIOPS through level 3 has the ability to change the interpretation of the directive and level 2. Therefore either option 2, or depending on the range of stakeholders possibly option 3, but the risk remains that interpretations compared to those negotiated will be changed</p>	See comment 552 above.
576.	RSA Group	3.253	<p>If left to national actuarial associations, convergence of standards is likely to be slow. Moreover, staff in actuarial functions may not be members of national actuarial associations and so the standards will not apply.</p> <p>If CEIOPS set standards then actuaries will be subject to both these standards and those of their national actuarial associations. This risks possible incompatibility and problems satisfying two sets of requirements simultaneously. Further clarity is required on how conflicts between diverging views should be resolved.</p> <p>Therefore the proposed route of European technical standards endorsed as described would seem to strike the right balance between consistency and</p>	See comment 552 above.

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			convergence. The difficulties of such an approach should not be underestimated and an early start on this work is encouraged.	
577.	ABI	Paras 3.253, to 3.259, 3.295	<p>Actuarial standards</p> <p>We do not agree with the option now favoured by CEIOPS (option 3). We believe it will prove very difficult to get agreement at the European level and we are concerned this might end up as a lowest common denominator list of standards. In addition, if a supplementary set of standards was to be established then actuaries would be subject to both these new European standards and those of their national actuarial associations. This risks possible incompatibility and problems satisfying “two masters” simultaneously but also potential cherry picking between the different sets of standards.</p> <p>Previously, CEIOPS had suggested the actuarial function should rely on technical standards that are widely accepted in the industry and the profession⁵. We believe this was a much more pragmatic and realistic approach. <u>There is no need to reinvent standards which are already in existence in the actuarial community.</u> We would therefore support option 2 to avoid the consequences described.</p> <p>Furthermore, we believe this goes beyond the framework Directive’s provisions: ‘The actuarial function shall be carried out by persons who have knowledge of actuarial and financial mathematics, commensurate with the nature, scale and complexity of the risks inherent in the business of the insurance or reinsurance undertaking, and who are able to demonstrate their relevant experience with applicable professional and other standards.’⁶</p> <p>In any event, if actuarial standards were to be developed at European level, this should involve relevant industry representatives and stakeholders who have the knowledge and the expertise for this and should not be done by CEIOPS alone. Furthermore, we strongly believe such standards should only constitute guidance or a standard minimum approach aimed at smaller, less sophisticated firms, rather than a prescriptive list of standards. Firms should be allowed to continue to use other widely accepted standards at national level.</p> <p>We also notice that the blue text has a strong focus on technical standards,</p>	See comment 552 above.

⁵ See Issues Paper on System of Governance (published November 2008), para 9.1 and footnote: The actuarial function shall, in the exercise of its tasks, apply generally accepted actuarial standards that allow an appropriate level of confidence regarding its findings.

⁶ Article 47, para 2, Framework Directive as adopted by the European Parliament in plenary on 22 April 2009.

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			rather than professional standards. We believe professional standards to be equally important, providing fundamental protection to the situations envisaged in Para 3.308. It seems that Article 47 (2) of the Directive, "The actuarial function shall be carried out by persons [...] who are able to demonstrate their relevant experience with applicable professional and other standards", has not fully been taken into account.		
578.	ILAG	3.6 Actuarial Function 3.253 3.262	<p>We would suggest that the third option is followed on actuarial standards. We would suggest that a body is created with:</p> <ul style="list-style-type: none"> • Actuarial professional involvement from around the EU; • Academic involvement; • CFO involvement from the industry; • Consumer involvement; • Led by CEIOPS and given a secretariat by CEIOPS. <p>The body should have various standing working parties on all of the topics and be given tasks to generate real world actuarial solutions. Proportionality and practicality should be a key instruction to the working parties.</p> <p>We would suggest that firms rather than actuaries should be controlled by the findings of this body and that their findings should overrule any local standards set by local actuarial standard setters on the technical matters considered. The body should provide discussion papers as well as standards. There should also be regular newsletters on contentious matters at that time.</p> <p>We would also suggest that the second option is followed on the scope of the actuarial function work but only at the minimum level. The level 2 text should focus on what is really required from actuaries for all organisations.</p>	See comment 552 above.	
579.	GDV	3.253, 3.257, 3.295	<p>Option 2 is preferred.</p> <p>Though a set of harmonised actuarial standards is desirable, it should be pointed out that the standards form a set of general principles that shape a general framework of minimum requirements. Prescribing the use of specific algorithms, procedures and methodologies hampers the development of tailor-made and innovative actuarial solutions. This is detrimental to servicing policyholders.</p>	See comment 552 above.	

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			<p>Worldwide operating undertakings and groups would appreciate to rely not only on European technical standards, as their business might also need expertise developed based on non-European business. Additionally the development of new technical standards might take much more efforts to be accepted, and as a consequence could lead to inappropriate estimations for technical provisions.</p> <p>We also notice that the blue text has a strong focus on technical standards. Therefore the wording of option 2 should be changed and truncated after industry ("and the profession").</p>	
580.	ROAM	3.253	Option 2 is preferred	See comment 552 above.
581.	PwC	Section 3.6 3.253 & 3.295	<p>There are two separate issues that need to be addressed:</p> <p>(1) consistency of technical standards between members of different professional actuarial bodies in different countries;</p> <p>(2) consistency of technical standards between actuaries who are members of professional bodies, and those who are qualified to carry out the activities of the actuarial function by means of being able to demonstrate sufficient knowledge of actuarial and financial mathematics but who are not themselves members of a recognised professional body.</p> <p>It is not efficient to attempt to achieve the above by means of setting up a body to debate and create European technical standards, but should be created at the equivalent to Level 3 advice. This standard setting process should operate at a high level of general principles, and should be "outcomes focussed", not drilling down to the level of methods and approaches.</p> <p>Our preference is for a version of option A.1 to be pursued ("The function should use technical standards developed by CEIOPS"). These standards should be constructed to operate at the highest possible level of generality, equivalent to Level 2 measures.</p>	See comment 552 above.
582.	KPMG	3.253	We agree with CEIOPS that Option 3, relying on European technical standards to be developed and endorsed, would be the better option for the development of coherent actuarial standards. However this may be subject to time constraints and we believe that Option 2 may offer an alternative as a transitional measure.	See comment 552 above.
	Institut	3.253	Institut des Actuaire agrees with option 3 provided that the Groupe consultatif	See comment 552 above.

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	des Actuaire		could be the European body responsible for the development of standards and the CEIOPS, the authority which will endorse the standards.		
583.			Confidential comment deleted.		
584.	CEA	3.253, 3.295	<p>We support option 2: that the actuarial function should rely on technical standards that are widely accepted in the industry and the profession.</p> <p>In its Issues Paper on the System of Governance CEIOPS CEIOPS had suggested that the actuarial function should rely on technical standards that are widely accepted in the industry and the profession⁷. We believe this was a much more pragmatic and realistic approach than the current option favoured by CEIOPS (option 3).</p> <p>We agree with CEIOPS that a set of harmonised actuarial standards is desirable. Options 1 and 3, however, have several drawbacks. Firstly, prescribing the use of specific algorithms, procedures and methodologies hampers the development of tailor-made and innovative actuarial solutions. This is detrimental to servicing policyholders. Option 2 allows for more flexibility than the other options. Secondly, the standards proposed as a result of option 1 or 3 could be weaker than the widely accepted standards already existing. Lastly, if an additional set of standards was to be set then actuaries would be subject to both these standards and those of their national actuarial associations. This risks possible incompatibility and problems.</p> <p>In addition, option 1 has the drawback of a wide range of stakeholders not being able to input into the development of the standards. From our point of view this is the least desirable option out of the three.</p> <p>With regards to option 3, we believe it will prove very difficult to get agreement at the European level and we are concerned this might end up as a lowest common denominator list of standards. If option 3 is chosen, the technical standards to be developed should not be binding. Rather undertakings could choose to use one of the standards developed by a body of representatives of different stakeholders or continue using standards that are already widely</p>	See comment 552 above.	

⁷ See Issues Paper on System of Governance (published November 2008), para 9.1 and footnote: The actuarial function shall, in the exercise of its tasks, apply generally accepted actuarial standards that allow an appropriate level of confidence regarding its findings.

⁸ Article 47, para 2, Framework Directive as adopted by the European Parliament in plenary on 22 April 2009.

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			<p>accepted in the industry and the professions. It is also extremely important to seek expertise from many or even all countries, in order for the standards to make sense in all countries.</p> <p>We do not think the Framework Directive provides the legal basis for options 1 and 3: 'The actuarial function shall be carried out by persons <i>who have knowledge of actuarial and financial mathematics, commensurate with the nature, scale and complexity of the risks inherent in the business of the insurance or reinsurance undertaking, and who are able to demonstrate their relevant experience with applicable professional and other standards.</i>'⁸</p> <p>We also notice that the blue text has a strong focus on technical standards, rather than professional standards. In our view, professional standards are as important as technical standards, if not more so. The possibility of an actuary breaching professional standards and losing their career, as a consequence, feels like the ultimate protection to the situations envisaged in paragraph 3.308.</p>	
585.	AMICE	3.253	<p>With regards to the standards to be applied by the actuarial function in exercising its tasks, AMICE members consider the function should rely on technical standards that are widely accepted in the industry and the profession.</p> <p>We believe that Option 2 offers more flexibility than the other options and that it would be difficult to reach an agreement at European Level.</p>	See comment 552 above.
586.	AVIVA	3.254-3.261, 3.295	<p>Technical standards to be applied by the actuarial function</p> <p>We do not agree with Option 3 being used "The actuarial function shall rely on European technical standards to be developed and endorsed by a body of representatives of different stakeholders, including CEIOPS."</p> <p>The extent of the appropriateness of this requirement depends on the extent to which the ultimate recommendations depart from the widely accepted methods and approaches currently in use. In addition the make-up of the body of stakeholders will also be key. Will this include the actuarial professions from the key markets?</p> <p>There is no reference to the definition of the actuarial function within a large international group. The presumption is that each of the requirements should apply to each of the functions within the Group.</p> <p>Actuarial functions in smaller businesses may require some additional support if</p>	See comment 552 above.

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			<p>the requirements involve a significant departure from current practices.</p> <p>For groups with businesses outside Europe and where the approaches are not consistent; this may mean that Group reporting and local practices may not be aligned. This could be burdensome if the differences are significant.</p>	
587.	CROF	3.254-3.261, 3.295	<p>We do not agree with Option 3 being used "<i>The actuarial function shall rely on European technical standards to be developed and endorsed by a body of representatives of different stakeholders, including CEIOPS.</i>"</p> <p>The extent of the appropriateness of this requirement depends on the extent to which the ultimate recommendations depart from the widely accepted methods and approaches currently in use. In addition the make-up of the body of stakeholders will also be key. Will this include the actuarial professions from the key markets?</p> <p>There is no reference to the definition of the actuarial function within a large international group. The presumption is that each of the requirements should apply to each of the functions within the Group.</p> <p>Apart from the impact of increased management overheads as cited by CEIOPS in its Cost Benefit Analysis (Appendix B), there are other impacts:</p> <ul style="list-style-type: none"> • The option would create a focus on regulatory technical standards rather than promote the continual improvement and innovation by the industry of actuarial techniques, and continual improvement in the technical standards being used by companies in their internal model. Furthermore, there is a risk of political compromises being made on the standards and that may not promote the use of best practice actuarial techniques. • There needs to be some flexibility in the techniques applied in order to adapt it to the "scale, nature and complexity" of the risks. • Actuarial functions in smaller businesses may require some additional support if the requirements involve a significant departure from current practices. • For groups with businesses outside Europe and where the approaches are not consistent; this may mean that Group reporting and local practices 	See comment 552 above.

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			<p>may not be aligned. This could be burdensome if the differences are significant.</p> <p>Our preferred option is Option 2 with a reference to the application of technical standards that are appropriate to the scale, nature and complexity of the risks. At a maximum, a set of principles to promote "minimum technical standards" to ensure some harmonisation of quality across the EU, could be set by CEIOPS based on public consultation.</p> <p>We therefore do not agree with advice in para 3.295.</p>	
588.	Institut des Actuaire	3.254	<p>Institut des Actuaire totally agrees with this item. Institut des Actuaire is ready to cooperate and to share its existing standards with other association and CEIOPS.</p> <p>Standards are not only written about technical issues. They also deal with deontological, ethical and educational issues</p>	<i>Deontological, ethical and educational standards from European Associations are developed for application by its members. The persons performing the actuarial function should comply with the requirements and guidance under Level 1, 2 and 3 of Solvency II, including fit and proper requirements. However CEIOPS is open to further discuss these issue.</i>
589.	DAV	3.255.	<p>The convergence of actuarial guidelines (or standards) within the EU is one of the objectives of the Groupe Consultatif. The first important step in this direction was the implementation of a common standard of actuarial education in 2002. The Groupe Consultatif and all of its members will be happy to contribute to a European standard setting.</p>	<i>Noted.</i>
590.	GC	3.255	<p>The convergence of actuarial guidelines (or standards) within the EU is one of the objectives of the Groupe Consultatif. The first important step in this direction was the implementation of a common standard of actuarial education in 2002. The Groupe Consultatif and all of its members will be happy to contribute to a European standard setting.</p>	<i>Noted.</i>
591.	Institut des	3.255	<p>Considering that CEIOPS believes that the use of actuarial skills and advice can enhance the assessment of risk in an insurer, Institut des Actuaire suggest to</p>	<i>Noted.</i>

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	Actuaires		<p>CEIOPS to encourage insurers to make greater use of actuaries.</p> <p>Institut des Actuaires agrees that the level playing field will be assured with a high convergence of practices. Therefore it is important that standards are produce at a European level.</p> <p>Addition of national standards to the European standard enables to take into account the various ways of defining the contracts (different legislations on insurance contracts).</p>	
592.	DAV	3.256	Currently the professional standards of the DAV and the Groupe Consultatif are mandatory only for its members, but the DAV would strongly recommend applying similar standards to any actuarial work, regardless whether or not it is performed by a member of an actuarial association.	<i>Noted.</i>
593.	GC	3.256	Currently the professional standards of the Groupe Consultatif and of its member associations are mandatory only for members of those associations, but the Groupe would strongly recommend applying similar standards to any actuarial work, regardless whether or not it is performed by a member of an actuarial association.	<i>Noted.</i>
594.	Institut des Actuaires	3.256	<p>a) Most of the National standards fit with AAI standards, with the assistance of the Groupe Consultatif. Differences are mainly consequences of National regulations about the Responsible Actuary and particularity of home markets. Both should remain with Solvency II.</p> <p>b) Standards published by National association of actuaries are public and non-members can refer to them. An endorsement of the standards by the Supervisors can transform them to make them binding to non Actuaries.</p>	<p><i>a) Noted. However, as referred to in comment 560, the existence of a Responsible Actuary is not a Solvency II requirement. CEIOPS will try to integrate this existing feature in the context of Solvency II in Level 3 guidance.</i></p> <p><i>b) See comment 552 above.</i></p>
595.	Dutch Actuarial Society (AG)	3.257	We see a key role here for the actuarial associations both on national level as well as on European level through the Groupe Consultatif.	<i>Noted.</i>
596.	ECIROA	3.257	Under the principle of proportionality this function can be outsourced to the professional licensed Captive Management Company or to an independent	<i>Noted.</i>

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			<p>actuary.</p> <p>We recommend that a representative for captives is included in the body of representatives to comment on the technical standards.</p>	
597.	GC	3.257	<p>The Groupe Consultatif Actuariel Europeen, with member associations embracing the great majority of those discharging actuarial functions in the EU/EEA insurance industry, wholeheartedly welcomes the draft advice on actuarial standards set out in this paper. In our Freedoms Committee we have already initiated a task force to explore issues associated with the development of professional standards (educational, ethical, professional conduct, and technical interpretation) at a European level.</p> <p>We note and broadly agree with the high-level assessment included in the spreadsheet Annex B to CP33. In the interest of a fuller impact assessment, we have prepared a separate paper for CEIOPS and for the European Commission to explain the practitioner view of several of the issues which need to be addressed in implementation of professional standards. We refer you to our comments in this paper as well.</p> <p>We look forward to working with CEIOPS, the Commission, and other stakeholders to agree implementing measures which embrace all of the relevant issues.</p> <p>We consider that the following issues deserve to be considered in the context of formulation of, and assessment of the impact of, full implementing measures in respect of Article 47:</p> <ul style="list-style-type: none"> • The full framework and scope for professional standards as applying to the actuarial function; • The appropriate balance and interaction between legislation and standards i.e. between Level 2 and Level 3 guidance and practitioner-influenced interpretative standards; • The respective roles and responsibilities of CEIOPS, national supervisors, the Groupe, its member associations and other parties in development and maintenance of professional standards, including interpretative standards; • The respective roles and responsibilities of the same parties in relation to monitoring of compliance with standards and, should it be necessary, 	<i>Noted.</i>

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			enforcement and sanctions.	
598.	Lloyd's	3.257	<p>Lloyd's agrees that option 3 would be preferable as consistency is a key requirement for these standards. The paragraph talks about guidelines.</p> <p>We strongly believe that any guidance should be principles based. There has already been a large amount of debate about suitability of methods and we support the theory that, especially for non-life business, it is not possible to be prescriptive when choosing reserving techniques. The emphasis should be a framework within which actuarial functions should operate but should not prescribe methods or approaches.</p>	See comment 552 above.
599.	Institut des Actuaire	3.257	The Groupe Consultatif constitutes a good reference as a European body, specifically for countries which have already an organised actuarial profession. Its work is yet conducted by the objective of building an European actuarial function based on common standards with respect of countries' particularities.	Noted.
600.	Dutch Actuarial Society (AG)	3.258	We don't believe CEIOPS should develop these. The harmonisation of methodologies on European level should be coordinated by the profession (i.e. the actuarial associations) rather than by the regulator. Only such an approach will ensure the use of appropriate methods also when these develop over time.	See comment 552 above.
601.	Institut des Actuaire	3.258	Institut des Actuaire thinks that it is important that the way the standards will be stated (eventually in Level 3 guidance) is well defined by Level 2 measures.	See comment 552 above.
602.	DAV	3.259	The wording seems to restrict standard setting to technical standards, which is less than the code of conduct of the DAV and all Groupe Consultatif members. We recommend including professional/ethical standards as well.	See comment 588 above
603.	DAV	3.260	<p>In view of 3.250. the DAV does not consider the list of Art. 47 (1) of the Framework Directive to be comprehensive. In 3.290 explicit mention is made of</p> <ul style="list-style-type: none"> • quantification and modelling of risk • contribution to ORSA • asset-liability-management • risk mitigation arrangements <p>The DAV considers these tasks to be mandatory for the actuarial function, in line</p>	The Advice describes the general scope of the tasks listed in the Level 1 text but does not intend to go beyond these.

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			with 3.250 ("quality assurance") and with Art. 47(1), i) ("contribution to the risk management system"), but they are not listed explicitly in the Framework Directive.	
604.	GC	3.260	<p>In view of 3.250. the Groupe does not consider the list of Art. 47 (1) of the Framework Directive to be a comprehensive statement of the actuarial function. In 3.290 explicit mention is made of</p> <ul style="list-style-type: none"> quantification and modelling of risk contribution to ORSA asset -liability-management risk mitigation arrangements <p>The Groupe considers these tasks to require mandatory actuarial function involvement, in line with 3.250 ("quality assurance") and with Art. 47(1), i) ("contribution to the risk management system"), but they are not listed explicitly in the Framework Directive.</p>	<i>The Advice describes the general scope of the tasks listed in the Level 1 text but does not intend to go beyond these.</i>
605.	Pearl	Paras 3.262, 3.265	<p>We are comfortable with Option 2, that a certain minimum scope of tasks should be prescribed. However, whilst an indicative list of tasks can be helpful, supervisors should not decide how you organise your business.</p> <p>Flexibility will be of critical importance here when interpreting who owns the internal model and how the actuarial and the risk management functions interact. Whilst it is useful to have two different roles and that they should be defined but where they sit in the organisation should be left to the firm to decide (see also comment on para 3.291). Functions should not mean departments.</p>	<i>See comment 552 above.</i>
606.	Munich Re	3.262	We prefer option 2, because if there is any leeway in the interpretation of article 47(1) it should be clarified on level 2.	<i>See comment 552 above.</i>
607.	FFSA	3.262	Regarding the mandatory tasks of the actuarial function, we support the option 1 that leaves the undertakings to decide on the scope of these tasks individually (option 1)	<i>See comment 552 above.</i>
608.	Dutch Actuarial Society	3.262	We prefer option 2 in line with the arguments as set out by CEIOPS.	<i>See comment 552 above.</i>

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	(AG)			
609.	DAV	3.262.	The DAV prefers option 2, provided that the prescription is principle based and that the list of mandatory tasks is extended in the sense of our comment on 3.260.	See comment 552 above.
610.	ICAEW	3.262	While option 1 would give firms more opportunity to tailor the requirements to their particular circumstances (and hence meet the proportionality principle), some prescription would be helpful to guide firms. However, the prescription should not be so restrictive as to prevent firms from establishing an actuarial function that is proportionate and appropriate for their individual needs and risk profiles.	See comment 552 above.
611.	IUA	3.262	We are fairly ambivalent on the Options provided. We are comfortable with Option 1, which would allow undertakings the flexibility to decide on the scope of the actuarial tasks individually. However, we have no fundamental concerns on prescribing a list of minimum tasks to the actuarial function, though would stress that the undertaking should retain the ability to freely organise their business as it sees fit, particularly with regard to how the actuarial function integrates with other functions. If this key principle is compromised then we would favour Option 1. The list identified in Para 3.297 does not seem problematic.	See comment 552 above.
612.	GC	3.262	CEIOPS presents two options for the mandatory tasks of the actuarial function. CEIOPS supports option 2 and we agree provided that the prescription is principle based and that the list of mandatory tasks is extended in the sense of our comment on 3.260..	See comment 552 above.
613.	HAS	3.262	We agree with Option 2 because of pretty much the same harmonisation and consistency reason as we discuss in our point relating to Para 3.293.	See comment 552 above.
614.	ABI	3.262, 3.265, 3.297	<p>Minimum actuarial tasks</p> <p>We are comfortable with Option 2, that a certain minimum scope of tasks should be prescribed. However, whilst an indicative list of tasks can be helpful, supervisors should not decide how firms organise their business.</p> <p>Flexibility will be of critical importance here when interpreting who owns the internal model and how the actuarial and the risk management functions interact. Whilst it is useful to have two different roles and that they should be defined, it should be left to the firm to decide where they sit in the organisation</p>	See comment 552 above.

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			<p>(see also comment on para 3.265 and 3.291). Functions should not mean departments.</p> <p>In providing details on the general scope of the tasks to be performed, CEIOPS should not move too far from the Directive text. For example, paragraph 3.297 a) states that the actuarial function shall "... Assess the sufficiency of technical provisions...." In the Directive text the word "sufficiency" only applies to data. In practice, the actuarial function will be calculating best estimates (and risk margins) based on assumptions set by an undertaking's management (perhaps taking actuarial advice). The actuarial function should only need to ensure the appropriateness of these assumptions.</p>	
615.	GDV	3.262, 3.297	<p>Option 1 is preferred</p> <p>We disagree with CEIOPS' preference for option 2. In our view, it should be left to the undertakings to decide on the scope of the tasks of the actuarial function. This would give the undertakings more flexibility. Supervisors should not decide how undertakings organise their business. Article 47 of the Framework Directive already specifies the main tasks of the actuarial function.</p> <p>If option 2 is chosen, the general scope of the tasks should be based on the Level 1 text.</p>	See comment 552 above.
616.	ROAM	3.262	option 1 is preferred	See comment 552 above.
617.	Deloitte	3.262	<p>We agree that option 1 is not suitable as it will result in disparities across member states and companies.</p> <p>We agree that a minimum of guidance on tasks to be performed by the actuarial function should be provided by CEIOPS. We believe that this advice should take into account in particular:</p> <ul style="list-style-type: none"> – the need for an independent assessment of the best estimate, – the interactions between the risk and actuarial function as the current text could lead to some overlap of responsibilities between the two functions. 	See comment 552 above.
618.	CROF	3.262-3.282, 3.297-3.307	<p>"... the mandatory tasks of the actuarial function. This list can be interpreted in different ways. CEIOPS has considered whether:</p> <ul style="list-style-type: none"> • Option 2 The general scope of the tasks should be prescribed on Level 2 to 	See comment 552 above.

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			<i>some extent”.</i> We agree with Option 2, whereby the general scope of the tasks should be prescribed to some extent by CEIOPS, as long as the level of detail is consistent with that currently in this CP33.	
619.	KPMG	3.262	We also favour Option 2 with CEIOPS prescribing the scope of the tasks.	See comment 552 above.
620.	Institut des Actuaire	3.262	Institut des Actuaire agrees with option 2 in order to have a real convergence and to contribute to the independency of the Actuarial function.	See comment 552 above.
621.	CEA	3.262	We support option 1. We disagree with CEIOPS’ preference for option 2. In our view, it should be left to the undertakings to decide on the scope of the tasks of the actuarial function. This would give the undertakings more flexibility. Supervisors should not decide how undertakings organise their business. Article 47 of the Framework Directive already specifies the main tasks of the actuarial function. If option 2 is chosen, the general scope of the tasks should be based on the Level 1 text.	See comment 552 above.
622.	AMICE	3.262	With regards to the mandatory tasks of the actuarial function, we agree that the general scope of the tasks should be left to the undertaking to decide on its scope. Therefore we favour Option 1.	See comment 552 above.
623.	RSA Group	3.263 and 3.297	The scope of the function’s work is strongly related to the standards required. Using the European technical standards approach would require CEIOPS to set out its expectations of the function so that the necessary standards can be developed. So Option 2, favoured by CEIOPS, seems obligatory in the context of the decision on Standards. In providing details on the general scope of the tasks to be performed CEIOPS should not move too far from the Directive text. For example * paragraph 3.297 a) states that the actuarial function shall “.... assess the sufficiency of technical provisions....” In the Directive text the word “sufficiency” only applies to data. In practice, the actuarial function will be calculating best estimates (and risk margins) based on assumptions set by an undertaking’s management (perhaps taking actuarial advice). The actuarial function should only need to ensure the appropriateness of these assumptions.	See comment 552 above. <i>Regarding the use of the word “sufficiency”, CEIOPS considers that it does not contradict the spirit of the Level 1 text.</i>

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624.	Lloyd's	3.265	We agree it would be beneficial for a general scope of the actuarial function to be included within the level 2 text.	See comment 552 above.
625.	ABI	3.265	We agree that, as 3.291 permits, risk and actuarial functions may be integrated. However, where a 'three lines of defence' model is used (see comments on paras 3.52, 3.53), it might prove difficult to identify and separate respective responsibilities of the first and second line of defence. Further consideration of this point might be helpful although we would expect firms to remain responsible for their internal organisation.	The Level 1 text sets the requirements on risk management (article 44), actuarial function (article 48) and indicates contribution of actuarial function to risk management system, but according to recital 31 it is up to the undertaking how to organise functions in practice unless this is otherwise specified in this Directive.
626.	Institut des Actuaire	3.265	Institut des Actuaire suggests to define the "minimum task" of the actuarial function.	See comment 552 above.
627.			Confidential comment deleted.	
628.	DAV	3.266	<p>The procedures listed here are part of the professional standard of any DAV member (or member of any actuarial association in the EU). It would be helpful to refer to such a standard (e.g. "generally accepted actuarial principles" or the educational standard of the Groupe Consultatif) instead of listing a limited number of requirements. This list is necessarily incomplete and hence open for misinterpretation.</p> <p>This comment also applies to 3.267., 3.268., 3.269., 3.270., 3.271., 3.272., 3.273., and 3.276. It is interesting to note that the only item on the list of Art. 47 (1) of the Framework Directive without further explanation is item i) on risk management. We suggest making item i) more explicit in line with our comment on 3.260.</p>	The list given in para 3.299. is not exhaustive. To make it clear CEIOPS will add 'at least'.
629.	GC	3.266-3.281	We agree with the various requirements discussed in these paragraphs, although the list of requirements is not necessarily to be taken as complete. In our view these are matters appropriately specified in professional standards (as is already the case in most countries) and the discussion underlines the need for	See comment 628 above.

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			development and endorsement of such standards at European level.	
630.	PwC	3.266; 3.289,, 3.290; 3.291	Level of integration between actuarial and risk management functions might be addressed further, in particular where internal model development and maintenance are concerned, since duplication and misalignments should be explicitly discouraged.	<i>See comment 625 above.</i>
631.	Institut des Actuaire	3.266	Institut des Actuaire agrees with all the 8 points but this should be specified in the standards.	<i>CEIOPS welcomes this comment.</i>
632.	DAV	3.267	See 3.266.	<i>See comment 628 above.</i>
633.	Lloyd's	3.267	This is an important point that the actuarial function will have to use judgement when selecting appropriate methods. The judgement will be based on a number of factors including the size, nature and data for a particular class of business.	<i>According to article 48. 1 (b) the actuarial function should ensure the appropriateness of the methodologies and underlying models used as well as the assumptions made in the calculation of technical provisions.</i> <i>Moreover according to article 84 upon request from the supervisory authorities, insurance and reinsurance undertakings shall demonstrate the appropriateness of the level of their technical provisions, as well as the applicability and relevance of the methods applied, and the adequacy of the underlying statistical data used.</i>
634.	Institut des Actuaire	3.267	Institut des Actuaire agrees with this paragraph but that should be specify in the standards.	<i>Noted.</i>

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635.	DAV	3.268	See 3.266.	<i>See Comment 628 above</i>
636.	Institut des Actuaire	3.268	Institut des Actuaire doesn't agree that the technical data auditing is a task that should be performed by the sole internal audit function.	<i>The requirement expressed in paragraph these Advice is in line with CEIOPS Advice on "Standards for data quality".</i>
637.	DAV	3.269.	See 3.266.	<i>See comment 628 above.</i>
638.	GDV	3.269, 3.270	<p>It isn't obvious how new information allows to assess sufficiency of past best estimates (as currently stated in 3.269). But it is possible to analyse the changes of best estimates due to changes in data (as stated in 3.270). Therefore we propose to merge this two paragraphs concerning Article 47(1)(d), resulting in a new 3.269 (and deleting 3.270):</p> <p><i>3.269 The comparison of the best estimates against experience under Article 47(1)(d) requires the actuarial function to compare the observed and expected values of technical provisions in order to produce conclusions on the appropriateness of the data used and the methodologies applied on their estimation. It should be noted that the referred comparisons may be a practice of not only the actuarial function but the risk management function as well, and its area of application may be extended.</i></p> <p>This is essentially 3.270, without the second sentence. This second sentence applies to the task of the actuarial function stated in 47(1)(e), which is specified in 3.271, especially and in more detail in the last sentence of 3.271.</p>	<p><i>CEIOPS prefers to keep the original text.</i></p> <p><i>Regarding the repetitions, the text in the blue box will be revised in order to avoid them.</i></p>
639.	Institut des Actuaire	3.269	The test of model against experience can also be used for internal models.	<i>CEIOPS agrees but believes that the focus of the text is on the best estimate calculations</i>
640.	CEA	3.269, 3.270, 3.300-3.301, 3.303, 3.306-3.307	<ul style="list-style-type: none"> We propose a number of changes to improve the wording of the section on the actuarial function. It is not obvious how new information allows assessing the adequacy of past best estimates (as currently stated in 3.269). But it is possible to analyse the changes of best estimates due to changes in data (as stated in 3.270). Therefore we propose to merge these two paragraphs concerning Article 47(1)(d), resulting in a new 3.269 (and deleting 3.270): - "3.269 The comparison of the best estimates against experience under 	<p><i>CEIOPS prefers to keep the original text.</i></p> <p><i>(See comment 638 above.)</i></p> <p><i>Regarding the repetitions, the text in the blue box will be revised in order to avoid them.</i></p>

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			<p>Article 47(1)(d) requires the actuarial function to compare the observed and expected values of technical provisions in order to produce conclusions on the appropriateness of the data used and the methodologies applied on their estimation. It should be noted that the referred comparisons may be a practice of not only the actuarial function but the risk management function as well, and its area of application may be extended."</p> <ul style="list-style-type: none"> - This is essentially 3.270, without the second sentence. This second sentence applies to the task of the actuarial function stated in 47(1)(e), which is specified in 3.271, especially and in more detail in the last sentence of 3.271. • The advice in 3.300 and 3.306-3.307 should be modified accordingly. Also, 3.306 is equivalent to 3.300 and can therefore be deleted. • In addition, it is unclear what is meant by "costs associated with technical provisions" unless this is a restatement of the "best estimate against experience" mentioned in paragraph 3.269. • 3.301 is currently equivalent to 3.276 and 3.270. 3.276 is also restated in 3.303, and 3.270 we propose to delete (see above). Therefore we propose to delete 3.301. • 3.282 and 3.284 both deal with the independency of the actuarial function. We feel that 3.282 is preferable and therefore propose to delete 3.284. • We also propose to truncate 2.282 after "independency" because the second part of the sentence seems to be redundant. Accordingly, the first sentence of 3.308 should be deleted and the second should be truncated after "independency". • In paragraph 2.297.d, we would suggest replacing the wording "are solved" with "are dealt with appropriately". • In paragraph 3.296, the phrase "all necessary information" should be interpreted in a reasonable fashion as this is an area where judgment will be necessary in the absence of complete information. We would therefore understand this requirement as meaning "appropriate information". • In relation to paragraph 3.302, we believe that the requirement for 	<p><i>In particular, paragraphs 3.306 and 3.307 of the CP were deleted.</i></p> <p><i>In the same fashion, the first part of paragraph 3.301 of the CP (up to "accuracy of results") was also be deleted.</i></p> <p><i>See amended paragraphs 3.303 and 3.304.</i></p> <p><i>The paragraphs were not intended to convey the same idea. While in the case of the first, reference is made to the operational independence of the individuals, in the other case the idea of independence is related to the performance of the tasks, i.e. tasks should be performed without any sort of external influence. See amended paragraph 3.317.</i></p> <p><i>See amended paragraphs 3.299/3.332.</i></p> <p><i>The reference to "all necessary information" is intended, as long as it is justifiable in the context of the performance of the actuarial function.</i></p> <p><i>There is a minimum level of granularity required, but it will be the actuarial function that will decide the adequate level</i></p>

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			<p>actuaries to set out how they have arrived at their decision should not be applied at a too granular level. The wording should be modified accordingly.</p> <ul style="list-style-type: none"> In relation to 3.304.b, the listed considerations should be considered as examples and not mandatory. 	<p><i>of granularity.</i></p> <p><i>CEIOPS considers that all items listed should be covered by the actuarial function's opinion, as long as they are applicable.</i></p>
641.	DAV	3.270.	See 3.266.	-
642.	DAV	3.271.	See 3.266.	<i>The list given is not exhaustive. To make it clear CEIOPS will add 'at least'.</i>
643.	Institut des Actuaire	3.271	Institut des Actuaire suggest to define the actuarial report contents and to include the level 2 measures of actuarial report plan.	<i>CEIOPS does not intend to prescribe the contents and format of any report referred to in the Paper, as stated in paragraph 3.16. However, these aspects could be considered in the development of Level 3 guidance.</i>
644.	DAV	3.272.	See 3.266.	<i>See comment 628 above.</i>
645.	CEA	3.272	<p>We support CEIOPS' view that the actuarial function should also assess the level of appropriateness, accuracy and completeness of the available data.</p> <p>This is well formulated and important.</p>	<i>Noted.</i>
646.	DAV	3.273.	See 3.266.	<i>See comment 628 above.</i>
647.	DAV	3.274.	This is an issue regarding the communication between the actuarial function and the management and could be treated separately as part of reporting and documentation.	<i>In this paragraph CEIOPS tries to explain its interpretation of Article 41(1)(e) and does not intend to detail what sort of reporting should be sent by the actuarial function to the administrative or management body.</i>

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648.	DAV	3.275.	See 3.274.	-
649.	DAV	3.276.	See 3.266.	-
650.	DAV	3.277	See 3.274.	-
651.	Institut des Actuaire	3.277	<p>This paragraph is not enough developed, Institut des Actuaire suggest to detail at level 2:0</p> <ul style="list-style-type: none"> - specify the stress test scenario subject and define which actuarial function should express an opinion on the overall underwriting policy and the adequacy of the reinsurance ; - specify that the report of the stress scenario should be a written report ; - maybe add restrictions regarding the constructive suggestions. 	<p><i>CEIOPS does not intend to be too prescriptive in Level 2 regarding the specific tasks that should be performed by the actuarial function. However, these aspects could be considered in the development of Level 3 guidance.</i></p>
652.	DAV	3.279.	See 3.274.	-
653.	Institut des Actuaire	3.279	This paragraph is not enough developed. Institut des Actuaire suggests to specify issues like new business value, pure premium, commissioning, profit sharing policy (management action).	<i>See comment 652 above.</i>
654.	DAV	3.280.	See 3.274.	-
655.	IUA	3.280	In addition to our comments at Para 3.249 above, 'Actuarial Opinion' has potential connotations (in the UK at least) as to professional and personal liability of the entity performing the function in their capacity as a qualified actuary. It would be beneficial to provide further guidance on what is meant by 'opinion' in this regard. Para 3.293 is useful in outlining some of the key qualities a person's charged with discharging the actuarial function should have and further information on the issue of 'opinions' given by non-professionally qualified actuaries would help.	<p><i>CEIOPS acknowledges that in some MS a Responsible Actuary acts as an independent actuary. However, it is important to highlight the fact that the appointment of a Responsible Actuary is not a Solvency II requirement.</i></p> <p><i>In this specific context, what is requested from the actuarial function is the issuing of an opinion and not a certification, which implies no professional</i></p>

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				<p><i>liability.</i></p> <p><i>The status of the actuarial function in the context of Solvency II is equivalent to the risk management, compliance and internal audit functions.</i></p> <p><i>In any case, CEIOPS is considering developing some advice on how this Responsible Actuary will interact with the responsibilities of the Actuarial Function in its future Level 3 guidance.</i></p> <p><i>See comment 560 above.</i></p>
656.	ROAM	3.280 & 3.281	<p>The Actuary has to give his opinion on the insurance business technical management (underwriting policy as well as provisions and pricing; consideration of statutory risks, exchange, of anti selection; adequacy of the reinsurance program).</p> <p>On this point, we wish to underline that the actuary is not in charge to manage the undertaking and to define the strategy. We think the actuary has to give his opinion as the management controller gives his opinion.</p> <p>In this way, is it possible for Ceiops to specify the weight of this opinion with the supervisor? Does the Actuary involve his professional liability?</p>	<i>See comment 655 above.</i>
657.	Institut des Actuaire	3.280	<p>The list is not exhaustive. Moreover, Institut des Actuaire should add in b):</p> <ul style="list-style-type: none"> - commissions ; - a minimum schedule of annual reporting ; - a harmonization with a choice of level. 	<p><i>The list is not intended to be exhaustive.</i></p> <p><i>See comment 653 above.</i></p>
658.	CEA	3.280	CEIOPS should elaborate on what is meant by "actuarial opinion".	<i>See Comment 655 above.</i>

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			Guidance is required on the force that the "opinion" is expected to have and what the personal liability/responsibility of the actuary will be. We observe that there are accepted meanings and duties implied by the phrase "actuarial opinion" in many member states. Would these duties and standards be expected to apply to non-professionally qualified individual carrying out the actuarial function?	
659.	Munich Re	3.281	Concerning the underwriting policy, the risk appetite accepted by the management is also expressed in the reinsurance strategy. Therefore the opinion from the actuarial function concerning the adequacy of the reinsurance should be limited to the adequacy of the calculation of the provisions. Also the risks remaining after applying the reinsurance strategy could be encompassed in the actuarial function's opinion.	<i>The opinion of the actuarial function should be both on the adequacy of the calculation of technical provisions and on the undertaking's strategy for the risks that affect the technical provisions.</i>
660.	DAV	3.281.	See 3.274.	-
661.	ABI	3.281	We note that the opinion is in the context of strategy. It should not require detailed analysis. In order to avoid confusion over responsibilities we recommend that CEIOPS adds 'The duties to manage risk mitigations, to ensure that they are appropriate to the entities risk profile, capital and risk appetite do not necessarily have to be performed by the actuarial function. The overarching view may well be the responsibility of risk management'. Without such text there is a danger that the advice is read to require that entities organise in a particular way.	<i>The management of risks should be a task of the risk management function, while the opinion to be expressed by the actuarial function should be in line with the scope of its tasks and area of expertise. It is also important to note that when CEIOPS refers to functions, such as the actuarial function or the risk management function, the implicit idea is that of "an administrative capacity to undertake particular governance tasks", as clearly stated in Recital 18b of the Level 1 text.</i>
662.	GDV	3.281	Concerning the underwriting policy, the risk appetite accepted by the	<i>See comment 659 above.</i>

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			management is also expressed in the reinsurance strategy. Therefore the opinion from the actuarial function concerning the adequacy of the reinsurance should be limited to the adequacy of the calculation of the provisions. Also the risks remaining after applying the reinsurance strategy could be encompassed in the actuarial function's opinion.		
663.	CROF	3.281	<p><i>"Regarding the overall reinsurance cover, the opinion to be expressed by the actuarial function should include an opinion on the adequacy of the reinsurance and other mitigation techniques strategy in relation to the underwriting policy and the adequacy of the calculation of the technical provisions arising from reinsurance."</i></p> <p>Concerning the underwriting policy, the risk appetite accepted by the management is also expressed in the reinsurance strategy. Therefore the opinion from the actuarial function concerning the adequacy of the reinsurance should be limited to the adequacy of the calculation of the provisions. Also the risks remaining after applying the reinsurance strategy could be encompassed in the actuarial function's opinion.</p>	<i>See comment 659 above.</i>	
664.	Institut des Actuaire	3.281	Institut des Actuaire suggests the actuarial function should take into account tier 1,2 and 3. The actuary has to consider the whole balance sheet for consistency, including the assets and the net assets.	<i>CEIOPS does not understand this comment in the context of §3.281 of the CP.</i>	
665.	Dutch Actuarial Society (AG)	3.282	We advocate that the opinions should be provided by an independent external actuary, in line with current Dutch Regulations for Life insurance and Long term disability products. We believe an external sign-off of the technical provisions is the best way to guaranty independency and objectivity. Furthermore, it will bring market information to the company under review.	<p><i>In the context of Solvency II, no independent external actuary is required, only an actuarial function.</i></p> <p><i>CEIOPS however acknowledges that in some MS a Responsible Actuary acts as an independent actuary.</i></p> <p><i>CEIOPS is considering developing some advice on how this Responsible Actuary will interact with the responsibilities of the Actuarial Function in its future Level 3</i></p>	

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				<i>guidance.</i> <i>See comment 560 above.</i>
666.	DAV	3.282.	The meaning seems to be unclear. If the paragraph addresses the separation of functions or avoiding conflict of interest, it should be stated as such.	<i>See comment 640 above.</i>
667.	IUA	3.282	It seems that this paragraph is very similar to Para 3.284. As such, we would question whether Para 3.284 is necessary.	<i>See comment 640 above.</i>
668.	GDV	3.282	Because the second part of the sentence seems to be redundant we propose to truncate it after "independency".	<i>See comment 640 above.</i>
669.	Pearl	3.283, 3.287, 3.309	We are comfortable with Option 2 as this gives most flexibility to undertakings. The structure and content of the annual reporting of the actuarial function should depend on the audience for which it is intended, whether if it is for the Board or for a general public.	<i>Noted.</i>
670.	Munich Re	3.283	Concerning the reporting requirements, we recommend option 2 that an annual report is necessary but there should be no further needs on the structure, format or content of the report. According our opinion, to set demands on the tasks of the actuarial function is sufficient.	<i>Noted.</i>
671.	FFSA	3.283	Regarding the reporting of the actuarial function, we support the fact that the decision on the details is up to the undertakings (option 2)	<i>Noted.</i>
672.	Dutch Actuarial Society (AG)	3.283	We support CEIOPS option 2 not to define structure and content of the report for the actuarial function and understand the considerations of CEIOPS to leave the decision on the details to the companies. However, we favour an approach where the industry, the supervisors and the actuarial associations define a minimum set of information for disclosure as such an approach will stimulate self regulation by the industry and therefore improve the development of higher standards. We believe that on a European level the Groupe Consultatif should be the body to develop guidelines on the annual reporting and disclosure requirements in close contact with both the industry, the supervisors and the national actuarial associations.	<i>CEIOPS advice to the European Commission does not prevent any European actuarial association to develop specific standards on reporting for its associates.</i> <i>However, if necessary in order to foster harmonisation, these aspects could be considered in the development of Level 3 guidance.</i>
673.	DAV	3.283.	The DAV prefers option 2.	<i>Noted.</i>

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674.	ICAEW	3.283	Agreed that option 2 is preferable as allows firms to report in a manner that is specific to them and their risks.	<i>Noted.</i>
675.	IUA	3.283	We would prefer Opinion 2.	<i>Noted.</i>
676.	GC	3.283	Again here CEIOPS discusses two options and supports option 2. We support CEIOPS' logic. We would also like to add that the Groupe Consultatif and/or national associations' can have a role in developing guidelines for the annual actuarial report in order to have European harmonisation there but also to deal with national differences. We would be happy to discuss with CEIOPS the possible need of producing exemplary guidelines here.	<i>See comment 672 above.</i>
677.	HAS	3.283	We agree with Option 1 because of pretty much the same harmonisation and consistency reason as we discuss in our point relating to Para 3.293.	<i>Noted.</i>
678.	ABI	3.283, 3.287, 3.309	Actuarial reporting We are comfortable with Option 2 as this gives most flexibility to undertakings and agree with CEIOPS that the detailed structure and content of reports should be left to insurers. The structure and content of the annual reporting of the actuarial function should depend on the audience for which it is intended, whether if it is for the Board or for a general public. We see no advantage in local regulators specifying the report structure if CEIOPS have decided to leave this to individual insurers.	<i>Noted.</i>
679.	GDV	3.283, 3.309	We support Option 2: that annual reporting of the actuarial function should be required but the decision on the details should be left up to the undertakings. We believe that the undertakings should decide on the details of the annual reporting of the actuarial function. The reason for this is that we prefer a more flexible approach to the actuarial function and its tasks. Another reason is the proportionality principle - there cannot exist one optimal requirement for information on all products, LoBs and undertakings, regardless of size, market and type of business, compare Para 3.287. In addition, the structure and content of the annual reporting of the actuarial function should depend on the audience for which it is intended, whether if it is for the Board or for general public. There should, however, be general guidelines on the annual reporting at Level 2. We would also suggest that supervisors would have to justify a request to	<i>The ideas expressed by GDV could be included in the Impact Assessment tables (Annex of the Paper).</i> <i>The requirement for an annual report is already proposed by CEIOPS in paragraph 3.336</i> <i>In general terms, the supervisory authority will normally justify any additional requirements.</i>

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			produce an actuarial report more than once a year.	
680.	Ireland S2G	3.283 & 3.309	We are in favour of Option 2.	<i>Noted.</i>
681.	ROAM	3.283	option 2 is preferred	<i>Noted.</i>
682.	XL	3.283	We would prefer Option 2 as it provides greater flexibility. Option 1 could result in "boiler-plate" reporting which may not meet the needs of the audience for this it is intended.	<i>Noted.</i>
683.	PwC	Section 3.6 3.283	We agree with option 2 regarding leaving details up to undertakings as per 3.10.	<i>Noted.</i>
684.	CROF	3.283, 3.309	We agree with annual reporting on the mandatory tasks performed within the actuarial functions, in particular the opinions that the board must consider. However, full independence of reporting from other functions will be cumbersome for some tasks and may cause duplication. We believe all functions should contribute collectively to certain reports such as ORSA and solvency and financial condition reporting. An independent report by the actuarial function would be produced only for those tasks in which the function is directly advising the board (e.g. topics surrounding technical provisions) and not for other tasks which overlap with other functions (for example, best estimate versus experience analyses, would overlap with the risk management function). Under this scope we would then choose option 2 where the details of the structure and content of the report is left up to undertakings.	<i>CEIOPS does not intend to prescribe the number of reports that should be prepared by the undertaking. Hence, there is no specific provision for the preparation of an independent report from the actuarial function.</i> <i>The requirement is only on the action of reporting.</i>
685.	KPMG	3.283	We agree that Option 2 is preferable as it allows (re)insurance undertakings to determine the most suitable level and form of reporting appropriate to their business and their risks.	<i>Noted.</i>
686.	Institut des Actuaire	3.283	While Institut des Actuaire agrees the decision of the detailed reporting structure belongs to the undertakings with guidelines on structure developed at European level or national level.	-
687.	CEA	3.283, 3.309	We support Option 2: that annual reporting of the actuarial function should be required but the decision on the details should be left up to the undertakings. We agree with CEIOPS that option 2 is preferable. We believe that the	<i>See comment 679 above.</i>

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			undertakings should decide on the details of the annual reporting of the actuarial function. The reason for this is that we prefer a more flexible approach to the actuarial function and its tasks. Another reason is the proportionality principle - there cannot exist one optimal requirement for information on all products, lines of business and undertakings, regardless of size, market and type of business. In addition, the structure and content of the annual reporting of the actuarial function should depend on the audience for which it is intended, whether if it is for the Board or for general public. There should, however, be general guidelines on the annual reporting at Level 2. We would also suggest that supervisors would have to justify a request to produce an actuarial report more than once a year.		
688.	AMICE	3.283 and 3.287	We agree with CEIOPS that defining the structure and content of the report on level 2 would be excessive and therefore support Option 2.	<i>Noted.</i>	
689.	Dutch Actuarial Society (AG)	3.284	In order to guarantee the objectivity we think that for the valuation of technical provisions a review and sign off of the results by an independent party would be very desirable. Moreover, given the importance of the technical provisions in the calculation of the SCR and MCR, we favour strongly an independent actuarial opinion for those components too.	<i>When CEIOPS refers to independence in the context of the actuarial function, this idea is linked to the operational independence of the individuals that perform this task and to the prevention of any sort of external influence in the performance of the tasks. See comments 640 and 666 above.</i>	
690.	DAV	3.284.	The DAV welcomes the clarification regarding the independence of the actuarial function.	<i>See comments 640 and 666 above.</i>	
691.	GC	3.284	The Groupe welcomes the clarification regarding the independence of the actuarial function.	<i>See comments 640 and 666 above.</i>	
692.	GDV	3.284	3.282 and 3.284 both deal with the independency of the actuarial function. We feel that 3.282 is preferable and therefore propose to delete 3.284.	<i>See comments 640 and 666 above.</i>	
693.	ROAM	3.284	Given his involvement in all the undertakings' technical management, we think it	<i>CEIOPS does not intend to</i>	

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			<p>is an illusion to assert that the actuarial function - in small and medium sized undertakings is not influenced by the other key functions (risk management function, compliance function and internal audit function) or by the administrative or management body.</p> <p>Nevertheless and similarly to the practices in some specialized mutual insurance companies, it could be judicious to propose a neutral point of view in the main actuarial works. <i>Example of these mutual insurance undertakings:</i> once a year, a consulting firm approves and presents to the Board the past and projected technical and financial accounts as well as the prospective scenarios.</p>	<p><i>prescribe how the undertaking should ensure the operational independence of the actuarial function.</i></p> <p><i>In any case, the principle of proportionality should apply.</i></p>
694.	Institut des Actuaire	3.284	<p>Possible conflicts of interest</p> <p>Actuarial function holders are required to be objective in the performance of their duties and to take reasonable steps to satisfy themselves that they are free from bias or from any conflict of interest from which bias may reasonable be inferred.</p> <p>To provide professional advice and ensure that board members have sufficient understanding and information about the actuarial function holder's opinions, Institut des Actuaire suggests requiring that actuarial function responsible has direct access to board members.</p> <p>The firm must take reasonable steps to ensure that the person who is in charge of the actuarial function does not perform any other function on behalf of the firm which could give rise to a significant conflict of interest.</p> <p>There is a not "free from influence" risk if the actuarial function is applied by a CRO who is in charge of internal models. This paragraph should specify what is the working and the payment model in order to be "free from influence".</p>	<p><i>Regarding the access from the actuarial function to the members of the administrative or management body, please refer to comment 554 above.</i></p> <p><i>The independence of the actuarial function is related to an operational independence and does not imply that the individuals performing this function cannot perform any other tasks. The principle of proportionality should apply in this context.</i></p> <p><i>As for the payment model, CEIOPS will issue a specific paper that tackles the subject of remuneration policies.</i></p>
695.	DAV	3.285	See 3.274.	-
696.	Institut des Actuaire	3.285	It is not specified to whom the written reports should be given (audit comity, executive committee..). Moreover, the paragraph doesn't specify what are the obligation and the control about written reports.	<i>See amended paragraph 3.319.</i>
697.	DAV	3.286.	See 3.274.	-

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698.	Lloyd's	3.287	We agree that the scope and structure of an annual report should be undertaking specific and not prescribed.	<i>Noted.</i>
699.	Deloitte	3.287	We agree with the recommendation of option 2. However, while we believe that a detailed and prescriptive format should not be mandatory, we would welcome further clarification at Level 3 to ensure that the information included within these reports is consistent across all member states.	<i>CEIOPS does not intend to be too prescriptive in Level 2. However, if necessary in order to foster harmonisation, these aspects could be considered in the development of Level 3 guidance.</i>
700.	Institut des Actuaire	3.288	See comments on 3.283.	<i>See comment 686 above.</i>
701.	DAV	3.289.	The wording "actuarial methods may need to be applied" may give the impression that the application of actuarial methods for risk management is exceptional. Our view is that it would be exceptional not to use actuarial methods in risk management.	<i>The methods to be applied will depend on the risks. However, the word "may" will be deleted in order to avoid any ambiguities.</i>
702.	GC	3.289	Our view of the actuarial role in risk management has been expressed under 3.250. and 3.260. Here we would like to remark that the wording "actuarial methods may need to be applied" may give the impression that the application of actuarial methods for risk management is exceptional. Our view is that it would be exceptional not to use actuarial methods in risk management.	<i>See comment 701 above.</i>
703.	HAS	3.289	<p>According to Point 3.289, 'Article 43(5) sets out that the risk management function is responsible for a number of areas of the internal model. This aims to ensure that the model is seen as a widely-understood risk management tool within the business and not purely an 'actuarial model'.</p> <p>The text seems to intend that an actuarial model, or what is considered by the author of CP33 as a 'pure' actuarial model, is inevitably inferior to other models and that such a model is incapable of grasping the complexity of real life risks and thus managing such risks. In fact actuarial models, like any other models can be proper and improper. An actuarial model is, in principle, the same as any other model, the specificity is simply the fact that an actuarial model uses special actuarial knowledge and expertise (and not, for example, medical or legal</p>	<i>CEIOPS will replace the reference to an "actuarial model", by a "mathematical model".</i> <i>See comment 701above.</i>

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			<p>knowledge and expertise). If CEIOPS means that in the risk management of (re)insurers only quality models can be used then we have a common ground. It does not matter what label is used, the model must be adequate. And, when it comes to an internal model for a (re)insurance company, such a model inevitably must incorporate actuarial elements and thus actuarial contribution is incontestable.</p> <p>Furthermore, the text of point 3.289 reads: 'Depending on the complexity of the risk management system, actuarial methods may need to be applied...' Again it must be emphasised that we strongly believe that for the design and implementation of an internal model (this point is formulated in relation to Article 43(5) which is about internal models), actuarial methods must be applied.</p>		
704.	Institut des Actuaire	3.289	Institut des Actuaire doesn't consider that point 3.289 is in the scope of governance requirement on actuarial function. Hence, it suggests deleting it.		<i>CEIOPS does not agree.</i>
705.	DAV	3.290.	See 3.260.		<i>See comment 603 above.</i>
706.	GC	3.290	See 3.260		<i>See comment 604 above.</i>
707.	Ireland S2G	3.290	We welcome this text that states that an effective risk management system requires input from the actuarial function and that this is not limited to a contribution to an ORSA or an internal model.		<i>Noted.</i>
708.	Institut des Actuaire	3.290	Institut des Actuaire agrees.		<i>Noted.</i>
709.	Pearl	3.291	We are very supportive of this paragraph and feel that it should also be in the blue text advice.		<i>CEIOPS considers that this paragraph is not suitable for Level 2 as the concept of a function is very clear in the Level 1 text.</i>
710.	ABI	3.291	We are very supportive of this paragraph and feel that it should also be in the blue text advice.		<i>See comment 709 above.</i>
711.	Institut des	3.291	Institut des Actuaire agrees.		<i>Noted.</i>

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712.			Confidential comment deleted.		
713.	Ireland S2G	3.292 Article 47(2)	<p>We welcome Article 47(2).</p> <p>Are “professional” standards those that relate to conduct and behaviour, rather than technical issues (e.g. code of ethics / professional conduct standards)?</p> <p>What professional standards will be deemed or considered to be “applicable”?</p> <p>How should undertakings assess whether persons are “able to demonstrate their relevant experience and expertise with applicable professional . . . standards”?</p> <p>We would welcome further clarification on the directive and the CEIOPS commentary. We believe that this issue should be covered by CEIOPS advice.</p>	<p><i>The issue of the technical standards to be applied by the actuarial function is covered by the Paper in paragraphs 3.283 ss.</i></p> <p><i>As for other standards, CEIOPS considers that general fit and proper requirements are sufficient and that no specific additional requirements are necessary.</i></p>	
714.	Institut des Actuaires	3.292	<p>Relevant experience and expertise</p> <p>The actuarial function should be carried out by a person with the knowledge and competence to work in a “random” environment, an understanding of stochastic mathematic is not sufficient.</p> <p>The actuarial function requires an understanding of the stochastic nature of insurance and the risks inherent in assets and liabilities, including the risk of a mismatch between assets and liabilities, as well as an understanding of the use of statistical models.</p> <p>More precisely, actuarial knowledge include those used to assess risk, determine the adequacy of premiums and establish technical provisions for both life and non-life insurance. These skills generally required:</p> <ul style="list-style-type: none"> - a detailed understanding of the business of insurance and the nature and probabilities of insurance risks (eg mortality, morbidity, claims frequency and severity) - a thorough knowledge and experience in financial mathematics and their applications to actuarial science (statistical model, discounted cash flows) - an understanding and assessment of the use of financial instruments including derivatives 	<p><i>CEIOPS considers that fit and proper requirements should apply, taking into consideration proportionality, i.e. the nature and complexity of the undertaking’s business.</i></p> <p><i>CEIOPS does not intend to prescribe any specific fit and proper requirements per function.</i></p> <p><i>See comment 713 above.</i></p>	

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			<ul style="list-style-type: none"> - a thorough knowledge and experience in the fundamental concepts of economics as they affect the operation of insurance and other financial systems - a thorough knowledge and experience to interpret the accounts and financial statements of companies and financial institutions and an understanding of volatility and the uncertainty associated with accounting estimates <p>The level 2 measures should approve the IAA or the Groupe consultatif standards and specify who to demonstrate their relevant experience and expertise.</p>	
715.	Dutch Actuarial Society (AG)	3.293	We understand CEIOPS position to not envisage a specific degree or training as a prerequisite for adequately fulfilling the actuarial function. However, we believe the different actuarial associations in the different European countries, as part of the Groupe Consultatif, should continue to play an important role in the work referred to in the actuarial function. We believe the Groupe Consultatif is the most suitable European body to provide quality standards for the actuarial function and potentially also the risk management function under Solvency II.	See comments 713 and 714 above.
716.	DAV	3.293.	The requirements for the actuarial function listed here seem quite narrow (not only because "statistical models" should be replaced by "stochastic models"). Within the Groupe Consultatif we have developed a common understanding of actuarial qualification. Instead of trying to "reinvent the actuary" we suggest referring to the educational standard of the Groupe Consultatif as a general requirement for performing actuarial work.	CEIOPS considers that the referred requirements are the minimum necessary for the performance of actuarial tasks. See comments 713 and 714 above.
717.	GC	3.293	The requirements for the actuarial function listed here seem quite narrow. Within the Groupe Consultatif we have developed a common understanding of actuarial qualification. Instead of trying to "reinvent the actuary" we suggest referring to the educational standard of the Groupe Consultatif as a general requirement for performing actuarial work.	See comments 713 and 714 above.
718.	HAS	3.293	According to Point 3.293, 'It is incumbent upon the undertaking to make sure that persons charged with actuarial tasks have the relevant qualifications,	See comments 713 and 714

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			<p>experience and knowledge of applicable standards. CEIOPS does not envisage a specific university degree or training as a prerequisite for adequately fulfilling the actuarial function; in particular a person carrying out the relevant tasks does not need to acquire the occupational title of “actuary” in jurisdictions where such a title is available. The actuarial function requires an understanding of the stochastic nature of insurance and the risks inherent in assets and liabilities, including the risk of a mismatch between assets and liabilities, as well as an understanding of the use of statistical models.’</p> <p>We believe that leaving the judgement of appropriate actuarial knowledge, experience and expertise exclusively to the undertakings without any further guidance entails a high risk of improper actuarial function and hence might endanger the sound operation of the (re)insurance companies thus jeopardising policyholders’ interests. As the Level 1 text stipulates, “The actuarial function shall be carried out by persons who... are able to demonstrate their relevant experience with applicable professional and other standards.” Harmonisation and consistency require that the demonstration should be related to some sort of standard adequate level and hence the minimum requirements towards this adequacy need to be regulated on Level 2.</p>		<i>above.</i>
719.	Institut des Actuaire	3.293	Be member of an actuarial association could give the necessary competence (obligatory continuing training, the respect of actuarial ethics) to practice actuarial functions.		<i>CEIOPS does not want to be too prescriptive regarding the membership of any sort of association.</i>
720.	GC	3.294	<p>The principle of proportionality is applied here so that smaller and less complex undertakings may require a comparatively lower level of knowledge in actuarial and financial mathematics in the person(s) carrying out the actuarial function. We do not agree with this in the context of the actuarial function and actually not in any context. We have earlier commented the same issue in the context of the proportionality principle in an earlier consultation.</p> <p>Our understanding is that the key issue is policyholder protection. This issue must not be compromised based on the proportionality principle. Based on this principle it must be possible to run an undertaking with a leaner organizational structure that would result in simpler methodologies and techniques. However, this could mean that in such a leaner organization the professional requirements could possibly be higher and not lower than in other organizations. We think</p>		<p><i>The paragraph indicated does not include any reference to “small” undertakings, but to the complexity of risk management, meaning that both the nature and the complexity of the undertaking’s business should be taken into account.</i></p> <p><i>CEIOPS does not agree that the application of the proportionality principle</i></p>

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			therefore that also in this area there is a need for minimum professional standards for the practitioners.		<i>regarding the adequateness of the methodologies and techniques in relation to the risks and activities of the undertaking could compromise the policyholders' protection.</i> <i>Additionally, it should be highlighted that the supervisory authority will play a role in this, as it will have to be satisfied with the applied methodologies and techniques.</i>
721.	Institut des Actuaire	3.294	It's the actuarial function which defines the most adapted methods with regard to risk environment. Otherwise, respect of rules and standards is important.		<i>Noted.</i>
722.	FEE	3.295	We agree that option 3 under paragraph 3.253 is most appropriate as it provides the opportunity for input from all stakeholders, although note that this will create practical challenges given the tight implementation timetable. We agree that option 2 under paragraph 3.262 is most appropriate as some degree of additional prescription would provide useful guidance to firms. However, this guidance should not be overly prescriptive and should not prevent firms from designing the scope of their actuarial function so that it is appropriate and proportionate to the needs of their business and its risks. We agree that option 2 under paragraph 3.283 is most appropriate as it is most likely to result in more relevant reporting, appropriate to the risks of the business.		<i>See comment 561 above.</i>
723.	Munich Re	3.295	We don't agree with advice 3.295, because we prefer the option 2 of 3.253 (see above).		<i>See comment 565 above.</i>
724.	Dutch Actuarial Society	3.295	We believe the Groupe Consultatif could play an important role in this.		<i>This issue will be further discussed in the future.</i>

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	(AG)				
725.	Oliver Wyman	3.295		We support the development of European technical standards for the calculation of technical provisions, and we believe that it will be important to involve a range of stakeholders – including but not limited to the actuarial profession and regulators. For instance, valuable inputs for common standards are emerging from the CFO Forum (for MCEV) and the CRO Forum (for the market-consistent valuation of liabilities).	<i>See comment 552 above.</i>
726.	GC	3.295		Please refer to our comments to paragraph 3.257 We are entirely supportive of the principle that a firm may use staff in its actuarial function with sufficient and appropriate skills, but who do not have the word “actuary” in their qualifications. However, it is of importance that any professional standards that apply to actuaries who are members of professional bodies also apply to those who carry out actuarial functions without a specific actuarial designation. This can be achieved by endorsement of standards by the competent authorities.	<i>The actuarial standards to be issued by CEIOPS (regardless of who develops) will have to be applied by all. Standards from association shall mandatory apply only to its members. .</i>
727.	Lloyd’s	3.295		We agree that European wide standards are preferable but highlight these will need to be principles based. It would be inappropriate for standards to be prescriptive in areas such as models or methods. This is especially true for specialist lines of business. It is important that any standards apply to those who carry out the actuarial function, whether they are members of a professional body or not.	<i>Noted.</i>
728.	ABI	3.295 3.309	to	This should be seen as examples / guidance and support rather than as a pre-approved list.	<i>Please note that the list presented in 3.332 indicates that the requirements are “at a minimum”.</i>
729.	Ireland S2G	3.295		We welcome the commitment to harmonised standards adopted at European level. We believe the key stakeholders for the development of standards are the regulators and the actuarial associations. CEIOPS and the Groupe Consultatif Actuariel Européen should take a lead role. To ensure that the standards are applicable to local markets, the input and advice of local actuarial bodies and local regulators will be required. Standards should provide flexibility to take into account developments in market	<i>See comment 552 above.</i>

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			practice, science and in the economic and business environment. It is vital that the standards can adapt quickly as required.	
730.	Pearl	3.296	The phrase "all necessary information" should be interpreted in a reasonable fashion as this is an area where judgment will be necessary in the absence of complete information. We would therefore understand this requirement as meaning 'appropriate information'.	<i>CEIOPS believes that the reference to "all necessary information, relevant for the discharge of its responsibilities" is sufficiently clear.</i>
731.	Munich Re	3.296	We agree with advice 3.296.	<i>CEIOPS welcomes this comment.</i>
732.	GC	3.296	We recommend that "access to the appropriate information systems that provide all necessary information" is replaced with "access to the necessary resources and appropriate information systems that provide sufficient information".	<i>CEIOPS has changed the text in the Advice in order to accommodate other resources than the information systems. Regarding the reference to "all necessary information", please refer to comment 730 above.</i>
733.	Lloyd's	3.296	This is a key requirement.	<i>CEIOPS agrees with this comment.</i>
734.	ABI	3.296	The phrase "all necessary information" should be interpreted in a reasonable fashion as this is an area where judgement will be necessary in the absence of complete information. We would therefore understand this requirement as meaning "appropriate information".	<i>See Comment 730 above.</i>
735.	GDV	3.296	We agree with the advice.	<i>CEIOPS welcomes this comment.</i>
736.	Pearl	3.297(c)	We would suggest replacing "any relevant information" with "appropriate information".	<i>CEIOPS will take into account the proposed change in its final Advice. See amended paragraph 3.332.</i>
737.	ABI	3.297(c)	We would suggest replacing "any relevant information" with "appropriate	<i>See comment 736 above.</i>

Template comments

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			information".	
738.	Pearl	3.297(d)	We would suggest replacing the wording "are solved" with "are dealt with appropriately".	See comment 640 above.
739.	ABI	3.297(d)	We would suggest replacing the wording "are solved" with "are dealt with appropriately".	See comment 640 above.
740.	IUA	3.297(d)	'Are solved' may be better termed 'are dealt with appropriately' in this paragraph.	See comment 640 above.
741.	GC	3.297(d)	<p>The actuarial function is expected to "ensure that problems related to the calculation of technical provisions arising from insufficient data quality are solved".</p> <p>If high quality data is not available (which is particularly likely with policies that have been in-force for a long-time, as older systems may not have collected sufficient data to carry out the tasks now performed), then it may not be possible to "solve the problems" or the cost may exceed the benefit. Therefore the actuarial function should be required to reflect the quality of data in the calculations eg through the establishment of an additional reserve and to report to the administrative or management body on how the issue has been addressed with recommendations on how the issue should be addressed in the future eg collecting better data or to continue to hold a data reserve. It would be the responsibility of the administrative or management body to decide on whether or not to accept the recommendations.</p>	<p><i>Where data is not of the first quality an approach is needed that is commensurate with the likely level of risk and the nature of the problem. However, any additional reserve should only reflect the possibility of larger than expected losses arising out of the increased uncertainty and should not be a margin above best estimate.</i></p> <p>See comment 742 below.</p>
742.	Ireland S2G	3.297(d)	<p>"Ensure that problems related to the calculation of technical provisions arising from insufficient data quality are solved and that the most appropriate alternatives to common methods applied are found, taking into consideration the principle of proportionality".</p> <p>For greater clarity, we suggest that this paragraph be changed to:</p> <p>"Ensure that problems related to the calculation of technical provisions arising from insufficient data quality are addressed and that, where it is impracticable to apply common methods of calculating technical provisions because of insufficient data quality, the most appropriate alternatives to common methods are found, taking into consideration the principle of proportionality."</p>	CEIOPS will take into account the proposed change in its final Advice. See amended paragraph 3.332

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743.	Munich Re	3.297	<p>We agree with CEIOPS that the general scope of the tasks of the actuarial functions should be prescribed to some extent. However, while implement the prescribed task, we recommend to allow some exceptions according to the principle of proportionality and of particular importance is the term “to some extent”, respectively.</p> <p>Regarding advice 3.297 we have the following comments:</p> <ul style="list-style-type: none"> • Ad c: The use of “any” relevant information and experiences to produce judgement is probably extremely time-consuming or could nearly be impossible. Therefore we suggest to apply the principle of proportionality. • Ad d: We would prefer the word “addressed” instead of “solved”, because some data issues cannot be solved by the reinsurance company alone without the assistance of the cedants, but they can only be appropriately reflected. • Ad f: The consultation of “any” relevant market information is probably extremely time-consuming or could nearly be impossible. Therefore we suggest to apply the principle of proportionality. • Ad h: It should be made clear whether this advice refers only to financial options and guarantees or to all options and guarantees embedded in liabilities. 	<p><i>The principle of proportionality is always to be taken into account when considering what procedures are necessary.</i></p> <p><i>In any case, CEIOPS will take into account some of the proposed changes in its final Advice, notably in letters c) and d). See also comments 736 and 640 above.</i></p> <p><i>Regarding letter f), all implementation measures should be made bearing in mind the principle of proportionality. CEIOPS does not consider that “any” implies an exhaustive and unnecessary search for information.</i></p> <p><i>As for letter h), all options and guarantees should be assessed. Mortality options may carry significant risk.</i></p>
744.	GC	3.297	As commented under 3.266 above, this text is detailed and more appropriate for inclusion within an actuarial standard.	<i>See comments 629 and 728 above.</i>
745.	GC	3.297(f)	Replace the requirement to “consult any relevant market information” with “consult sufficient relevant market information where available”.	<i>See comment 743 above.</i>
746.	Lloyd’s	3.297	We agree with the comment. We would highlight that point under point (d) the actuarial function should be responsible for seeking alternative/suitable methods in light of insufficient data. The actuarial function should not necessarily be	<i>See comment 741 above.</i>

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			responsible for improving data quality. This should form part of the broader management of the undertaking.	
747.	Ireland S2G	3.297 & 3.301 & 3.304 & 3.305	CEIOPS refers to technical standards only. Article 47(2) refers to professional standards. The advice in these sections refers to requirements to 'produce judgement' and 'express an opinion'. The technical standards must cover judgement and opinions and not be restricted to narrow guidance on processes.	See comments 713 and 714 above.
748.	Ireland S2G	3.297 & 3.262	<p>We agree that the general scope of the tasks should be prescribed to some extent.</p> <p>We welcome the phrase 'at a minimum' in 3.297 which implies that the list is not exhaustive.</p>	CEIOPS welcomes this comment.
749.	CRO	3.297	<p><i>"In coordinating the calculation of the technical provisions the actuarial function shall at a minimum:[...]"</i></p> <p>We agree with CEIOPS that the general scope of the tasks of the actuarial functions should be prescribed to some extent. However, while implement the prescribed task, we recommend to allow some exceptions according to the principle of proportionality and of particular importance is the term "to some extent", respectively.</p> <p>Regarding advice 3.297 we have the following comments:</p> <ul style="list-style-type: none"> • Ad c: The use of "any" relevant information and experiences to produce judgement is probably extremely time-consuming or could nearly be impossible. Therefore we suggest to apply the principle of proportionality. • Ad d: We would prefer the word "addressed" instead of "solved", because some data issues cannot be solved by the reinsurance company alone without the assistance of the cedants, but they can only be appropriately reflected. • Ad f: The consultation of "any" relevant market information is probably extremely time-consuming or could nearly be impossible. Therefore we suggest to apply the principle of proportionality. • Ad h: It should be made clear whether this advice refers only to financial options and guarantees or to all options and guarantees embedded in liabilities. 	See comment 743 above.

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750.	Munich Re	3.298 - 3.303	We agree with the advices 3.298 - 3.303.	<i>CEIOPS welcomes this comment.</i>
751.	Lloyds	3.298	We strongly agree with this point that application of judgement is a key element to the actuarial function's role.	<i>CEIOPS welcomes this comment.</i>
752.	CROF	3.298	<p><i>"In order to ensure the appropriateness of the underlying methodologies and models used in the calculation of the technical provisions, the actuarial function not only has to assess the general suitability of the methodology or underlying model for the calculation of technical provisions as such, but also has to decide whether they are appropriate for the specific lines of business of the undertaking, for the way the business is managed and for the available data."</i></p> <p>Overall we note that there is in several cases overlap in roles and responsibilities between the actuarial function and the risk management function. Given the overarching and important role of the risk management function, we believe there is a need to clarify the different responsibilities. At the minimum the CEIOPS advice should include a requirement for insurers to describe the roles of the responsibilities of each of these functions.</p> <p>Given that Enterprise Risk Management needs to be comprehensive in covering all risks, risk management needs to have oversight responsibility on methodology adopted, assumptions set and models developed.</p>	<p><i>It is true that there is overlap between the actuarial and the risk management functions. CEIOPS would expect undertakings to clarify their respective responsibilities.</i></p> <p><i>Model development is clearly a responsibility of the risk management function, which includes the items mentioned, although CEIOPS would expect significant actuarial involvement in most cases.</i></p>
753.	GDV	3.298-3.303	We agree with the advices 3.298 - 3.303.	<i>CEIOPS welcomes this comment.</i>
754.	AVIVA	3.299	<p><u>Technical provisions</u></p> <p>We consider there to be practical issues around verifying management actions that may potentially take place in future hypothetical scenarios. It is probably reasonable to assess 'objectivity' and 'reasonability'; however, 'verifiability' may be impossible.</p> <p>Financial reporting requirements should not constrain management from taking appropriate management actions. Management actions allowed for in models should allow for the key aspects of the expected management actions and management should be required to sign-off that the models are consistent with how they would expect to behave in possible scenarios.</p>	<p><i>CEIOPS would expect management actions to be verified, for example, by reference to policies that had been adopted for particular circumstances or by reference to past actions in similar circumstances. CEIOPS will consider whether the wording needs to be clarified.</i></p> <p><i>It seems reasonable to involve</i></p>

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				<i>management in confirming their intention to act in particular ways if this has been modelled.</i>
755.	ABI	3.299	<u>Technical provisions</u> <p>We consider there to be practical issues around verifying management actions that may potentially take place in future hypothetical scenarios. It is probably reasonable to assess 'objectivity' and 'reasonability'; however, 'verifiability' may be very challenging.</p> <p>Financial reporting requirements should not constrain management from taking appropriate management actions. Management actions allowed for in models should allow for the key aspects of the expected management actions and management should be required to sign-off that the models are consistent with how they would expect to behave in possible scenarios.</p>	<i>See comment 754 above.</i>
756.	Ireland S2G	3.299	<p>"While assessing the sufficiency and quality of the data under Article 47(1)(c), the actuarial function should have regard to the objectivity, reasonability and verifiability of management actions included in the calculation of technical provisions."</p> <p>Some examples may help clarify the intent of this paragraph.</p>	<i>On the details related to the sufficiency and quality of data, please refer to CEIOPS' Advice on "Standards for data quality".</i>
757.	CROF	3.299	<p>"While assessing the sufficiency and quality of the data used in the calculation of the technical provisions, the actuarial function should have regard to the objectivity, reasonability and verifiability of management actions included in the calculation of technical provisions. It should also assess whether information technology systems used in actuarial procedures sufficiently support these procedures."</p> <p>We consider there to be practical issues around verifying management actions that may potentially take place in future hypothetical scenarios. It is probably reasonable to assess 'objectivity' and 'reasonability'; however, 'verifiability' may be impossible.</p> <p>Financial reporting requirements should not constrain management from taking appropriate management actions. Management actions allowed for in models should allow for the key aspects of the expected management actions and</p>	<i>CEIOPS would expect management actions to be verified, for example, by reference to policies that had been adopted for particular circumstances or by reference to past actions in similar circumstances.</i> <i>It seems reasonable to involve management in confirming their intention to act in particular ways if this has been modelled.</i>

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			management should be required to sign-off that the models are consistent with how they would expect to behave in possible scenarios.	
758.	Lloyd's	3.300	We agree that the monitoring of emerging experience is important in evaluation technical provisions.	<i>CEIOPS welcomes this comment.</i>
759.	GDV	3.300	3.300 is currently equivalent to 3.269 which we propose to revise (see above). 3.300 therefore should analogously be modified.	<i>See comment 638 above.</i>
760.	Pearl	3.301	We would suggest replacing "accuracy of the results" with "integrity of the results".	<i>CEIOPS does not see the need for this change. In any case, it is important to highlight that this part of the text has been removed from the paragraph, in line with comment 640 above.</i>
761.	GC	3.301	This contains, word for word, much of the material in 3.303 and 3.307. Delete 3.303.	<i>Text was amended. See comment 640 above.</i>
762.	Lloyd's	3.301	We agree that the actuarial function should assess whether a case-by-case approach is required. In our experience case-by-case approaches require specialist claims personnel and whilst the actuarial function should be involved in such a process they are not necessarily the most appropriate person to oversee it. The last two sentences ("Also, ...estimation.") are repetitions of para 3.307 (and should be removed).	<i>CEIOPS welcomes this comment. See also comment 761 above.</i>
763.	ABI	3.301	We would suggest replacing "accuracy of the results" with "integrity of the results".	<i>See comment 760 above.</i>
764.	GDV	3.301	3.301 is currently equivalent to 3.276 and 3.270. 3.276 is also restated in 3.303, and 3.270 we propose to delete (see above). Therefore we propose to delete this paragraph.	<i>See comment 640 above.</i>
765.	Ireland S2G	3.301 & 3.304 a) & 3.304 b)	These parts of the CEIOPS advice include terminology that does not apply to all types of insurance (specifically they include terminology more appropriate to non-life than life insurance). The advice should include a phrase such as 'as	<i>Some advice may not apply to all types and classes of business. However, CEIOPS</i>

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			relevant'. The standards developed need to clearly distinguish between different lines of business.	<i>believes that the context will make it clear.</i>
766.	PwC	Section 3.6 3.301	The last sentence duplicates the first sentence in paragraph 3.307, so should be deleted.	<i>See comment 640 above.</i>
767.	Pearl	3.302	We believe the requirement for the actuary to set out how they have arrived at their decision should not be applied at too granular a level.	<i>The information provided should leave no significant judgements unexplained.</i>
768.	IUA	3.302	It may be preferable to merge this with Para 3.303 as there seems to be the same point being emphasised in both.	<i>CEIOPS prefers to maintain both paragraphs separated.</i>
769.	Lloyd's	3.302	We agree with this point.	<i>Noted.</i>
770.	ABI	3.302	We believe the requirement for the actuary to set out how they have arrived at their decision should not be applied at too granular a level.	<i>See comment 767 above.</i>
771.	Pearl	3.303	This seems to duplicate 3.302.	<i>See comment 640 above.</i>
772.	Lloyd's	3.303	These points are repetitions of para 3.301 and should be removed.	<i>See comment 640 above.</i>
773.	ABI	3.303	This seems to duplicate 3.302.	<i>See comment 640 above.</i>
774.	AVIVA	3.304(a)	<u>Underwriting policy</u> This requirement seems out of place in a solvency reporting standard. We would expect a requirement for businesses to regularly review their product portfolio to ensure that pricing remains appropriate. However we would not expect a formal requirement for the actuarial functions to report on premium sufficiency in general beyond what is required by each local regulator.	<i>The requirement for the actuarial function to opine on the undertaking's underwriting policy is contained in the Directive.</i> <i>While the list is only an example, the adequacy of premium rates is one aspect of underwriting policy that CEIOPS would regard as being within normal actuarial competence.</i>
775.	Munich Re	3.304	Mentioned in these paragraphs are these issues that should be at least covered by expressing an opinion on the underwriting policy. The opinion expressed by the actuarial function should be limited to the consequences concerning the	<i>An opinion that covered only the technical provision would not cover the requirement to</i>

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			<p>technical provisions resulting from the decisions taken by the management board. It is management's decision how much risk might be accepted by the undertaking.</p> <p>CEIOPS should make clear, that the list has only the character of an example.</p> <ul style="list-style-type: none"> Ad b: It should be made clear whether change of mix means change of business mix. 	<i>"express an opinion on the overall underwriting policy" as set out in the Directive, Article 48(1)(g). While the list is only an example, the adequacy of premium rates is one aspect of underwriting policy that CEIOPS would regard as being within normal actuarial competence.</i>
776.	GC	3.304	It should be noted that life actuaries do not normally possess the skills of a life underwriter. Therefore underwriting policy should not in this context be taken to mean the approach taken by an underwriter when assessing the risk on an individual life or group of lives.	<i>This is probably true, and equivalent comment could be made for non-life undertakings.</i>
777.	GC	3.304(a)	<p>We agree that analysis of the sufficiency of premiums is the key area where actuaries should be able to express an opinion on underwriting policy and that this should be included in Level 2 guidance as a mandatory requirement for this opinion. We think it would be useful for some clarification as to what time frame of the business that this refers to: already written and earned business; unexpired exposure on already written business; the next year's prospective new business. In our view the first and second of these are covered by technical provisions. We therefore feel that the assessment in 3.304 (a) should be for 1 year's future new business (which fits well with the Pillar 1 time horizon for capital assessment), and that this opinion could usefully be provided as part of the annual business planning.</p> <p>The topics in the second half of the sentence "notably ... liabilities" represent too much detail for Level 2 text, and should be deleted. In addition, the topics of investment income to be earned on technical balances and the cost of capital have been omitted. We recommend a new version as follows:</p> <p>"(a) Sufficiency of the premiums to cover future losses, for 1 year's future new business;"</p> <p>It is not clear if this text relates to a retrospective assessment after the business is written or a control that takes place after the pricing function has determined</p>	<i>CEIOPS agrees with these comments, although the requirement to express an opinion on the likely level of premium rates in the next year also implies a familiarity with the rates on business recently written.</i>

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			a set of premium rates but before the business is sold. We consider it appropriate for level 3 or actuarial standards to clarify what is required so that a consistent approach can be applied across Europe.	
778.	GC	3.304(b)	<p>We feel that this is too much detail for Level 2 text, because the appropriateness of the stated topics will depend on the types of business likely to be written by different types of company. Instead, we recommend higher level principled requirements, such as those set out in paragraph 3.62.</p> <p>Thus we recommend deleting the existing 3.304 (b), and replacing it with the text:</p> <p>"(b) Considerations regarding the appropriateness of the underwriting risk management policies set out in paragraph 3.62;</p> <p>(c) Consistency of the overall underwriting policy with the stated risk appetite of the firm."</p>	<i>CEIOPS considers that it is necessary to provide some guidance on the areas to be covered, to ensure that they are those on which the actuarial function ought to be able to express an opinion.</i>
779.	Lloyd's	3.304	<p>We agree with the statement. However, there are times when premium may be knowingly written on a loss making basis. Although this is not sustainable in the long term it should not be excluded. We would suggest the wording is amended to permit such situations.</p> <p>With regard to sufficiency of premiums, it would be useful to have some indication of the time frame that should be considered. This would not work for historical business and we assume the time horizon would be for one year's new business in line with the Solvency II principles.</p> <p>3.304(b) – this is too much detail for level 2.</p>	<p><i>The proposed words are not meant to suggest that undertakings should be prohibited from writing business on any terms, or that the actuarial function might have an overriding power to direct underwriters. However, undertakings should not be shielded from knowing that that is the position they are in.</i></p> <p><i>The suggestion that an opinion be expressed on the likely level of premium rates in the next year is reasonable, but it also implies a familiarity with the rates on business recently written.</i></p>
780.	ABI	3.304(a)	This requirement seems out of place in a solvency reporting standard. We would	<i>See comment 774 above.</i>

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			expect a requirement for businesses to regularly review their product portfolio to ensure that pricing remains appropriate. However we would not expect a formal requirement for the actuarial function to report on premium sufficiency in general beyond what is required by each local regulator.	
781.	GDV	3.304	<p>The listed considerations should be considered as examples and not mandatory.</p> <p>The opinion expressed by the actuarial function should be limited to the consequences concerning the technical provisions resulting from the decisions taken by the management board. It is management's decision how much risk might be accepted by the undertaking.</p> <p>CEIOPS should make clear, that the list has only the character of an example.</p> <p>Ad b: It should be made clear whether change of mix means change of business mix.</p>	<p><i>The list is intended to be illustrative, but the adequacy of premium rates is one aspect of underwriting policy that we would regard as being within normal actuarial competence.</i></p> <p><i>The proposed words are not meant to suggest that undertakings should be prohibited from writing business on any terms, or that the actuarial function might have an overriding power to direct underwriters.</i></p>
782.	PwC	Section 3.6 3.304(a)	We agree that the analysis of the sufficiency of premiums is the key area where actuaries should be able to express an opinion on underwriting policy and that this should be included in Level 2 guidance as a mandatory requirement for this opinion. Some clarification would be useful as to what timeframe of the business this refers to - 1 year's future new business.	<i>The adequacy of prospective premium rates for the next year seems to be a reasonable scope for opinion, but this is likely to be impossible without familiarity with the adequacy of rates at which business is currently being and has recently been written.</i>
783.	CROF	3.304	<p><i>"Regarding the overall underwriting policy, the opinion to be expressed by the actuarial function should at least include the following issues:</i></p> <p><i>a) Sufficiency of the premiums to cover future losses, notably taking into consideration the underlying risks (including underwriting risks), the impact of expenses directly associated with future claims and of unallocated loss</i></p>	<p><i>See comment 774 above.</i></p> <p><i>"Change of mix" means "change of mix of business written".</i></p>

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			<p><i>adjustment expenses and the impact of embedded options and guarantees on future liabilities;"</i></p> <p>This requirement seems out of place in a solvency reporting standard. We would expect a requirement for businesses to regularly review their product portfolio to ensure that pricing remains appropriate. However we would not expect a formal requirement for the actuarial functions to report on premium sufficiency.</p> <p><i>"b) Considerations regarding inflation, legal risk, change of mix, anti-selection and adequacy of bonus-malus system(s) implemented in specific line(s) of business."</i></p> <p>It should be made clear what change of mix means (Is it business mix?)</p>	
784.	AVIVA	3.305	<p><u>Overall reinsurance arrangements</u></p> <p>This requirement also feels potentially out of place in a solvency reporting standard. We believe this is more of a general business management issue.</p> <p>Regarding the overall reinsurance arrangements, the opinion to be expressed by the actuarial function should include an opinion on the adequacy of the reinsurance and other mitigation techniques in relation to the underwriting policy and the adequacy of the calculation of the technical provisions arising from reinsurance.</p>	<p><i>There is a requirement for the actuarial function to "express an opinion on the adequacy of reinsurance arrangements" as set out in the Directive, Article 48(1)(h).</i></p>
785.	Munich Re	3.305 - 3.307	We agree with the advices 3.305, 3.306 and 3.307.	<p><i>Noted.</i></p>
786.	GC	3.305	<p>The phrases "significant" reinsurance arrangements" and "expected cover under stress scenarios" from 3.277 should be included in the text of 3.305.</p> <p>We disagree with the inclusion of the explicit reference here to "adequacy of the calculation of the technical provisions arising from such reinsurance". In our view such an assessment forms part of the assessment of technical provisions. An assessment of reinsurance adequacy should be forward looking based on future exposures.</p>	<p><i>The suggested extra reference may be appropriate and we will consider it further. See amended paragraph 3.340</i></p> <p><i>The requirement is in line with the Level 1 text.</i></p>
787.	Lloyd's	3.305	We agree with the statement. We would suggest that any opinion on reinsurance arrangements should include the risk appetite of the undertaking. This may be included with underwriting policy but should always be considered.	<p><i>CEIOPS welcomes this comment.</i></p>

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			The phrases “significant reinsurance arrangements” and “expected cover under stress scenarios” from para 3.277 should be included in the text of para 3.305.	See comment 786 above.
788.	ABI	3.305	<p>This requirement also feels potentially out of place in a solvency reporting standard. We believe this is more of a general business management issue.</p> <p>Regarding the overall reinsurance arrangements, the opinion to be expressed by the actuarial function should include an opinion on the adequacy of the reinsurance and other mitigation techniques in relation to the underwriting policy and the adequacy of the calculation of the technical provisions arising from reinsurance.</p>	See comment 784 above.
789.	CROF	3.305	<p><i>"Regarding the overall reinsurance arrangements, the opinion to be expressed by the actuarial function should include an opinion on the adequacy of the reinsurance and other mitigation techniques strategy in relation to the underwriting policy and the adequacy of the calculation of the technical provisions arising from reinsurance."</i></p> <p>This requirement also feels potentially out of place in a solvency reporting standard. We believe this is more of a general business management issue.</p> <p>Regarding the overall reinsurance arrangements, the opinion to be expressed by the actuarial function should include an opinion on the adequacy of the reinsurance and other mitigation techniques in relation to the underwriting policy and the adequacy of the calculation of the technical provisions arising from reinsurance.</p>	See comment 784 above.
790.	Pearl	3.306	This paragraph is the repetition of 3.300.	See comment 640 above.
791.	IUA	3.306	This duplicates Para 3.300 verbatim and should therefore be deleted.	See comment 640 above.
792.	GC	3.306	3.300. and 3.306 are identical. Delete 3.306.	See comment 640 above.
793.	Lloyd's	3.306	This is exact duplication of para 3.300 (and one of these should be removed).	See comment 640 above.
794.	ABI	3.306	This paragraph is the repetition of 3.300.	See comment 640 above.
795.	GDV	3.306	3.306 is equivalent to 3.300 and can therefore be deleted.	See comment 640 above.
796.	PwC	Section 3.6 3.306	This paragraph duplicates paragraph 3.300, so should be deleted.	See comment 640 above.

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797.	GC	3.307	Repeats what is at end of 3.301. Delete 3.307.	See comment 640 above.
798.	Lloyd's	3.307	We agree with this statement.	CEIOPS welcomes this comment.
799.	GDV	3.307	3.307 is equivalent to 3.270 and can therefore be deleted (see above).	See Comment 640 above.
800.	Pearl	3.308	We believe the wording "free from inappropriate influence" is better.	It would not be sensible to prevent helpful influence from other functions in the undertaking.
801.	AVIVA	3.308	<u>Independence of function</u> Actuaries play an integral part in the management function of insurance companies. There is professional guidance that covers the independence and professional ethics requirements for giving advice within a commercial context. There is a risk that the requirements as currently drafted require the actuarial function to be a separate function from the finance/reporting functions. We consider that integrated teams (including actuarial, accounting, tax etc. specialists) are the most effective in identifying, understanding and resolving issues.	A degree of independence in judgemental processes such as setting technical provisions is desirable. This does not mean that for management purposes parts of the actuarial function cannot be integrated with other departments. However, a lack of independent actuarial review has given rise to major problems in the past. See also comment 689 above.
802.	Munich Re	3.308	We would ask for a clarification of the phrase "who verify a sufficient level of independency between them".	The Advice was changed in order to clarify this idea. See amended paragraph 3.342
803.	Dutch Actuarial Society (AG)	3.308	See also our point 3.284. To guarantee the objectivity we think that for the valuation of technical provisions a review and sign off of the results by an independent party would be very desirable.	See comment 689 above.
804.	IUA	3.308	We trust that the requirement for the actuarial function 'to provide its opinion in an independent fashion' will be interpreted with a degree of flexibility as smaller (re)insurers may not have the staff levels to make it practicable to be totally free from influence from other functions in the strictest sense. Amending to 'free	See comments 689 and 800 above.

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			<p><i>from inappropriate influence</i>’ would recognise this reality but maintain the key principle. We also assume that ‘independence’ does not preclude actuaries employed by the undertaking to undertake the function, as opposed to requiring appointment of a third party service provider? The latter may impose an undue cost upon undertakings.</p>	
805.	GC	3.308	<p>The actuarial function is core to solvency assessment and coordination of calculations of technical provisions. To ensure its organizational role, independence and qualifications the actuarial function should:</p> <ul style="list-style-type: none"> • Be appointed by the administrative or management body • Report to the administrative or management body • Be present at meetings of the administrative or management body when actuarial issues of the company (reserving, pricing, underwriting, insurance risks) are being discussed • Have the right and legal protection to report directly to the supervisor • Have unrestricted access to all information about the company • Be qualified in actuarial mathematics <p>This paragraph raises issues of professionalism and we consider it appropriate for these issues to be addressed by actuarial standards rather than through level 2 text. If the paragraph remains, it should make clear that the administrative and management body is responsible for making decisions and that the actuarial function should provide the administrative and management body with sufficient information to enable it to make an informed decision.</p> <p>We are concerned that, while larger firms can afford to have an actuarial function that is independent of management, in smaller specialist firms the actuarial function adds most value when it acts in collaboration with the Board and senior management. This also acts to embed technical issues more fully into the business.</p> <p>To give greater clarity around this requirement we suggest the addition of the following text from 3.278:</p> <p>“The requirement on the actuarial function to express independent opinions in a number of areas does not mean that the actuarial function cannot be involved in</p>	<p><i>See comment 201 above.</i></p> <p><i>The Directive actually places the responsibility for solvency assessment with the risk management function, although CEIOPS would expect the actuarial function to be heavily involved in most cases.</i></p> <p><i>CEIOPS has changed its Advice in order to ensure that the performers of the actuarial function have direct access to the administrative or management body. As for the access to the supervisor, CEIOPS would expect supervisors to insist on this in many cases. See new paragraphs 3.15 and 3.33.</i></p> <p><i>Article 48(2) of the Level 1 text requires appropriate qualifications of the people carrying out the actuarial function.</i></p> <p><i>Final decision-making powers do remain with the administrative or management</i></p>

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			the original decisions taken in these areas. However "justification" of decisions taken by the actuarial function or with its involvement requires more detailed explanations and a decided examination of other possible decision options."	<p><i>body.</i></p> <p><i>CEIOPS would expect that in most cases the actuarial function will work closely with other management. However in fulfilling its legal obligations the actuarial function must act independently.</i></p> <p><i>The suggested text appears to be too detailed for its purpose but CEIOPS will consider further whether some clarification of this point needs to be made.</i></p>
806.	RSA Group	3.308	Paragraph 3.308 states the actuarial function needs to "provide its opinions in an independent fashion". Strictly this is a departure from the Directive. Further clarification on how this will be interpreted would be welcome. Actuaries employed within a firm are clearly not wholly independent; however we take the CEIOPS words not to mean the compulsory employment of a consulting actuary, which would be disproportionate, especially for smaller firms. Reference to the adoption of standards in an independent fashion may be a more appropriate wording.	<i>See comment 689 above.</i>
807.	Lloyd's	3.308	<p>We do not agree that there should be a necessity for the actuarial function to be independent from other functions within an undertaking. Although this introduces some benefits it also introduces several issues and cost implications for the industry. This is especially true for smaller firms.</p> <p>Most actuarial functions currently operate a number of interlinked processes for insurance undertaking such as pricing, reserving and capital modelling and the linkage is encouraged as part of Solvency II. By separating out the reserving elements, the actuarial function may lack enough working knowledge of an undertaking to exercise adequate judgement. Article 47 also requires the actuarial function to contribute to the effective implementation of the risk management system and the risk modelling of capital requirements specifically.</p>	<i>See comment 689 above.</i>

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			<p>To require that the actuarial function is independent is potentially contradictory with other requirements of Solvency II.</p> <p>Any separation of duties would naturally increase the actuarial demand on undertakings and potentially significantly so which we feel could be unnecessary in this instance.</p>		
808.	ABI	3.308	<p>Independence of the actuarial function</p> <p>This paragraph states the actuarial function needs to “provide its opinions in an independent fashion”. This would appear to contradict para 3.291 and we are concerned that this requirement, as currently drafted, might require the actuarial function to be a separate function from the finance/reporting functions. Strictly this is a departure from the Directive which does not specifically require an ‘independent’ opinion from the actuarial function in its article 47. There are also practical limits when applying this requirement, in particular for small insurer where there may be insufficient experienced staff for this to be practical. Furthermore, we consider that integrated teams (including actuarial, accounting, tax etc. specialists) are the most effective in identifying, understanding and resolving issues.</p> <p>We therefore believe this requirement will need to apply differently and proportionately as there might be practical limits when applied, in particular for small insurer where there may be insufficient experienced staff. However we take CEIOPS’ wording not to mean the compulsory employment of a consulting actuary, which would be disproportionate, especially for smaller firms. Reference to the adoption of standards in an objective manner may be a more appropriate wording.</p>		See comment 689 above.
809.	ABI	3.308	We believe the wording "free from inappropriate influence" is better.		See comment 800 above.
810.	GDV	3.308	3.308 contains both, 3.284 and 3.282. We propose to delete 3.284 and to truncate 3.282 (see above). Accordingly, the first sentence of 3.308 has to be deleted and the second has to be truncated after “independency”		The Advice was changed in order to clarify this idea. See amended paragraph 3.342
811.	Ireland S2G	3.308 & 3.282 & 3.25	We agree that the actuarial function should be ‘objective’ and ‘free from influence from other functions or the administrative or management body’. However, the wording of 3.308 is somewhat unclear. Perhaps the following wording would be better: “In order to be able to provide its opinions in an		See comment 689 above.

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			<p>independent fashion, the actuarial function should be constituted by persons who between them verify a sufficient level of independency from other functions in order to appropriately form their own actuarial view in the exercise of the functions tasks."</p> <p>Members of the actuarial function might also be involved in underwriting and reinsurance, for example. Particularly (though not necessarily exclusively) in small companies, it might be very onerous to require the actuarial function to be constituted in such a way that it is totally independent from other functions. It might be preferable to include a provision requiring extra reporting / justification of decisions where independence does not exist (as envisaged in paragraph 3.278).</p> <p>The requirement to comply with standards supports independence, as would appropriate compliance enforcement procedures (e.g. requirement to certify, whistle blow (with appropriate protection) etc).</p> <p>We welcome CEIOPS advice on conflicts of interest (3.25).</p> <p>Is there an obligation to have more than one person in the actuarial function? This may be onerous for small companies.</p>	
812.	PwC	Section 3.6 3.308	<p>In smaller specialist firms the actuarial function adds most value when it acts in collaboration with the Board and senior management. This also acts to embed technical issues more fully into the business.</p> <p>To give greater clarity around this requirement we suggest the requirement on the actuarial function to express independent opinions in a number of areas does not mean that the actuarial function cannot have advised on the original decisions taken in these areas.</p>	<p><i>CEIOPS agrees with these comments. However, the independence of the actuarial function in carrying out its specific duties is vital.</i></p> <p><i>See comment 689 above.</i></p>
813.	Deloitte	3.308	<p>While we agree with the requirement that the proper discharge of the actuarial function's responsibility as defined in the Level 1 text implies a degree of independence, we would welcome further guidance on CEIOPS views in this regards, specifically:</p> <ul style="list-style-type: none"> – at level 2, clarification of the degree of independence from the administrative or management body, particularly in relation to CEIOPS's expectations of a clear separation of personnel and reporting lines between the actuarial function and those in charge of reserving, underwriting, reinsurance, etc 	<p><i>See comment 689 above.</i></p>

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			<p>– at level 3, we would welcome guidance on CEIOPS’s expectations of the practical application of “peer review” principles, between personnel belonging to a single actuarial entity. In particular the guidance should explain how these principles are applied in a small-medium insurance undertaking</p> <p>For avoidance of doubt, we believe the implementing measures should make a positive statement that the constraints regarding the independence of the actuarial function are subject to proportionality principles.</p>	
814.	CROF	3.308	<p><i>"In forming and formulating its own actuarial view the actuarial function shall be objective and free from influence of other functions or the administrative or management body. In order to be able to provide its opinions in an independent fashion, the actuarial function should be constituted by persons who verify a sufficient level of independency between them in order to appropriately form their own actuarial view in the exercise of the function’s tasks."</i></p> <p>We welcome CEIOPS’ comments in the discussion section regarding the need for flexibility in organising the actuarial function within the organisational structure of a company. Although as outlined in the paper in certain circumstances the independent opinion of the Actuarial Function is required, we believe that paragraph 3.308 of CEIOPS advice gives the impression that the function should be totally independent. We believe it is very important to highlight the importance of the actuarial function’s integration into the day to day operations and business decisions of a company, which also means that from a practical point of view there is (and should be) overlap with risk management and finance functions. In that respect we believe it is advised to discuss the specific actuarial function that is meant here. Actuaries play various roles in insurance entities, including in pricing (which we believe is part of the business and hence cannot be performed independently), the review role and the valuation role. We believe the CP in this section refers to the valuation role and believe that should be clarified. We do agree with the advice in para 3.302 that the Actuarial Function should be able to express an opinion to the board on certain matters such as reliability and adequacy of the technical provisions.</p>	<p><i>Provided that the actuarial function maintains independence in its duties under the Level 1 text, in the sense that it carries them out without undue influence from other members of management and has the final power of decision, a wide variety of organisational models is possible, and each undertaking is responsible for its own internal structure.</i></p> <p><i>See comment 689 above.</i></p>
815.	CROF	3.308	<p><i>"In forming and formulating its own actuarial view the actuarial function shall be objective and free from influence of other functions or the administrative or management body. In order to be able to provide its opinions in an independent fashion, the actuarial function should be constituted by persons who verify a</i></p>	<p><i>See comment 689 above.</i></p>

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			<p><i>sufficient level of independency between them in order to appropriately form their own actuarial view in the exercise of the function's tasks."</i></p> <p>Actuaries play an integral part in the management function of insurance companies. There is professional guidance that covers the independence and professional ethics requirements for giving advice within a commercial context.</p> <p>There is a risk that the requirements as currently drafted require the actuarial function to be a separate function from the finance/reporting functions. We consider that integrated teams (including actuarial, accounting, tax etc. specialists) are the most effective in identifying, understanding and resolving issues.</p> <p>Independency in relation to the actuarial function needs to be more clearly set out in the paper, in particular the scope and tasks for which independence is required. Appropriate consideration should be given by CEIOPS to the way actuarial function is currently structured within (re)insurers.</p>	
816.	CEA	3.308	<p>There can be practical problems with applying the requirement for the actuarial function to "provide its opinions in an independent fashion".</p> <p>This paragraph states the actuarial function needs to "provide its opinions in an independent fashion". Strictly this is a departure from the Directive. There are also practical limits when applying this requirement, in particular for small insurer where there may be insufficient experienced staff for this to be practical. Further clarification on how this will be interpreted would be welcome. Actuaries employed within a firm are clearly not wholly independent; however our interpretation of the wording is that it does not mean the compulsory employment of a consulting actuary, which would be disproportionate, especially for smaller firms. Reference to the adoption of standards in an independent fashion may be a more appropriate wording.</p>	<i>See comment 689 above.</i>
817.	Munich Re	3.309	<p>While formulating its actuarial view, it is required that the actuarial function is objective, independent and free from influence of other functions or the administrative or management body. However, as far as risk management issues are concerned, the actuarial function should be permitted to be part of the enterprise risk management of the undertaking.</p>	<i>CEIOPS agrees with this comment.</i>
818.	GC	3.309	<p>Add at the end the sentence "The administrative or management body should</p>	<i>CEIOPS does not agree with</i>

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			document and ensure follow up on the decisions to be taken in view of the findings and recommendations of the actuarial function.” This is particularly appropriate for actuarial responsibilities (g) and (h), where any required actions may well be outside of the control of the actuarial function.	<i>the proposed additional text.</i>
819.	RSA Group	3.309	We agree with CEIOPS that the detailed structure and content of reports should be left to insurers. ABI infer that this will be a level 3 implementing measure. We see no advantage in local regulators specifying the report structure if CEIOPS have decided to leave this to individual insurers.	<i>National markets may have characteristics that individual supervisors may need to have addressed in their reports.</i>
820.	FEE	3.309	Paragraph 3.309 requires the actuarial function to report annually to the administrative or management body. This is an area where greater clarity is needed on the differences between the unitary and two-tier board systems, as noted in our general comments. In this case, we would expect such reporting to be to the supervisory board.	<i>Where there is a two-tier board system, the board or boards to which the actuarial function should report should depend on the functions of the two boards.</i>
821.	Lloyd’s	3.309	We agree that an annual report to management should be produced. We also think that a sentence should be added to state that the administrative or management body should document decisions based on recommendations made by the actuarial function.	<i>See comment 818 above.</i>
822.	GDV	3.309	While formulating its actuarial view, it is required that the actuarial function is objective, independent and free from influence of other functions or the administrative or management body. However, as far as risk management issues are concerned, the actuarial function should be permitted to be part of the enterprise risk management of the undertaking.	<i>CEIOPS agrees with this comment.</i>
823.	Oliver Wyman	3.310	Outsourcing of critical or important functions – whether in total or selected elements – to group centres are vital for the running of insurance groups and financial groups (bancassurance). While we appreciate the need from a regulatory point of view to make these outsourcing arrangements – which are currently mostly ‘implicit’ and often not comprehensively defined – more formal, we believe it is important and actually helps the objectives of regulation when groups are encouraged to outsource functions as appropriate to strengthen governance, as is often the case when such functions are performed by major groups centres for small entities. We believe that this requires a strong co-ordination between regulators, and should therefore be also addressed in the	<i>Noted.</i> <i>Outsourcing arrangements,</i>

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			Level 2 texts on supervisory processes for groups, and in Level 3 guidance.	<i>whether external or internal, should follow what is described in section 3.7. Centralised functions within a group will be covered by other CEIOPS Advice.</i>	
824.	RSA Group	3.310	Whilst we welcome the clarification between internal and external outsourcing we have concerns over the level of requirements proposed to monitor internal outsourcing. Sensible application of proportionality will be critical.	<i>Noted.</i>	
825.	KPMG	3.310	The CP comprehensively deals with key areas that insurers should be focusing on when undertaking outsourcing. We would recommend that this is further bolstered with undertakings being required to consider and develop exit strategies.	<i>Noted. CEIOPS expects undertakings to consider exit strategies as part of their risk management. Undertakings should consider when signing a contract if they need e.g. a extraordinary right of termination in case the supervisory authorities requires them to terminate the outsourcing agreement.</i>	
826.	ICAEW	3.313	This point states that "in principle all functions and activities of a (re)insurance undertaking can be outsourced". Previous CEIOPS papers have tended to refer to outsourcing in relation to internal audit and actuarial functions only. Could we have some more clarification on the level of outsourcing permitted.	<i>This is no contradiction or change of view. The fact that outsourcing was mentioned in certain contexts does not imply that outsourcing in relation to other function or activities was not permitted.</i>	
827.	ECIROA	3.313	It is common for captives to outsource all administrative functions and activities to a professional licensed Captive Manager. The Board of the captive perform the core management functions and always remain responsible for their performance <i>Supervisors will already be aware of undertakings' outsourcing from the application process. But undertakings will need to report to supervisors, with</i>	<i>Noted.</i>	

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			their annual submissions, on the details of functional outsourcing and its monitoring by the Board.	
828.	UNESPA	3.313	<p><i>This establishes that in principle all functions may be outsourced with the exception of essential business functions, because that would be incompatible with the undertaking carrying out its obligations.</i></p> <p>In reality, this is not what the Directive says.</p> <p>The starting point of the Directive is that everything can be outsourced. However, Art. 38 establishes the conditions to be met (collaboration, access to data and premises) in outsourcing arrangements; and Art. 48 establishes that special care should be taken in outsourcing “essential or important operating functions or activities” (ensuring that the governance system is not prejudiced by increasing operating risk, ensuring that the capacity of the authorities to supervise that the undertaking is complying with its obligations is not undermined, and that the outsourcing does not affect the service given to policy holders).</p>	<p><i>Correct, this is not explicit in the Directive. The exception for core management functions follows from the fact that the ultimate responsibility for compliance with the Directive rests with the administrative or management body (Art. 40), so an undertaking cannot be an empty shell with everything outsourced but must retain the core management functions necessary to discharge the responsibility. Art 38 is without prejudice to Art 49.</i></p>
829.	Ireland S2G	3.313	<p>We would welcome more clarity surrounding the definition of outsourcing when it is performed within a group of companies and its distinction from the sharing of resources. Where multiple undertakings are small and they are managed out of one office, we believe that a core management function, e.g. risk management, across entities can be performed by one person. It is not our expectation that this would be considered outsourcing.</p>	<p><i>There can be no question at all that this is outsourcing.</i></p>
830.	SACEI	3.313	<p>We agree that “core management functions” should not be outsourced in order to leave final responsibilities of all decisions to the management body.</p> <p>SACEI thinks that an exhaustive list of core management functions should be defined in level 2 measures.</p>	<p><i>CEIOPS disagrees.</i></p>
831.	UNESPA	3.314	<p>This states that outsourcing does not prevent the undertaking from giving instructions to the supplier about how the service should be provided.</p> <p>This should be refined: we do not think of this as an impediment, rather we</p>	<p><i>The paragraph is a clarification, no impediment is implied.</i></p>

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			consider that the company should always indicate to the supplier how to carry out the order.	
832.	SACEI	3.314	The undertaking should remain the only responsible of the way the outsourcing is managed.	<i>The undertakings remains fully responsible but this does not imply that the service provider has no responsibility itself.</i>
833.	FFSA	3.315	Distinction between outsourcing and service providing We agree with the example included in the article 3.315 ("Hiring a specialist consultant to provide one-off technical advice does not constitute outsourcing, though it may become so if the undertaking subsequently relies on that consultant to manage an internal function or service, e.g. when it is installed or becomes fully operational") and support the fact that the CEIOPS would expect to elaborate further on what might or might not constitute outsourcing in Level 3 guidance.	<i>Noted.</i>
834.	UNESPA	3.315	Contracting an ad hoc project/study for technical advice does not represent outsourcing; however, if we entrust this supplier to put the project into practice then this is outsourcing. CEIOPS expects further clarification of this at level 3. There need to be clear limits about what represents outsourcing, as there are major implications (written policy, controls, reviews, etc) and the undertakings need to be legally safe in their activities.	<i>Noted.</i>
835.	SACEI	3.315	SACEI agrees with the CEIOPS approach about the difference between specific advice (which should not be regulated by implementation measures and that are under the full responsibility of the company) and complete outsourcing of some administrative, managing or technical tasks which should be done in a transparent way and could be controlled by supervisors. We agree with a level 3 guidance.	<i>Noted.</i>
836.	CEA	3.315, 3.322	We welcome the distinction between outsourcing and service providing. We agree with the example included in the article 3.315 ("Hiring a specialist consultant to provide one-off technical advice does not constitute outsourcing, though it may become so if the undertaking subsequently relies on that	<i>Noted.</i>

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			<p>consultant to manage an internal function or service, e.g. when it is installed or becomes fully operational”) and support the fact that the CEIOPS would expect to elaborate further on what might or might not constitute outsourcing in Level 3 guidance.</p> <p>CEIOPS should be aware of the different approaches taken in different directives. Cross-sectoral convergence is preferred.</p>	<p><i>CEIOPS can do nothing about approaches being different in non-insurance directives. For the Level 2 advice only what is in the Level 1 text is relevant.</i></p> <p><i>However, CEIOPS is trying to be as consistent as possible with MiFID.</i></p>
837.	FFSA	3.316	<p>Proportionality</p> <p>We suggest that the proportionality principle should be clearly mentioned in the article 3.316 to decide when outsourcing needs to be approved by the administrative or management body. In fact, the undertakings should have more flexibility when carrying out outsourcing of less critical/important functions.</p>	<p><i>The approval by the administrative or management body refers to the written policy on outsourcing not to the outsourcing itself. Here CEIOPS would indeed expect that the administrative or management body does not necessarily approve outsourcing unless it concerns critical or important functions or activities.</i></p>
838.	IUA	3.316, 3.322(d) & 3.346(d)	<p>We would hope that this provision would be applied proportionately to allow for the undertaking to consider whether outsourcing needs to be approved by a management or administrative body. Clearly, for fundamental arrangements such as claims handling it would be reasonable to require approval. Conversely, for less critical and / or low cost arrangements this may not be necessary.</p>	<p><i>Correct.</i></p>
839.	UNESPA	3.316/3.317/3.318	<p>Undertakings should have a written outsourcing policy which must be approved by management. This document should detail the impact of outsourcing on the business, and the controls to be carried out when an outsourcing contract is signed. Furthermore, the undertaking should have the internal capacity to</p>	

Template comments

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			<p>evaluate the quality of service and whether the supplier is acting in accordance with the contract.</p> <p>The scope of this written document is not clear. On the one hand it appears that it should be about general principles to be met when outsourcing, whilst on the other it seems that it has to be specific about each case. Furthermore, obviously, the company must have the capacity to check whether the supplier is meeting the terms of the contract; however, in many cases, particularly for small companies, it is difficult to evaluate the quality of service as outsourcing is carried out as a result of the company not having sufficient resources to carry out the work, which is why they entrust the function to an expert supplier.</p>	<p><i>A policy does not consider individual cases but contains the general guidelines.</i></p> <p><i>Undertakings remain responsible for the outsourced functions and need to build this into their outsourcing arrangement.</i></p>
840.	ABI	Paras 3.316, 3.346d	<p><u>Requirements on management or administrative body involvement in approving or having oversight of outsourcing should be proportionate.</u></p> <p>We suggest that the proportionality principle should be clearly mentioned in paragraph 3.316 when deciding when outsourcing needs to be approved by the administrative or management body. In fact, the undertakings should have more flexibility when carrying out outsourcing of less critical or less important functions.</p> <p>In relation to 3.346d, we do not think that under all circumstances it is necessary that the terms and conditions of an outsourcing agreement are authorized and understood by the undertaking's administrative or management body. As the definition of outsourcing according to CEIOPS is far-reaching (3.311.), even minor activities could come under the outsourcing requirements. Activities which are usually not that important for the undertaking's business (e.g. cleaning of the office rooms) and do not involve substantial costs could equally well be signed and managed by persons who are below the undertaking's administrative or management body. We think the principle of proportionality</p>	<p><i>The approval by the administrative or management body refers to the written policy on outsourcing not to the outsourcing itself. Here CEIOPS would indeed expect that the administrative or management body does not necessarily approve outsourcing unless it concerns critical or important functions or activities.</i></p> <p><i>CEIOPS expects that the administrative or management</i></p>

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			only justifies requiring that the management body is involved in cases where the activities that are outsourced are vital and important for the undertaking.	<i>body does approve outsourcing so long as it concerns critical or important functions or activities. Therefore the administrative or management body has to understand the general terms and conditions.</i>
841.	CEA	3.316, 3.346d	<p>Requirements on management or administrative body involvement in approving or having oversight of outsourcing should be proportionate.</p> <p>We suggest that the proportionality principle should be clearly mentioned in paragraph 3.316 when deciding when outsourcing needs to be approved by the administrative or management body. In fact, undertakings should have more flexibility when carrying out outsourcing of less critical or less important functions.</p> <p>In relation to 3.346d, we do not think that it is necessary that under all circumstances the terms and conditions of an outsourcing agreement are authorized and understood by the undertaking's administrative or management body. As CEIOPS' definition of outsourcing is far-reaching (3.311.), even minor activities could come under the outsourcing requirements. Activities which are usually not that important to the undertaking's business (e.g. cleaning of the office rooms) and do not involve substantial costs could equally well be signed and managed by persons who are below the undertaking's administrative or management body. We think the principle of proportionality only justifies requiring that the management body is involved in cases where the activities that are outsourced are vital and important for the undertaking.</p>	<i>See comment 840 above.</i>
842.	AMICE	3.318	<p>We think that CEIOPS' proposed advice that outsourcing undertaking have to "maintain in-house ... competence and ability to assess ..." goes somewhat beyond the instruction on level 1 that responsibility for the fulfilment of the legal obligation remains in-house. We believe that this is counter to the aim of outsourcing (which we regard as one of the cornerstones of applied proportionality) and may not be feasible for some of our smaller members.</p> <p>We suggest a wording that reflects more closely the level 1 requirement and</p>	<i>CEIOPS disagrees. The undertaking cannot exercise its responsibility unless there is sufficient competence in the undertaking to assess whether the outsourced functions or activities are performed</i>

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			refers mainly to the responsibility that remains with the outsourcing undertaking.	<i>adequately.</i>
843.	UNESPA	3.319/3.320	<p>Clarification is required of exactly what is understood by "critical or important functions".</p> <p>CEIOPS understands that this refers to the key functions in the governance system and to functions which are essential for the business, including design, pricing, design of insurance products, investment of assets, portfolio management and claims handling.</p> <p>Clear harmonisation is required in this area, as very different interpretations can be given to what represents an essential function.</p>	<p><i>Critical and important are besides the key functions - all functions which the undertaking considers to be critical and important. It is undertaking specific what is a critical or important function.</i></p> <p><i>The aim is for consistency with MiFID.</i></p>
844.	Ireland S2G	3.320	<p>This language does not consider the reinsurance undertaking and should also include another few key functions. Suggest making the following changes in bold "(...) and all functions that are considered fundamental to carry out its core business, e.g. design, pricing and design of insurance products, underwriting, valuation of liabilities, investment of assets, portfolio management or and claims handling."</p>	<p><i>The wording "undertaking" includes reinsurance undertakings.</i></p> <p><i>CEIOPS disagrees with the proposed changes to the examples.</i></p>
845.	AMICE	3.320	<p>CEIOPS believes that functions such as the selling of insurance products or claims handling are key functions (or at least fundamental to carry out its core business) for outsourcing control purposes.</p> <p>More guidance is needed to understand which type of functions will require to fulfil the requirements set in the paper for and outsourced activity and which of them will be out of the scope of Solvency II.</p>	<i>Noted.</i>
846.	UNESPA	3.321	<p>External legal advice and external specialist training. This mixes outsourcing in its pure form with the fact that we are dealing with essential functions for the company.</p> <p>There is an error in the concepts; the objective of the Directive appears to be that there should be specific controls when outsourcing takes place. If the outsourcing relates to essential or important operating activities or functions, the</p>	<i>Noted.</i>

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			degree of control should be higher. To this end, we cannot mix concepts: there will be outsourcing whenever a process, service or activity is contracted to a supplier, whether these are considered essential or not. Whenever there is outsourcing some requirements will have to be met, and these will be more stringent when they relate to essential functions.	
847.	IUA	3.322(f)	We support the principle espoused in this section. However, if the service provider is based outside the undertaking's jurisdiction, it is by no means certain that the same legal rules would apply. The undertaking should, of course, ensure that their requisite standards (as a minimum) are met in the service agreement.	<i>Noted.</i>
848.	ABI	3.322	3.322 (f): This provision may inadvertently imply that the service provider must be subject to the same legal rules relating safety and confidentiality as the outsourcing undertaking. This is not possible for service providers located in another jurisdiction (no extraterritorial application of laws). It would appear more appropriate to require that the outsourcing arrangement does contain the obligation that the service provider must comply with the same level of safety and confidentiality as applicable to the undertaking. We would suggest the following adjustment in 3.346 (f): "The service provider handles information related to the undertaking's clients in such a way as to enable the undertaking to comply with its obligations regarding safety and confidentiality"	<i>The paragraph says that it is up to the undertaking to ensure a certain outcome. This also applies to (f).</i>
849.	CROF	3.322 f	<i>"When choosing a service provider for any critical or important functions or activities the undertaking has to carry out all necessary steps to see that: [...] f) The service provider is subject to the same provisions that are applicable to the undertaking regarding the safety and the confidentiality of the information related to its clients."</i> The way this is worded may imply that one could only outsource within the jurisdiction of the undertaking concerned (subject to the same provisions). This would be too stringent. We would suggest rephrasing this by saying that the safety and confidentiality should be equally protected.	<i>There is no such implication. The paragraph states explicitly that it is an obligation on the undertaking to see that the protection is in place.</i>
850.	CEA	3.322, 3.324	We would like to propose a number of clarifications to the requirements on the third party to which an activity is outsourced. <ul style="list-style-type: none">• 3.322 (f): This provision may inadvertently imply that the service provider	<i>See comments 849 and 850 above.</i>

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			<p>must be subject to the same legal rules relating safety and confidentiality as the outsourcing undertaking. This is not possible for service providers located in another jurisdiction (no extraterritorial application of laws). It would appear more appropriate to require that the outsourcing arrangement does contain the obligation that the service provider must comply with the same level of safety and confidentiality as applicable to the undertaking.</p> <ul style="list-style-type: none"> • Following adjustment should be proposed in 3.346.f: "The service provider handles information related to the undertaking's clients in such a way as to enable the undertaking to comply with its obligations regarding safety and confidentiality". • Article 38.1bb states that supervisory authorities must have effective access to the business premises of the service provider and must be able to exercise those rights of access. This will be part of the supervisory powers but it should not be required that the written agreement between the insurance company and the service provider includes also the said text. The requirements stated in the 3.324 g-h would restrain insurance companies' effective possibility to use outsourcing in practise. Thereby said text should be deleted from the paragraph 324. • We do not agree with paragraph 3.347.h. The undertaking should be informed by the supervisor of the questions to be addressed to the service provider and it should authorize the service provider to answer these questions without any conflict with the professional rules. • CEIOPS should be aware of the different approaches taken in different directives. Cross-sectoral convergence is preferred. 	<p><i>This is indispensable as supervisors cannot be granted powers over service providers outside their jurisdiction.</i></p> <p><i>This would not be in line with the Level 1 text (Art. 35(2)(b)).</i></p> <p><i>CEIOPS can do nothing about approaches being different in non-insurance directives. For the Level 2 advice only what is in the Level 1 text is relevant.</i></p> <p><i>CEIOPS aims however for compatibility with MiFiD.</i></p>
851.	AMICE	3.322	<p>When choosing a service provider for a critical or important function, no conflicts of interest should occur. At the same time, we note in that outsourcing within the same group is possible. We believe that the same requirements of absence of conflicts of interest are applicable.</p> <p>In several contexts, CEIOPS proposes to oblige the outsourcing undertaking to "ensure" certain qualities and procedures on the side of the service provider. We believe that having to "ensure" this exceeds in many cases the possibilities of the outsourcing undertaking in its contractual relationship with the service</p>	<p><i>Correct.</i></p> <p><i>This would be one way of</i></p>

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			provider. We strongly suggest reducing the obligation on the outsourcing undertaking to contractually obliging the service provider to provide information/disclosure (see also our comments on 3.329, below).	<i>ensuring what is necessary.</i>
852.	IUA	3.324(g)	It is right that the supervisory authority should have effective access to the business premises of the service provider. However, there may be problems in practice in arranging and ensuring the same access for (re)insurers.	<i>The undertaking would have to require this right in the outsourcing agreement.</i>
853.	IUA	3.324(h)	It would be reasonable for the undertaking to also be informed of any questions asked of the service providers relating to the outsourced arrangement.	<i>This obligation to the service provider can be part of the outsourcing agreement between the undertaking and the service provider.</i>
854.	ROAM	3.324 3.328	We understand that only “important or critical activities” are impacted by these outsourcing rules, that is to say : <ul style="list-style-type: none"> • The activities’ contractualization has to mention all points a) to h) of paragraph 3.324 • have a backup plan to face a serious dysfunction 	<i>Correct.</i>
855.	PwC	Section 3.7 3.324 (g)	We agree with this paragraph but question how realistic it is – especially for a small organisation to impose such conditions on its outsourcing partners. It would be helpful if CEIOPS could clarify whether this requirement will apply to new arrangements only or is the expectation that existing arrangements will have to be re-negotiated?	<i>When Solvency II enters into effect it applies to all existing arrangements.</i>
856.	SACEI	3.324	Written agreement (a level 3 guidance should detail the form of the written agreement) between undertaking and service provider is necessary (it is a key point of the deontology adopted by SACEI). SACEI accepts the supervisor’s ability to question directly the service provider and the cooperation between supervisors and service provider within the limits of the written agreement which should point out the topics that should not be covered by the direct control of the supervisor.	<i>Noted.</i> <i>There are no such topics. The supervisor is to be given the same access to information as if the activity was not outsourced.</i>
857.	AMICE	3.326	The undertaking remains responsible for the sub-outsourcing contract; AMICE	<i>Noted.</i>

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			believes that disclosure is the right approach to ensure transparency.	
858.	AMICE	3.329	CEIOPS writes that the insurance undertaking shall ensure that the service provider discloses any material changes to its financial resources or its risk profile. AMICE believes that it is more appropriate for insurance undertakings to require service providers contractually to inform them of any material changes to their financial resources and/or risk profile.	<i>That is what this means.</i>
859.	FFSA	3.330	Internal / external outsourcing We support the view that internal outsourcing in integrated groups should have less strict implementation measures than external outsourcing.	<i>Noted.</i>
860.	IUA	3.330	The distinction between internal and external outsourcing is welcomed. It is likely that internal outsourcing poses lower level of risk than external outsourcing, not least because firms can exert greater governance and risk management control over internal outsourcing than is possible with external firms. We therefore believe that outsourcing requirements should be proportionate to the risks. We would additionally expect that internal outsourcing would relate to all undertakings within a group structure and not only from the parent to branch.	<i>Noted.</i> <i>Correct.</i>
861.	ABI	Paras 3.330, 3.331 and 3.344	Outsourcing We welcome CEIOPS' distinction between internal and external outsourcing. We support the view that the implementing measures for outsourcing should apply less strictly when it concerns internal outsourcing in an integrated group. We would therefore propose to include the following sentences in para. 3.331: "The assessment of group internal outsourcing can be based on a lighter-touch approach, taking into account existing group supervision. When assessing group internal outsourcing one shall take account of whether the service provider is included in the group supervision". We also believe the requirements relating to outsourcers will need to distinguish between contracts that are or are not yet in place – where contracts are already in place there may be legal limitations on the terms that can be imposed on outsourcers, including the rights to terminate the contract. We also consider that an undertaking's outsourcing policy should include minimum control standards for ensuring that a robust definition of services has	<i>Noted.</i> <i>CEIOPS does not agree that internal outsourcing automatically means a lighter touch can be applied.</i> <i>When Solvency II enters into effect it applies to all existing arrangements as the Level 1 text does not provide for grandfathering.</i> <i>Noted</i>

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			been defined, a robust supplier selection procedure is adhered to, and should set out key performance indicators for roles and responsibilities on an ongoing basis.	
862.	ROAM	3.330 3.331	<p>In case of internal outsourcing, we approve that some of the outsourcing requirements may be applied more flexibly.</p> <p>Nevertheless, be careful not to lay down too many administrative commitments concerning internal outsourcing (e.g. written agreements stipulating the duties and responsibilities of each party).</p>	<p><i>Noted.</i></p> <p><i>CEIOPS does not consider the requirement of having a written agreement for outsourcing to be any great burden but a matter of good business practice.</i></p>
863.	CEA	3.330, 3.331, 3.344	<p>We strongly support the distinction between external and internal outsourcing.</p> <p>We support paragraphs 3.330 and 3.331 and the advice in 3.344. In our view, it is likely that internal outsourcing poses lower level of risk than external outsourcing and outsourcing requirements should be proportionate to the risks.</p> <p>We would like to propose a number of amendments:</p> <ul style="list-style-type: none"> • It would be helpful if CEIOPS repeated some of the text in 3.330 and 3.331 in the advice in 3.344. The first sentence of 3.330 ("In case of internal outsourcing, i.e. where the service provider is in the same group as the undertaking, some of the requirements may be applied more flexibly.") is particularly useful. • The following sentence should be included in paragraph 3.331: "When assessing group internal outsourcing one shall take account of whether the service provider is included in group supervision. Group internal outsourcing of critical or important functions can be subject to less supervisory scrutiny, notably if the outsourcing arrangement is already subject to the supervision of intra-group transactions pursuant to Article 249 (or equivalent third country rules)". • CEIOPS advice 3.344 should have the following additional sentence: "The assessment of group internal outsourcing can be based on a lighter-touch approach, taking into account existing group supervision." • In addition, in relation to 3.344 we would like to say that the facilities for 	<p><i>See comment 851 above.</i></p> <p><i>CEIOPS does not consider it appropriate to include this "may" case in the Level 2 implementing measures.</i></p> <p><i>See comment 861 above.</i></p> <p><i>This is not a requirement for internal outsourcing but a</i></p>

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			<p>outsourcing within a group or alliance of companies should include all types of outsourcing within this group/alliance and not only from mother to daughter. In the proposed text it is required that the undertaking has the control of or has the ability to influence the actions of the provider. This is not always possible for a daughter outsourcing to its mother, which in turn may outsource the functions to a third party.</p> <ul style="list-style-type: none"> CEIOPS should be aware of the different approaches taken in different directives. Cross-sectoral convergence is preferred. 	<p><i>justification for the "lighter touch".</i></p> <p><i>See comment 850 above.</i></p>
864.	AMICE	3.330 and 3.331	<p>We welcome that CEIOPS considers that (some) requirements may be applied more flexibly in the case of internal outsourcing within a group and expect that CEIOPS relates in its thinking to the extended definition of an insurance group in Art 210 (1)(c)(ii) of the Framework Directive (mutual groups).</p> <p>We argue, in addition, that this flexibility should apply more broadly than CEIOPS proposes and therefore suggest deleting the reference to the necessity of a written contract.</p>	<p><i>Correct.</i></p> <p><i>CEIOPS does not consider the requirement of having a written agreement for outsourcing to be any great burden.</i></p>
865.	CEA	3.331	<p>It would be important to have a definition of what constitutes a Service Level Agreement.</p> <p>There is no definition from CEIOPS on the proper form and contents of an SLA, nor is there a reference to a definition from another source.</p>	<p><i>CEIOPS does not agree as this is standard business terminology.</i></p>

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866.	ECIROA	3.333	Most captive managers report on their internal control systems quarterly or semi-annually. Evidence is found in captive Board minutes. Undertakings have a written SLA with professional licensed captive managers and Board review of the SLA will be part of the annual information provided to regulators.	<i>Noted.</i>
867.	PwC	Section 3.7 3.333	The Due Diligence responsibility to ensure that the service provider has adequate risk management will be prohibitively high. A best efforts basis would be more reasonable. Please clarify whether this requirement is expected to apply to new arrangements only or to apply to existing ones as well (as above).	<i>CEIOPS considers this a matter of good business practice and would expect this to have happened already for existing contracts.</i> <i>When Solvency II enters into effect it applies to all existing arrangements</i>
868.	KPMG	3.334	Sub-paragraph b) deals with need for the undertaking to verify that the service provider properly isolates information, documentation and assets belonging to the undertaking and its clients in order to protect their confidentiality. We consider that this should be extended to cover the security aspect of the information and assets.	<i>Noted.</i>
869.	IUA	3.337	'Continuously' may be better termed 'effectively monitor'.	<i>The wording was changed accordingly. See amended paragraph 3.370.</i>
870.	ECIROA	3.339	As stated above, the majority of captives outsource their functions and activities to professional licensed Captive Managers. The proportionality principle should apply and the undertaking should notify the supervisory authorities of this outsourcing as a whole, including identifying critical or important activities.	<i>Noted.</i>
871.	UNESPA	3.339	As this establishes a duty to notify the authorities of any intention to outsource essential activities or functions, there must be a clear definition of which activities this applies to, and a high degree of harmonisation is also required. At Level 2 a model should be developed for notifying the intention to outsource	<i>It is undertaking specific what is a critical or important functions.</i>

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			an essential function or activity, together with a model contract which meets all the requirements for performance of an activity externally. This model should allow for the possibility of the supplier being a member of the Group. Furthermore, it should also take into consideration that the undertaking is subject to supervision in the EU. This will result in compliance with these requirements being more costly.	<i>CEIOPS has no intention to prescribe or provide a model contract. It is entirely up to the undertakings to decide how to word the contract.</i>
872.	CROF	3.340	<p>"Article 38(3) requires undertakings to notify supervisory authorities in a timely manner prior to the outsourcing of critical or important functions or activities. This does not imply that the supervisor has to approve or authorise the outsourcing. Rather the prior notification presents an opportunity for the supervisor to discuss concerns with the undertaking if the outsourcing appears not to comply with the provisions of the Directive and to object if supervisory concerns cannot be dispelled. Accordingly, CEIOPS interprets "in a timely manner" to constitute a period of time sufficient for the supervisor to examine the proposed outsourcing before it comes into force. This could be at least six weeks before the outsourcing is due to come into effect."</p> <p>We agree with timely notification, but we would see this as a general requirement to companies to provide regulators with relevant information on changes in the way the business is managed. As such we believe there should not be specific timeframes mentioned.</p>	<i>CEIOPS would expect the notification to be set down in a specific notification requirement in the supervisory law. Incidentally the point here is that supervisors need to have the opportunity to assess whether the outsourcing arrangements are in line with regulatory requirements.</i>
873.	Ireland S2G	Article 38(2) 3.342	Article 38(2) does not specifically deal with the case where a function is carried out by a services provider located <u>outside</u> the EU. Where it is inside the EU it states: "The supervisory authorities of the Member State of the insurance or reinsurance undertaking may delegate such on-site inspections to the supervisory authorities of the Member State where the service provider is located". However, in paragraph 3.342, it is clear that CEIOPS has considered the possibility that a service provider could exist outside the EU: "(...) different notification arrangements for service providers located inside the EU as opposed to outside the EU are not necessary.". More consideration needs to be given to the practicalities of supervisory authorities of Member States attempting to carry	<i>CEIOPS has considered this but does not view it as</i>

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			out its own on-site inspections countries outside the EU. We believe that this issue should be covered by CEIOPS advice.	<i>necessary.</i>
874.	AVIVA	3.343	<u>Outsourcing Policy</u> We consider that an undertaking's outsourcing policy should include minimum control standards for ensuring that a robust definition of services has been defined, a robust supplier selection procedure is adhered to, and should set out key performance indicators for roles and responsibilities on an ongoing basis.	<i>Noted.</i>
875.	CROF	3.343	<i>"The undertaking's outsourcing policy shall include considerations of the impact of outsourcing on its business and the reporting and monitoring arrangements to be implemented in case of outsourcing. The policy shall be regularly assessed and updated with any necessary changes implemented."</i> We consider that an undertaking's outsourcing policy should include minimum control standards for ensuring that a robust definition of services has been defined and a robust supplier selection procedure is adhered to.	<i>Noted.</i>
876.	UNESPA	3.344	The CEIOPS recommendation that outsourcing to a service supplier which is part of the same Group should be treated less rigorously as there is already a certain degree of control appears satisfactory to us, providing it is clearly established that such internal outsourcing should be subject to efficient quality control and that this is regulated in some way; if not, we do not consider that the use of less demanding requirements is justified. One example of control could be the use of "Statement on Auditing Standards N°70.	<i>Noted.</i>
877.	CROF	3.344	<i>"If an undertaking and the service provider are members of the same group, the undertaking may take into account the extent to which it controls the service provider or has the ability to influence its actions."</i> We support paragraphs 3.330 and 3.331 and the advice in 3.344. In our view, internal outsourcing poses lower level of risk than external outsourcing and outsourcing requirements should be proportionate to the risks.	<i>Noted.</i>
878.			Confidential comment deleted.	
879.	AVIVA	3.346(b)	<u>Steps in choosing service provider</u> Further clarity is needed of what is meant by "all means" to be adopted by the service provider to ensure that there are no explicit or potential conflicts of	<i>Self certification is one mean of all means. "All means" has to comprise more. Self</i>

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			interest with the undertaking that could impair the needs of the undertaking. We have concerns that this could be extremely burdensome to implement in practice. If self certification were required this would be relatively simple to implement.	<i>certification has to be checked by the undertaking.</i>
880.	ABI	Paras 3.346 (b), 3.348	Further clarity is needed of what is meant by “all means” to be adopted by the service provider to ensure that there are no explicit or potential conflicts of interest with the undertaking that could impair the needs of the undertaking. We have concerns that this could be extremely burdensome to implement in practice. If self certification were required this would be relatively simple to implement.	<i>See comment 880 above.</i>
881.	CROF	3.346(b)	<p><i>"When choosing a service provider for any critical or important functions or activities the undertaking shall undertake all necessary steps to ensure that: [...]</i></p> <p><i>b) The service provider has adopted all means to ensure that no explicit or potential conflict of interests with the undertaking impairs the needs of the undertaking;"</i></p> <p>Further clarity is needed of what is meant by “all means” to be adopted by the service provider to ensure that there are no explicit or potential conflicts of interest with the undertaking that could impair the needs of the undertaking. We have concerns that this could be extremely burdensome to implement in practice. If self certification were required this would be relatively simple to implement.</p>	<i>See comment 880 above.</i>
882.	GDV	3.346 d)	We do not think that under all circumstances it is necessary that the terms and conditions of an outsourcing agreement are authorized and understood by the undertaking’s administrative or management body. As the definition of outsourcing according to CEIOPS is very far-flung (3.311.), even minor activities could come under the outsourcing requirements. Activities which are usually not that important for the insurance undertaking’s business (e.g. cleaning of the office rooms) and do not involve substantial amounts could as well be signed and managed by persons who are in a hierarchy below the undertaking’s administrative or management body. We think the principle of proportionality only justifies requiring that the management body is involved in cases where the activities outsourced are vital and important for the insurance undertaking.	<i>CEIOPS expects that the administrative or management body does approve outsourcing so long as it concerns critical or important functions or activities. Therefore the administrative or management body has to understand the general terms and conditions.</i>

Summary of comments on CEIOPS-CP-33/09 Consultation Paper on the Draft Advice on Governance				CEIOPS-SEC-68/09
883.	AVIVA	3.347(g)	<p><u>Access to data and premises</u></p> <p>We have reservations about a Supervisory authority having direct access to service providers and the data they hold directly. This raises broad questions about how it would work in practice: notice period, scope, governance, how the undertaking will be kept informed of discussions, with whom can they talk?</p>	<p><i>The undertaking would have to require this general right of the supervisory authority in the outsourcing agreement and must assure that the supervisory authority is not restricted in any way in carrying out its supervisory duty.</i></p> <p><i>In practice there is no difference to what the supervisor would expect to do if the function or activities were not outsourced.</i></p>
884.	AVIVA	3.347(h)	<p><u>Supervisor's right to direct questions</u></p> <p>Clarity is needed as to how this would work in practice – raises similar questions as in response to 3.347(g)</p>	<p><i>In the same way as towards the undertaking.</i></p>
885.	Pearl	3.347	<p>We welcome CEIOPS' distinction between internal and external outsourcing. However, we believe the requirements relating to outsourcers also need to distinguish between contracts that are or are not yet in place – where contracts are already in place there may be legal limitations on the terms that can be imposed on outsourcers, including the rights to terminate the contract.</p>	<p><i>When Solvency II enters into effect it applies to all existing arrangements as the Level 1 text does not provide for grandfathering</i></p>
886.	Munich Re	3.347	<ul style="list-style-type: none"> • Ad g: Access to the service provider should always take place via the undertaking. • Ad h: Delete 3.347. h) (does not make sense and is not customary). 	<p><i>The suggestion is not in line with the Level 1 text (Art. 35(2)(b)).</i></p>
887.	FFSA	3.347	<p>Written agreement</p> <p>We don't agree with the article 3.347.h. The undertaking should be informed by the supervisor of the questions to be addressed to the service provider and it should authorize the service provider to answer these questions without any conflict with the professional rules.</p>	<p><i>See comments 887 above.</i></p>

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888.	IUA	3.347	There needs to be a reference to contracts that are already in place against those that are to be negotiated in the future. Relating to existing contracts, these may be bound by existing legal limitations that prevent full compliance with the Para 3.347 proposals. This possibility needs to be recognised in the text or acknowledged in further guidance.	<i>When Solvency II enters into effect it applies to all existing arrangement as the Level 1 text does not provide for grandfathering.</i>
889.	Lloyd's	3.347	We agree with these points and suggest that it may also be appropriate to make reference to the ability to sub-outsource as this is also a key consideration (as outlined in para 3.326). This could be included here, or as a separate paragraph.	<i>Noted.</i>
890.	ABI	Paras 3.347 (g), (h)	We have reservations about a Supervisory authority having direct access to service providers and the data they hold directly. This raises broad questions about how it would work in practice: notice period, scope, governance, how the undertaking will be kept informed of discussions, with whom can they talk?	<i>See comment 887 above.</i>
891.	GDV	3.347	The undertaking shall have the right to terminate the contract with an extraordinary notice of dismissal if the supervisor considers the service rendered should prove to be inadequate. <ul style="list-style-type: none"> Ad g: Access to the service provider should always take place via the undertaking. Ad h: Delete 3.347. h) (does not make sense and is not customary). 	<i>See comment 887 above.</i>
892.	CROF	3.347(g)	<i>"The written agreement to be concluded between the undertaking and the service provider should clearly state the following requirements:</i> <i>[...]</i> <i>g) That the undertaking, its external auditor and the supervisory authority competent for its supervision will have effective access to all data related to the outsourced functions or activities, as well as to the service provider's business premises if an on-site inspection or audit is to be performed;"</i> We have reservations about a Supervisory authority having direct access to service providers and the data they hold directly. This raises broad questions about how it would work in practice: notice period, scope, governance, how the undertaking will be kept informed of discussions, with whom can they talk? We believe that access to service providers should always take place via the undertaking.	<i>See comment 887 above.</i>

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			In addition, it seems that the CP presumes that the responsibilities are also outsourced. We believe that regardless of outsourcing or not outsourcing a task, the responsibility and accountability lies with the management of the insurance undertaking.	<i>No it does not, on the contrary.</i>
893.	CRO	3.347(h)	<p>"The written agreement to be concluded between the undertaking and the service provider should clearly state the following requirements: [...]</p> <p>h) That the supervisory authority has the right to directly address questions to the service provider."</p> <p>Clarity is needed as to how this would work in practice – raises similar questions as in response to 3.347(g)</p>	<i>The undertaking would have to require this general right of the supervisory authority in the outsourcing agreement and must assure that the supervisory authority is not restricted in any way in carrying out its supervisory duty.</i>
894.	CEA	3.347	<p>There should be a distinction between contracts that are already in place and contracts which are being negotiated.</p> <p>We believe the requirements relating to outsourcers also need to distinguish between contracts that are in place and contracts that are not yet in place – where contracts are already in place there may be legal limitations on the terms that can be imposed on outsourcers, including the rights to terminate the contract. This should be stated in the first paragraph of 3.347, before the sub-paragraphs.</p>	<i>When Solvency II enters into effect it applies to all existing arrangement as the Level 1 text does not provide for grandfathering.</i>
895.	CROF	3.348	<p>"To ensure the outsourcing of any critical or important functions or activities does not lead to a material impairment of the quality of the undertaking's governance system:</p> <p>a) The undertaking must ensure that the service provider has in place an adequate risk management and internal control system;"</p> <p>The request for the undertaking to assess the service provider's risk management systems raises questions of scope, and whether self certification would be acceptable. More clarity is needed on the practical implications of such a requirement.</p>	<i>Self certification of the service provider has to be checked by the undertaking. Self certification of the service provider is not enough.</i>