

## **Consultation Paper no. 82**

# **The methodology for equivalence assessments by CEIOPS under Solvency II**

*CEIOPS welcomes comments from interested parties on the following draft methodology.*

*Please send your comments to CEIOPS by email ([secretariat@ceiops.eu](mailto:secretariat@ceiops.eu)) by 22.10.2010, indicating the reference "CEIOPS-CP-82-10".*

*Please note that comments submitted after the deadline or not submitted in the provided template format **cannot** be processed.*

*CEIOPS will make all comments available on its website, except where respondents specifically request that their comments remain confidential.*

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# 1. Introduction

1.1. Articles 172, 227 and 260 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)<sup>1</sup> all contain provisions relating to the assessment of the equivalence of third country supervisory regimes. CEIOPS has previously provided advice to the Commission on the technical criteria for assessing third country equivalence under these articles,<sup>2</sup> and incorporated in this a high level outline of an assessment methodology – noting that this was work in progress.

1.2. In its letter of 11 June 2010, the European Commission (Commission) requested that CEIOPS reviews and expands the high level proposed methodology, taking into account comments received from stakeholders during the consultation on the general criteria. CEIOPS was asked to publish a fully consulted upon methodology by mid-November 2010, by which time the Commission will have made its final decision on the third country supervisory regimes that will be included in the first wave of assessments.

1.3. In its Call for Advice, the Commission requested that CEIOPS consult a wide range of stakeholders including the European insurance industry, third country supervisory authorities and the insurance industries of third countries.

1.4. In the same Call for Advice, the Commission noted that *"Although the Commission's proposal for level 2 implementing measures on the general criteria to be used for the assessment are unlikely to be published before the end of 2010, the assessment by CEIOPS should nonetheless be carried out using the draft proposed implementing measures that will have been tabled by the Commission for discussion at the Solvency Expert Group meetings."*

1.5. As at the time of drafting this consultation paper, the draft Level 2 measures are not publicly available. As such, CEIOPS has concentrated on the procedural aspects relevant to equivalence assessments. However, in separate annexes to the main text relating to the individual articles, CEIOPS has utilised its advice<sup>3</sup> to the Commission on the criteria to be utilised in assessments – and the related indicators - to develop the questionnaires for completion by the third country supervisors as part of the assessment process. **CEIOPS recognises that these annexes may have to be amended to reflect the Commission's proposals for the Level 2 measures and the final agreement on these.** Nevertheless, CEIOPS believes these annexes are helpful for the purpose of the consultation to give stakeholders a full understanding of the approach it is proposed to take.

1.6. This proposed methodology has been developed for use in respect of assessments undertaken by CEIOPS, and in the future by EIOPA. CEIOPS notes that the Solvency II Directive also anticipates that in circumstances where the Commission has not taken a decision on the equivalence of a particular third country then under Article 227 the group supervisor shall carry out any verification of the equivalence of the third country regime for the purpose of the group solvency calculation on its own initiative or at the request of the participating undertaking.

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<sup>1</sup> 17 December 2009, Official Journal L 335

<sup>2</sup> CEIOPS-DOC-78/10

<sup>3</sup> Link to final advice

1.7. Similarly, under Article 260, where there is no Commission decision on equivalence the verification of whether a particular third country exercises equivalent group supervision to that provided for under Solvency II shall be carried out by the EU supervisory authority which would be the group supervisor if the criteria set out in Article 247(2) were to apply. The verification shall be undertaken at the request of the third country parent undertaking or of any of the insurance and reinsurance undertakings authorised in the Community or on the (EU) group supervisors' own initiative.

1.8. In its advice to the Commission on countries that might be included in the first wave<sup>4</sup> of equivalence assessments CEIOPS suggested that, subject to any relevant transitional measures the Commission might propose, where a third country is of high relevance for a single group, the group supervisor should address these third countries with priority in advance of the implementation of Solvency II.

1.9. As different group supervisors may come to different equivalence decisions on the same third country regime in respect of different groups, CEIOPS will ensure through active co-ordination that group supervisors follow a consistent approach.

1.10. To facilitate this outcome, CEIOPS will adapt this proposed methodology appropriately and issue it as Level 3 guidance to EU group/individual supervisors. This guidance would also cover Article 172, where individual supervisors may need to consider the equivalence of third country supervisory regimes applying to reinsurance activity.

1.11. CEIOPS does not anticipate consulting on this Level 3 guidance until the draft Level 2 implementing measures are published by the Commission.

1.12. Once the fully consulted upon Level 3 guidance has been published, group/individual supervisors may consider initiating assessments in advance of the Solvency II implementation deadline.

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<sup>4</sup> CEIOPS-DOC-92/10

## 2. Overarching principles relating to equivalence assessments

*There are a number of overarching principles that will underpin equivalence assessments, and these are set out below:*

**Equivalence assessments aim to determine whether the third country supervisory system provides a similar level of policyholder/ beneficiary protection.**

2.1. In line with the spirit and text of the Level 1 Directive, CEIOPS will assess whether the third country supervisory system provides for a similar level of policyholder/beneficiary protection as under Solvency II to be considered equivalent.

**Supervisory cooperation & professional secrecy is a key, determinative element of a positive equivalence finding**

2.2. Professional secrecy is the basis for all supervisory cooperation among EU and third country supervisors. CEIOPS will aim to ensure that appropriate professional secrecy and confidentiality requirements are in place. When pursuing the assessment of the overarching principle of professional secrecy, the principle of proportionality will not apply in relation to professional secrecy.

**Equivalence is a flexible process based on principles and objectives.**

2.3. In order to assess the level of policyholder/beneficiary protection under a third country supervisory regime, CEIOPS equivalence assessments will consider whether the third country regime meets the supervisory principles and objectives which will be embedded in the criteria to be set out in the Level 2 implementing measures. All the applicable criteria need to be met for a positive equivalence determination.

2.4. The 'indicators' of equivalence are those factors which CEIOPS considers provide guidance in determining whether the relevant principles and objectives are achieved.

2.5. The indicators that CEIOPS proposed in its final Level 2 advice to the Commission have been used to develop the questionnaires in annexes 1 to 3. As previously noted, CEIOPS recognises that these annexes might be amended to reflect the text of the Level 2 measures.

2.6. When pursuing the assessment of a specific principle and objective, the assessor should keep in mind that a positive equivalence finding does not require that every indicator is fulfilled.

**Equivalence incorporates the proportionality principle**

2.7. When pursuing an equivalence assessment, proper consideration should be given to the adequacy of third country practice in applying the proportionality principle. As such, a proportionality principle in the application of regulatory provisions in third country jurisdictions (contingent upon the nature, scale and complexity of the risks inherent in the business) should not in itself be an obstacle or a prerequisite to the recognition of equivalence.

**An equivalence judgement can only be made in respect of the regime in existence and applied by a third country supervisory authority at the time of the assessment.**

2.8. Plans and on-going initiatives for changing the national supervisory regime should not be considered an adequate support for a positive equivalence finding until the day of their actual implementation. Nevertheless, these initiatives should be taken into account when performing an equivalence assessment and providing advice to the Commission.

**Equivalence assessments will be kept under review.**

2.9. Assessments will be kept under review and take into account any developments that might lead to relevant changes in the third country supervisory regime. CEIOPS will review its advice at least every 3 years or upon learning of significant developments within jurisdictions already found equivalent.

### 3. Main operational aspects of equivalence process:

*The principal stages of the equivalence assessment are set out below:*

**Equivalence assessments will be initiated upon receiving a Call for Advice from the Commission or upon CEIOPS Members' decisions.**

3.1. CEIOPS will act on a Commission call for advice or on its own initiative. When Solvency II is implemented, certain entities within a group may require a group supervisor to undertake an equivalence assessment of a particular third country. There is no similar provision in respect of assessments by CEIOPS, and request received from third country supervisors to engage into an equivalence process will not be sufficient to initiate the procedure. In considering own initiative assessments CEIOPS will, in particular, take into account the materiality of third country concerned and the resources available.

**CEIOPS will confirm as early as possible in the process that the 3rd country supervisory authority is willing to participate in the assessment.**

3.2. CEIOPS considers that the active cooperation of the third country supervisor is essential for a proper assessment to be undertaken. CEIOPS will not engage in any equivalence assessments in the absence of confirmation of willingness to participate from the 3<sup>rd</sup> country supervisory authority.

**CEIOPS will issue a Call for Evidence, once an equivalence process is initiated**

3.3. CEIOPS will post a call for evidence on its website once it has confirmation from the third country that it is willing to participate in an equivalence assessment.

3.4. The call for evidence will allow any interested parties an opportunity, early in the process, to bring to CEIOPS attention any factors that they think may be relevant to the equivalence assessment. Information provided under a call for evidence will be considered by CEIOPS but will not be published. Neither will CEIOPS respond to the points made.

**Assessment teams with the appropriate expertise, knowledge and experience will be put in place for the equivalence assessments**

3.5. It is important that the assessment teams have the right balance of expertise, knowledge and supervisory experience. The assessment teams should include/have access to:

- Legal expertise
- Financial requirements expertise (pillar I issues) including actuarial expertise
- Expertise in supervisory review, governance and reporting (pillar II&III issues)
- Group supervision expertise for assessments in relation to art. 227 and 260.

3.6. The minimum number of assessors per team should be no less than 3 including a CEIOPS Secretariat member who can also cover one of the above areas.

3.7. The assessment team size will match the extent of the assessment to be undertaken (e.g. against a single article or against all 3 articles) as well as the complexity of the third country supervisory system.

**On receipt of the third country response to CEIOPS questionnaires on the assessment criteria, CEIOPS begins a desk-based assessment.**

3.8. CEIOPS will invite third country supervisory authorities to complete questionnaires relevant to the articles of Solvency II under which an assessment is to be undertaken. These questionnaires will be based on the criteria set out in the Level 2 implementing measures and encapsulate the indicators that CEIOPS considers provide guidance in determining whether the criteria are met. It is reiterated that a positive finding in respect of the observance of a particular criteria does not require that every indicator is met.

3.9. Where necessary, CEIOPS will request additional evidence from the respective third country supervisory authority.

3.10. A thorough analysis of the information received, including practical evidence, will be carried out. A thorough analysis of the legal texts invoked by the responding authority will be performed. The assessment will also take into account any practical evidence of applicable criteria observance available to CEIOPS.

**CEIOPS equivalence assessments will utilise data/information from a variety of sources.**

3.11. While the responses of the third country supervisory authority to the questionnaires issued by CEIOPS will form the basis of the assessment, CEIOPS will not be restricted to considering only this material. In addition to any information provided under the Call for Evidence, CEIOPS may also consider other relevant information available where appropriate such as any assessment carried out by the IMF or World Bank, or whether the third country is party to the IAIS Multilateral Memorandum of Understanding. However such information will only be used as supporting information for an equivalence assessment.

3.12. The information required from the third country may include:

- publicly available information (e.g. laws, regulations and administrative policies); and/or
- internal information (e.g. self-assessments and operational guidelines).

3.13. The information should be provided by the third country supervisory authority, subject to any professional secrecy requirements.

**An on-site visit will be part of the assessment process.**

3.14. An on-site visit to the third country will be arranged to take place after the initial desk-based assessment. CEIOPS considers that it is important to have discussions with the third country supervisory authority on the assessment in order to clarify any points. An on-site visit will also allow a better understanding of how the supervisory authority operates in practice.

3.15. When visiting the third country, CEIOPS may also wish to consult other relevant parties in the country concerned. These may include relevant government ministries, undertakings, insurance industry associations, actuaries, auditors and other financial sector participants.

**CEIOPS will prepare its advice**

3.16. Having completed its analytical work, CEIOPS will prepare its advice. This will be discussed with the third country supervisory authority concerned.



3.17. In undertaking the assessment, each criteria as provided in the Level 2 text, will be assessed using 5 categories: *observed, largely observed, partly observed, not observed and not applicable*.

3.18. For a criterion to be considered observed, the third country supervisory authority must provide evidence that the:

- Relevant national provisions (e.g. legal, regulatory, administrative provisions) exist;
- National provisions are applied in practice.

Where national provisions are not in place at the time of the assessment, proposed improvements will, where appropriate, be noted in the assessment report.

3.19. The process of assessing each principle/objective requires a judgmental weighting of numerous elements.

3.20. The outcome of the assessment conducted by CEIOPS will be communicated to the European Commission.

3.21. The European Commission will make the final determination of equivalence after having received CEIOPS advice.

**CEIOPS Advice following an equivalence assessment can be one of the following:**

- a) Country A meets the criteria set out by the Commission.**
- b) Country A meets the criteria but with certain caveats.**
- c) Country A needs to undertake changes in the following areas (...) in order to meet the Commission criteria for a positive equivalence.**

3.22. A third country supervisory authority must demonstrate that the regime applicable in its jurisdiction meets each of the relevant criteria formulated by the Commission for a positive equivalence assessment.

3.23. Assessments will be kept under review to take into account any developments that might lead to relevant changes in the third country supervisory regime.

## 4. Project stages and indicative timeline

When pursuing an equivalence assessment, CEIOPS will seek to observe the following process and timeline:

No.	Action	Minimum timeline (indicative)
1.	EC sends CEIOPS CfA in respect to a particular country	Week 1
2.	CEIOPS sends a questionnaire to the 3 <sup>rd</sup> country and needs to confirm if the 3 <sup>rd</sup> country is interested in participating in the assessment.	Weeks 1-2
3.	CEIOPS to use a Call for Evidence posted on its website – request to interested parties to provide CEIOPS with all material/documents relevant for the assessment of the 3 <sup>rd</sup> country. Any input received via the call for evidence will not be replied to.	Week 3-4
4.	Third country to provide reply to CEIOPS questionnaire.	Week 4 - 12
5.	CEIOPS performs “desk-based” assessment of the replies and adjoining documentation received from the 3 <sup>rd</sup> country as well as of input received via the Call for evidence. - Additional questions may be sent to the third country. - Third country to provide reply to additional CEIOPS questions	Week 12 - 20  Week 20 Week 20-22
6.	CEIOPS to agree on content and focus of on-site visit.	Week 24
7.	CEIOPS performs on-site visit to the 3 <sup>rd</sup> country to ensure direct contact with the 3 <sup>rd</sup> country representatives (not necessarily restricted to supervisors).	Week 24-28
8.	CEIOPS prepares & approves advice for public consultation. This includes also discussion with 3 <sup>rd</sup> country supervisor as to CEIOPS findings.	Week 28-32
9.	CEIOPS finalises its advice	Week 32 - 40
10.	Approval of final advice by CEIOPS Membership and submission to EC.	Week 40 - 42

## Annex 1

*Note: CEIOPS notes that these annexes are only for illustrative purposes only.*

### Questionnaire

#### Equivalence assessments under art. 172 – reinsurance

*(Re)insurance undertakings should be subject to a supervisory regime that enables them to absorb significant losses and that gives reasonable assurance to policy holders and beneficiaries that payments will be made as they fall due.*

*In the assessment of third country supervisory regimes, consideration is given to the adequacy of third country practice in applying the proportionality principle based on the nature, scale and complexity of the risk inherent in the business. However, the proportionality principle does not apply to the professional secrecy provisions.*

*In providing its reply, the third country supervisory authority is invited to provide full description and support information of its regulatory & supervisory regime. By doing so, the third country authority will ensure adequate levels of information are available for CEIOPS assessment of the third country observance of the equivalence criteria (the principles and objectives below).*

*In order to be deemed equivalent under the provisions of Article 172, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives:*

#### **Principle no. 1 – Powers and responsibilities of the supervisory authority**

**Objective** - Supervisory Authorities must be provided with the necessary means and have the relevant expertise, capacity and mandate to achieve the main objectives of supervision, namely the protection of policyholders and beneficiaries regardless of their nationality or residence. They have to have the resources to fulfil their objectives which include in particular financial and human resources.

Furthermore the supervisory authority must be fully empowered to enable the effective carrying out of the supervisory authority's responsibilities. The supervisory authority must have a range of actions available, based on supervisory law, in order to apply appropriate enforcement or sanctions where problems involving a licensed insurer or reinsurer are identified. Its measures have to be enforced, if needed, through judicial channels.

A.1.1. Please provide a comprehensive presentation of your supervisory authority should including details as to:

- A legal basis specifying supervisory responsibilities and enforcement powers
- Freedom from undue political, governmental and industry interference in the performance of supervisory responsibilities
- Transparency of supervisory processes / procedures
- Adequate financial and non-financial (e.g. sufficient numbers of appropriately skilled staff) resources
- Appropriate protection from being liable for actions taken in good faith

A.1.2. Please provide evidence as to your authority's powers to take preventative and corrective measures to ensure that insurance and reinsurance undertakings comply with the applicable laws, regulations and administrative provisions including details as to the authority's:

- Ability to ensure compliance on a continuous basis with laws, regulations and administrative provisions (including through onsite inspections) including measures to prevent/penalise further infringements including preventing the conclusion of new contracts
- Ability to communicate concerns, including those relating to the undertaking's financial position
- Ability to oblige the (re)insurer to respond to concerns raised by the supervisor.
- Ability to obtain all information necessary to conduct the supervision of the undertaking

A.1.3. Please provide details & comprehensive overview as to the existence/extent of authority's powers in respect of financial supervision i.e. verification of:

- System of governance
- state of solvency and financial condition of undertaking
- establishment and increase of technical provisions and covering assets
- administrative/accounting procedures
- internal controls (including those applied to ensure that data received from cedants are reliable and timely)

A.1.4. Please describe the type and frequency of accounting, prudential, statistical information obtainable by the supervisory authority from undertaking:

- Annual Report on the solvency and financial condition of the undertaking
- annual accounts (covering all operations, financial situation and solvency)
- returns/statistical documents
- information regarding contracts held with intermediaries

A.1.5. Please indicate whether your authority has powers in relation to Qualifying holdings. The responding authority is invited to provide a detailed overview of actions available to it in relation to:

- Persons (natural/legal) whose actual/proposed qualifying holding may operate against prudent/sound management. Measures may consist of:
  - injunctions
  - penalties against directors/managers
  - suspension of voting rights attaching to shares held by relevant shareholders/members or other instruments
  - nullity of votes cast / possibility of annulment
- Qualifying holding acquired despite opposition of supervisory authority. Measures consisting of:
  - suspension of voting rights
  - nullity of votes cast / possibility of annulment
  - other

A.1.6. Please provide details as to supervisory powers available to the authority in respect of undertakings in difficulties, which may include :

- Prohibition disposal of assets
- A recovery plan, finance scheme
- Reestablishment of the level of own funds, reduction of risk profile
- Downward revaluations
- Withdrawal of authorisation
- Measures relating to directors, managers, controllers and other relevant persons

A.1.7. Please offer a detailed overview of the enforcement actions available to the authority including as to the supervisory authority ability to cooperate with other authorities/bodies in respect of enforcement action

## **Principle no. 2 - Authorisation Requirements**

**Objective** – To protect policyholders' interest the taking up of reinsurance business shall be subject to prior authorisation to ensure the insurance and reinsurance undertakings satisfy basic standards (which are clear, objective and accessible), prior to becoming authorised to undertake regulated activities and on a continuous basis thereafter.

A.1.8. Please provide details as to existence and content of standards in respect of the Legal Entity:

- Legal form
- Head office of the undertaking to be situated in the same country as its registered office
- Articles of Association

A.1.9. Please provide details as to existence and content of standards in respect to the undertaking's Operations:

- Limitation to reinsurance and related operations for pure reinsurance undertakings which may include, for example, a holding company function
- Limitation to the business of insurance and operations arising directly there from for insurance undertakings.
- Scheme of operations (including, for the first three years, a forecast balance sheet, estimates regarding but not limited to: future Solvency Capital Requirements, Minimum Capital Requirements, the financial resources intended to cover technical provisions and capital requirements.)
- Financial resources cover set up costs
- Basic own fund items that constitute the absolute floor of the minimum capital requirements
- Compliance with the system of governance referred to under Principle 3

A.1.10. Please provide details as to existence and content of standards in respect to the undertaking obligation to provide information on Shareholders/Members:

- identity of shareholders/members with qualifying holdings
- amount of holdings; and

- assessment of reputation and financial soundness of the owner and acquirer

A.1.11. Please provide details as to existence and content of standards in respect to Close links:

- Identification of close links. (i.e. a situation in which two or more natural or legal persons are linked by control or participation, or are permanently linked to one and the same person by a control relationship )
- Monitoring of close links to ensure they do not prevent the effective exercise of supervisory powers over the authorised undertaking.

A.1.12. Indicator - Existence of standards in respect of - Refusal/withdrawal of authorisation:

- legally possible
- possible due to qualifications of shareholders/members; and
- where close links prevent effective supervision

### **Principle no. 3 - System of Governance**

**Objective:** The Supervisory Regime shall require an effective system of governance for (re)insurance undertakings which provides for a sound and prudent management of the reinsurance business. In particular, an adequate organisational structure with clear responsibilities, fit and proper management and an effective system of ensuring the transmission of information should be an integral part of the system.

The establishment and maintenance of adequate risk management, compliance, internal audit and actuarial functions is expected. The different tasks of an appropriate risk management and internal control system should be regulated, and subject to regular internal review.

The financial strength of a (re)insurance undertaking is one of the main reasons for policyholders closing a contract with that undertaking. Therefore transparency of this issue is a significant aim and an important part of a prudent supervisory system. (Re)insurance undertakings shall be required to disclose publicly a report of their financial performance.

A.1.13. Please provide an overview of the governance and Risk Management general requirements applicable in your regime including supporting evidence as to the existence of:

- Effective system of governance (including but not limited to transparent organisational structure, effective system for transmission of information)
- Requirements relevant to the fitness (for example appropriate professional qualification, knowledge and experience) and propriety ( for example good repute and integrity) of management and key function holders
- Effective and well integrated Risk Management System aimed at identifying measuring, monitoring, managing and reporting (on a continuous basis) the risks to which the undertaking is or could be exposed (on an individual and aggregated level), and the amount of own funds necessary to cover them (comparable to an own risk and solvency assessment)
- sound liquidity management policies which cover short and long term considerations and include stress test and scenario analyses
- Objective and independent Internal Audit function with a direct reporting line to the administrative, management or supervisory body

- Adequate internal control mechanisms
- Sound written administrative/accounting procedures
- Contingency plans

A.1.14. Please indicate whether and under which conditions is an Actuarial Function required by your system including whether there is a clear condition of knowledge of actuarial and financial mathematics appropriate to the nature, scale and complexity of the risk inherent in the (re)insurance business.

A.1.15. Please indicate whether your supervisory system requires continuous supervision of outsourced functions or activities (in order to ensure that meeting of obligations shall not be affected)

A.1.16. Please indicate whether your supervisory system requires that undertakings have a Compliance Function in place to provide the administrative, management or supervisory body advice on compliance with law, regulations and administrative provisions including an assessment of the possible impact of any changes in the legal environment and the identification and assessment of compliance risks

A.1.17. Please provide details as to governance requirements applicable in order to ensure identification of deteriorating financial conditions and remediation of deteriorating with appropriate monitoring tools in place

A.1.18. Please provide details as to the existence and extent of the auditors' duty to report:

- breach of laws, regulations, administrative provisions
- issues which may affect the continuous functioning of the undertaking
- refusal (or reservations) in respect of certification of accounts
- non compliance with Solvency and Minimum Capital Requirements

A.1.19. Should they exist, please provide a comprehensive overview of requirements for the public disclosure of report(s) on solvency and financial conditions at least on an annual basis with a description of:

- the business and performance
- system of governance,
- risk exposure, concentration, mitigation and sensitivity,
- assets,
- technical provisions, other liabilities and
- capital management

#### **Principle no. 4 - Business Change Assessment**

**Objective** – To ensure the acceptability of proposed changes to the business from an operational, management and supervisory perspective.

A.1.20. Please provide evidence as to the existence/extent of provisions in respect of acquisitions including as to:

- Notification of intention to hold or increase directly or indirectly a qualifying holding
- Right of supervisory authority to oppose proposed acquisition

- Existence of thresholds prompting notification
- Possibility for assessment of acquisition by financial undertakings to be subject to prior consultation

A.1.21. Please provide evidence as to the existence/extent of provisions in relation to disposals, including as to:

- Notification of intention to dispose directly/indirectly of a qualifying holding
- Thresholds prompting notification

A.1.22. Please provide evidence as to the existence/extent of provisions regarding the information obtainable from undertaking, including as to:

- Thresholds prompting notification of acquisitions/disposals
- Regular notification (e.g. annual) of qualifying holdings, including size

A.1.23. Please provide evidence as to the existence/extent of provisions in relation to outsourcing including as to the requirement for a notification to the supervisory authority prior to outsourcing of critical or important functions or activities as well as material subsequent developments

A.1.24. Please provide evidence as to the existence/extent of provisions in relation to the requirements for ongoing disclosure of relevant information (Disclosure of information, including information in respect of):

- portfolio transfers or transfer of individual contracts (e.g. in the context of reinsurance contracts);
- changes to Board /senior management; and
- scheme of operation

## **Principle no. 5 –Solvency Assessment:**

**Objective:** The supervisory regime shall ensure that reinsurers maintain adequate financial resources in order to prevent disorderly failure, and shall ensure that the assessment of the financial position of the (re)insurance undertaking is based on sound economic principles.

(Re)insurance undertakings shall establish technical provisions (TP) with respect to all (re)insurance obligations that are calculated in a way that enables them to meet their (re)insurance obligations towards the ceding undertaking. Assets covering technical provisions should be invested in the best interest of policyholders and beneficiaries, and undertakings should only be allowed to invest in assets and instruments where the risks can be properly identified, measured, monitored, managed and controlled.

Capital requirements should be based on sound economic principles and reflect a level of eligible own funds of sufficient quality that insurance and reinsurance undertakings are able to absorb significant losses and gives reasonable assurance to policyholders and beneficiaries that payments will be made as they fall due. Capital requirements are covered by own funds of sufficient quality and are based on a prospective calculation to ensure accurate and timely intervention by supervisors.

A.1.25. Please provide evidence as to the existence, content and extent of provisions in respect of Financial supervision including as to:

- Communication of concerns, including those relating to the undertaking's financial position
- Obligation on undertaking to respond to concerns raised



A.1.26. Please describe provisions as to rules for valuation of assets and liabilities, and indicate whether the following are applicable :

- The valuation of assets and liabilities is based on an economic valuation of the whole balance sheet.
- Assets and liabilities are valued at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction.
- Valuation standards for supervisory purposes is be consistent with international accounting standards, to the extent possible<sup>5</sup>.

A.1.27. Please provide details as to the legal & supervisory regime applicable in relation to technical provisions and indicate whether and/or how

- TP are established in respect of all (re)insurance obligations and aim to capture all expected risks related to (re)insurance obligations of the undertaking.
- TP are calculated in a prudent, reliable and objective manner.
- The level of TP is the amount a third country (re)insurance undertaking would have to pay if it transferred or settled its contractual rights and obligations immediately to another undertaking/knowledgeable willing parties in an arm's length transaction.
- The valuation of TP is market consistent and makes use, to the extent possible, of and be consistent with information provided by financial markets and generally available information on underwriting risks.
- Requirement for segmentation of the reinsurance obligation into homogenous risk group, and as a minimum by lines of business should be carried out in order to achieve an accurate valuation of reinsurance obligations.
- Processes and procedures exist to ensure the appropriateness, completeness and accuracy of the data used in the calculation of TP.
- The supervisor is able to require the undertaking to raise the amount of technical provisions if they do not comply with the requirements

A.1.28. Please provide details as to regime applicable in relation to own funds including, where applicable, as to

- Own funds should are classified in accordance with their ability to absorb losses in the case of winding-up and on a going concern basis.
- The highest quality capital is available to absorb losses in a going concern and in case of a winding up, with additional requirements of sufficient duration of the own fund item, absence of incentives to redeem, absence of mandatory servicing costs and absence of encumbrances.
- A distinction is made between own funds on the balance sheet and off-balance sheet items<sup>6</sup> (for example guarantees).

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<sup>5</sup> IFRS provide principles and guidance for the calculation of fair value for almost all assets and liabilities that are significant to (re)insurance undertakings. As a result, referring to the general IFRS framework for the determination of an 'economic valuation' is a useful starting point for determining the financial position of the undertaking. However, CEIOPS recognises that adjustments may have to be made for local GAAP when the impact on the balance sheet is significant.

<sup>6</sup> Also referred to as "ancillary funds"

- According to their classification, own funds are eligible to cover partially or fully (for the best quality own funds) of the capital requirements.
- Quantitative limits apply to the own funds to ensure the quality of own funds covering the capital requirements. In the absence of quantitative limits other supervisory requirements should ensure the high quality of own funds.

A.1.29. Please provide details as to the legal & supervisory regime applicable in relation to Capital requirements and indicate whether and/or how:

- Capital requirements aim at measuring all quantifiable unexpected risks of the undertaking. Where a significant risk is not captured in the capital requirements, please provide details as whether some mechanism is applied to guarantee that capital requirements adequately reflect such risk.
- There is a capital requirement that reflects a level of own funds that would enable the undertaking to absorb significant losses and that gives reasonable assurance to policyholders and beneficiaries that payments will be made as they fall due. The requirement should enable the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period or ensure that policyholders and beneficiaries receive at least the same level of protection.
- There is a minimum level under which capital requirements should not fall or supervisory intervention point which equates to a minimum level of policyholder protection (“supervisory intervention ladder”). The supervisory authority should have powers to take the necessary and appropriate actions against the undertaking to restore compliance with that requirement.
- Capital requirements are calculated at least annually and monitored on an ongoing basis.
- Appropriate standards are in place where capital requirements take into account the effect of risk mitigation techniques and diversification effects.

A.1.30. Please describe the applicable provisions regarding specificities of assessment of internal models in the context of assessing capital requirements, including evidence that:

- Where the reinsurance undertaking uses a full or a partial internal model to calculate its capital requirements, the resulting capital requirements provide a level of policyholder protection that is at least comparable to the level that would be required under local rules if no internal model is used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level as the standard approach).
- The regime has a process for the approval of internal models which includes a requirement for prior approval of the solo internal model before the undertaking is permitted to use the model to determine its regulatory capital requirements
- The applicable regime includes following requirements for an internal model to be used to calculate regulatory capital:
  - A pre-requisite for an adequate risk management system
  - A use test
  - Statistical quality standards
  - Validation standards
  - Documentation standards

- Calibration standards
- Profit and loss attribution
- Where a reinsurance undertaking uses a partial internal model to calculate its capital requirements, the scope of the partial internal model is clearly defined and justified to avoid the "cherry picking" of risks. Please provide supporting evidence that there is no ambiguity as to which risks, assets and/or liabilities are included or excluded from the scope of the partial internal model.

A.1.31. Please describe the applicable regulatory & supervisory regime in relation to Investments providing evidence that :

- Undertakings are only be allowed to invest in assets and instruments where the risks can be properly identified, measured, monitored, managed, controlled and reported and appropriately taken into account in its solvency needs.
- Assets held to cover TP are be invested prudently in the best interest of all policyholders and beneficiaries.
- All assets are invested in such a manner to ensure the security, quality, liquidity, availability and profitability of the portfolio as a whole
- Prudent levels of investments in assets not admitted to trading are required
- Investment in derivative instruments are possible insofar they contribute to reduction of risks or facilitate efficient portfolio management
- There is avoidance of excessive reliance on any one particular asset, issuer or accumulations of risk; no excessive risk concentration

**Principle no. 6 –Supervisory Cooperation, Exchange of information and Professional Secrecy**

**Objective** – To ensure co-ordination and proper exchange and use of information between supervisory authorities involved in the supervision of (re)insurance undertakings and others, where relevant. To ensure that all persons who are working or have worked for a supervisory authority are bound by the obligation of professional secrecy, and that information disclosed to the authority by other supervisory authorities is subject to guarantees of professional secrecy.

A.1.32. Please provide details as to the existence and extent of provisions in respect of practical supervisory cooperation, including as to:

- Authorisation/ongoing assessment of compliance with operating conditions
  - Preauthorisation consultation in respect of undertakings which form part of a cross-border group
- Supervisory Activity
  - Communication of concerns regarding the reinsurance undertaking, including those relevant to the soundness of the undertaking’s financial position, policies and procedures.
- Suitability Assessments
  - Ability and willingness to cooperate in respect of the assessment of:
    - shareholder suitability; and
    - reputation/experience of directors
- Cooperation agreements

- Ability to enter into cooperation agreements (subject to guarantees of professional secrecy)
- Crisis situations
  - Information sharing

A.1.33. Please describe the applicable provisions regarding the existence and extent of provisions with regard to your ability to exchange of information with, like for example:

- supervisory authorities
- other authorities/bodies/persons/institutions responsible for, or having oversight of:
  - supervision of financial organisations /markets
  - liquidation/bankruptcy proceedings
  - carrying out statutory audits of accounts
  - detection/investigation of breaches of company law
- central banks
- government administrations responsible for financial legislation (for reasons of prudential control)

A.1.34. Please describe the applicable regime with regard to the professional secrecy obligations the authority must observe (incl. the existence and extent of these obligations) including:

- Confidential information - identification
- Legal duty to protect confidential information
- Applicable to all relevant individuals (i.e. all those who work, have worked or act(ed) on behalf of the supervisory authority)
- Ongoing obligation (applicable whilst working/acting on behalf of supervisory authority and on continuous basis thereafter)
- Disclosure of confidential information in restricted and clearly defined circumstances as well as subject to conditions of professional secrecy
- Use of confidential information only in the course of supervisory duties:
  - compliance monitoring (including monitoring of technical provisions, solvency margins, administrative/accounting procedures and internal controls)
  - imposition of penalties
  - court proceedings/appeals
- Consent of Competent Authority where the confidential information originates from another competent authority
  - prior agreement to the disclosure
  - disclosure is made in accordance with any specified conditions, including those relating to the purpose of the disclosure and use of the information.

A.1.35. Please describe the exceptions allowed by the applicable regime with regard to the professional secrecy obligations the authority must observe including:

- Express agreement to disclose/use
- Summary/aggregate disclosure (individual undertaking not identifiable)
- Civil/criminal proceedings (where the undertaking has been declared bankrupt or is being compulsorily wound up - information must not concern third parties involved in rescue attempts )

A.1.36. Please describe national applicable legal provisions in case of breach of the obligation of professional secrecy like for example the provisions in national law in respect of the breach of professional secrecy (for example offences, penalties, enforcement).

## Annex 2

*Note: CEIOPS notes that these annexes are only for illustrative purposes only.*

### Questionnaire

#### Equivalence assessments under art. 227 - group solvency calculations

*The equivalence assessment required in relation to Article 227<sup>7</sup> is limited to the calculations laid out in Title I, Chapter VI as a key issue for the group supervisor and the other supervisory authorities concerned for the evaluation of the comparability and quality of the information on the third country undertaking. A third country undertaking's contribution to the aggregated group solvency requirement needs to be based on a similar standard to that of an undertaking in the EEA.*

*In providing its reply, the third country supervisory authority is invited to provide full description and support information of its regulatory & supervisory regime. By doing so, the third country authority will ensure adequate levels of information are available for CEIOPS assessment of the third country observance of the equivalence criteria (the principles and objectives below).*

*In order to be deemed equivalent under the provisions of Article 227, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives:*

#### Principle no. 1 – Solvency Assessment

**Objective:** The supervisory regime ensures that (re)insurers maintain adequate financial resources in order to prevent disorderly failure, and that the assessment of the financial position of the undertaking is based on sound economic principles.

A.2.1. Please provide evidence as to the existence, content and extent of provisions in respect of Financial supervision including as to:

- Communication of supervisors' concerns, including those relating to the undertaking's financial position
- Obligation on undertaking to respond to concerns raised

A.2.2. Please describe provisions as to rules for valuation of assets and liabilities, and indicate whether the following are applicable:

- The valuation of assets and liabilities is based on an economic valuation of the whole balance sheet.
- Assets and liabilities are valued at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction.
- Valuation standards for supervisory purposes are consistent with international accounting standards, to the extent possible.

A.2.3. Please provide details as to the legal & supervisory regime applicable in relation to technical provisions and indicate whether and/or how:

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<sup>7</sup> Art.227 is dealing specifically with how the underlying assets and liabilities of the related third country undertaking should contribute to the solvency requirements of a group based in the Community applying the deduction & aggregation method.

- TP are established in respect of all (re)insurance obligations and aim to capture all expected risks related to (re)insurance obligations of the undertaking.
- TP are calculated in a prudent, reliable and objective manner.
- The level of TP is the amount a third country (re)insurance undertaking would have to pay if it transferred or settled its contractual rights and obligations immediately to another undertaking/knowledgeable willing parties in an arm's length transaction.
- The valuation of TP is market consistent and makes use, to the extent possible, of and be consistent with information provided by financial markets and generally available information on underwriting risks.
- Segmentation of the (re)insurance obligation into homogenous risk group, and as a minimum by lines of business is carried out in order to achieve an accurate valuation of (re)insurance obligations.
- Processes and procedures exist to ensure the appropriateness, completeness and accuracy of the data used in the calculation of TP.
- The supervisor is able to require the undertaking to raise the amount of technical provisions if they do not comply with the requirements

A.2.4. Please provide details as to regime applicable in relation to own funds including, where applicable, as to:

- Classification of own funds in accordance with their ability to absorb losses in the case of winding-up and on a going concern basis.
- Availability of the highest quality capital to absorb losses in a going concern and in case of a winding up, with additional requirements of sufficient duration of the own fund item, absence of incentives to redeem, absence of mandatory servicing costs and absence of encumbrances.
- Distinction between own funds on the balance sheet and off-balance sheet items<sup>8</sup> (for example guarantees).
- Eligibility of own funds to cover partially or fully (for the best quality own funds) of the capital requirements, according to their classification
- Quantitative limits applicable to the own funds to ensure the quality of own funds covering the capital requirements. In the absence of quantitative limits please indicate whether other supervisory requirements to ensure the high quality of own funds.

A.2.5. Please provide details as to the legal & supervisory regime applicable in relation to Capital requirements and indicate whether and/or how:

- Capital requirements aim at measuring all quantifiable unexpected risks of the undertaking. Where a significant risk is not captured in the capital requirements, please provide details whether some mechanism is applied to guarantee that capital requirements adequately reflect such risk.

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<sup>8</sup> Also referred to as "ancillary own funds"

- There is a capital requirement that reflects a level of own funds that would enable the undertaking to absorb significant losses and that gives reasonable assurance to policyholders and beneficiaries that payments will be made as they fall due i.e. the requirement enables the undertaking at a minimum to withstand a 1 in 200 ruin scenario over a one year period or ensure that policyholders and beneficiaries receive at least the same level of protection.
- There is a minimum level under which capital requirements cannot fall or supervisory intervention point which equates to a minimum level of policyholder protection ("supervisory intervention ladder"). Please indicate whether the supervisory authority has powers to take the necessary and appropriate actions against an undertaking to restore compliance with that requirement.
- Capital requirements are calculated at least annually and monitored on an ongoing basis.
- Appropriate standards are in place where capital requirements take into account the effect of risk mitigation techniques and diversification effects.

A.2.6. Please describe the applicable provisions regarding specificities of assessment of internal models in the context of assessing capital requirements, including evidence that:

- When a (re)insurance undertaking uses a full or a partial internal model to calculate its capital requirements, the resulting capital requirements provides a level of policyholder protection that is at least comparable to the level that would be required under local rules if no internal model is used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level as the standard approach).
- The regime has a process for the approval of internal models which includes a requirement for prior approval of the solo internal model before the undertaking is permitted to use the model to determine its regulatory capital requirements
- Requirements for an internal model to be used to calculate regulatory capital includes (one or more of) the following:
  - A pre-requisite for an adequate risk management system
  - A use test
  - Statistical quality standards
  - Validation standards
  - Documentation standards
  - Calibration standards
  - Profit and loss attribution
- Where the (re)insurance undertaking uses a partial internal model to calculate its capital requirements, the scope of the partial internal model is clearly defined and justified to avoid the "cherry picking" of risks. Please provide evidence that applicable regime does not allow for any ambiguity as to which risks, assets and/or liabilities are included or excluded from the scope of the partial internal model.



A.2.7. Please describe the applicable regulatory & supervisory regime in relation to Investments providing evidence that:

- Undertakings are allowed to invest only in assets and instruments where the risks can be properly identified, measured, monitored, managed, controlled, reported and appropriately taken into account in its solvency needs.
- Assets held to cover TP are invested prudently in the best interest of all policyholders and beneficiaries.
- All assets are invested in such a manner to ensure the security, quality, liquidity, availability and profitability of the portfolio as a whole.
- Prudent levels of investments in assets not admitted to trading are required
- Investments in derivative instruments are possible insofar they contribute to reduction of investment risks or facilitate efficient portfolio management.
- Excessive reliance on any one particular asset, issuer or accumulations of risk is avoided i.e. no excessive risk concentration

## **Principle no. 2 –Supervisory Cooperation, Exchange of information and Professional Secrecy**

**Objective** – To ensure co-ordination and proper exchange and use of information between supervisory authorities involved in the supervision of (re)insurance undertakings and others, where relevant. To ensure that all persons who are working or have worked for a supervisory authority are bound by the obligation of professional secrecy and that information disclosed to the authority by other authorities is subject to guarantees of professional secrecy.

In the context of Article 227, supervisory cooperation is important, in particular, to assist the group supervisor to assess the undertaking's contribution to the group capital requirement and the availability (inter alia transferability and fungibility) of own funds for the whole group.

A.2.8. Please provide details as to the existence and extent of provisions in respect of practical supervisory cooperation, including as to:

- Authorisation/ongoing assessment of compliance with operating conditions
  - Preauthorisation consultation in respect of undertakings which form part of a cross-border group
- Supervisory Activity
  - Communication of concerns regarding the reinsurance undertaking, including those relevant to the soundness of the undertaking's financial position, policies and procedures.
  - Communication of information relevant to the assessment of available group own funds.
- Suitability Assessments
  - Ability and willingness to cooperate in respect of the assessment of:
    - shareholder suitability; and
    - reputation/experience of directors
- Cooperation agreements

- Ability to enter into cooperation agreements (subject to guarantees of professional secrecy)
- Crisis situations
  - Information sharing

A.2.9. Please describe the applicable provisions regarding the existence and extent of provisions with regard to your ability to exchange of information with, like for example:

- supervisory authorities
- other authorities/bodies/persons/institutions responsible for, or having oversight of:
  - supervision of financial organisations /markets
  - liquidation/bankruptcy proceedings
  - carrying out statutory audits of accounts
  - detection/investigation of breaches of company law
- central banks
- government administrations responsible for financial legislation (for reasons of prudential control)

A.2.10. Please describe the applicable regime with regard to the professional secrecy obligations the authority must observe (incl. the existence and extent of these obligations) including:

- Confidential information - identification
- Legal duty to protect confidential information
- Applicable to all relevant individuals (i.e. all those who work, have worked or act(ed) on behalf of the supervisory authority)
- Ongoing obligation (applicable whilst working/acting on behalf of supervisory authority and on continuous basis thereafter)
- Disclosure of confidential information in restricted and clearly defined circumstances as well as subject to conditions of professional secrecy
- Use of confidential information only in the course of supervisory duties:
  - compliance monitoring (including monitoring of technical provisions, solvency margins, administrative/accounting procedures and internal controls)
  - imposition of penalties
  - court proceedings/appeals
- Consent of Competent Authority where the confidential information originates from another competent authority
  - prior agreement to the disclosure
  - disclosure is made in accordance with any specified conditions, including those relating to the purpose of the disclosure and use of the information.

A.2.11. Please describe the exceptions allowed by the applicable regime with regard to the professional secrecy obligations the authority must observe including:

- Express agreement to disclose/use
- Summary/aggregate disclosure (individual undertaking not identifiable)
- Civil/criminal proceedings (where the undertaking has been declared bankrupt or is being compulsorily wound up - information must not concern third parties involved in rescue attempts )

A.2.12. Please describe national applicable legal provisions in case of breach of the obligation of professional secrecy like for example the provisions in national law in respect of the breach of professional secrecy (for example offences, penalties, enforcement).

## Annex 3

*Note: CEIOPS notes that these annexes are only for illustrative purposes only.*

### Questionnaire

#### Equivalence assessments under art. 260 –group supervision

*Groups should be subject to a supervisory regime that enables them to absorb significant losses and that gives reasonable assurance to policy holders and beneficiaries of (re)insurance undertakings part of the group that payments will be made as they fall due.*

*In the assessment of third country supervisory regimes, consideration should be given to the adequacy of third country practice in applying the proportionality principle based on the nature, scale and complexity of the risk inherent in the business. However, the proportionality principle does not apply to the professional secrecy.*

*In providing its reply, the third country supervisory authority is invited to provide full description and support information of its regulatory & supervisory regime. By doing so, the third country authority will ensure adequate levels of information are available for CEIOPS assessment of the third country observance of the equivalence criteria (the principles and objectives below).*

*In order to be deemed equivalent under the provisions of Article 260, CEIOPS considers that a third country regime will have to meet each of the following principles and objectives:*

#### **Principle no. 1 – Powers and responsibilities of a group supervisor**

**Objective** - Supervisory Authorities must be provided with the necessary means and have the relevant expertise, capacity and mandate to achieve the main objectives of supervision, namely the protection of policyholders and beneficiaries regardless of their nationality or residence. They have to have the resources to fulfil their objectives which include in particular financial and human resources.

Furthermore the supervisory authority must be fully empowered to enable the effective carrying out of the supervisory authority's responsibilities. The supervisory authority must have a range of actions available, based on supervisory law, in order to apply appropriate enforcement or sanctions where problems in relation with the functioning of the group are identified. Its measures have to be enforced, if needed, through judicial channels.

Supervisors of insurers within a group must be able to form a comprehensive view of the overall group business strategy, financial position, legal and regulatory position and the risk exposure of the group as a whole, which will enable supervisors to assess and react to the prudential situation and solvency of the respective insurers within the group.

A.3.1. Please provide a comprehensive presentation of your supervisory authority should including details as to the:

- Legal basis specifying supervisory responsibilities and enforcement powers

- Freedom from undue political, governmental and industry interference in the performance of supervisory responsibilities
- Transparency of supervisory processes / procedures
- Adequate financial and non-financial (e.g. sufficient numbers of appropriately skilled staff) resources
- Appropriate protection from being liable for actions taken in good faith

A.3.2. Please provide evidence as to your authority's powers to take preventative and corrective measures to ensure that groups comply with the applicable laws, regulations and administrative provisions including details as to the authority's ability to:

- ensure compliance on a continuous basis with laws, regulations and administrative provisions (including through onsite inspections) including measures to prevent/penalise further infringements including preventing the conclusion of new contracts
- communicate concerns, including those relating to the group's financial position
- oblige the parent undertaking to respond to concerns raised by the supervisor.
- obtain all information necessary to conduct the supervision of the group

A.3.3. Please provide details & comprehensive overview as to the existence/extent of authority's powers in respect of financial supervision i.e. verification of:

- System of governance
- state of solvency and financial condition of group
- establishment and increase of technical provisions and covering assets
- administrative/accounting procedures
- internal controls (including those applied to ensure that data received from cedents are reliable and timely)

A.3.4. Please describe the type and frequency of accounting, prudential, statistical information obtainable by the supervisory authority from the parent undertaking: Ability of supervisory authority to obtain information with regard to the group i.e. Accounting, prudential, statistical information:

- Annual Report on the solvency and financial condition of the group
- Group annual accounts (covering all operations, financial situation and solvency)
- Group returns/statistical documents

A.3.5. Please indicate whether your authority has powers in relation to qualifying holdings. The responding authority is invited to provide a detailed overview of actions available to it in relation to::

- Persons (natural/legal) whose actual/proposed qualifying holding may operate against prudent/sound management. Measures may consist of::
  - injunctions
  - penalties against directors/managers
  - suspension of voting rights attaching to shares held by relevant shareholders/members or other instruments.
  - nullity of votes cast / possibility of annulment

- Qualifying holding acquired despite opposition of supervisory authority. Measures should consist of:
  - suspension of voting rights
  - nullity of votes cast / possibility of annulment

A.3.6. Please provide details as to supervisory powers available to the authority in case of ultimate parent undertakings in difficulties, including as to powers to:

- Prohibit disposal of assets
- Recovery plan, finance scheme
- Reestablishment of the level of own funds, reduction of risk profile
- Downward revaluations
- Withdrawal of authorisation (if applicable)
- Measures relating to directors, managers, controllers and other relevant persons

A.3.7. Please offer a detailed overview of the enforcement actions available to the authority including as to the supervisory authority ability to cooperate with other authorities/bodies in respect of enforcement action

## **Principle no. 2 - Group supervision**

**Objective:** The supervisory regime should have a framework for determining which undertakings fall within the scope of supervision at group level. Nonetheless, undertakings controlled (through significant or dominant influence e.g.) by the group shall be included in the scope of group supervision.

All parts of the group (including holdings, other financial sectors, off-balance sheets items) necessary to ensure a proper understanding of the group and the potential sources of risks within the group have to be included within the scope of group supervision.

A.3.8. Please provide evidence that the scope of group supervision covers all parts of the group and that entities for which there is a dominant or significant influence are included in the scope of group supervision.

A.3.9. Please provide evidence that your regulatory framework provides for a single identified group supervisor responsible for coordination and exercising group supervision.

A.3.10. Please indicate whether your authority has the prerogative to consult and involve in advance the relevant EU supervisory authorities concerned in case the third country group supervisor finally intends to carry out an inspection in an (re)insurance undertaking situated in the EEA.

A.3.11. Please provide evidence that as group supervisor the third country authority must inform the supervisory authority concerned in case the entity has been excluded from the group supervision.

**Principle no. 3 – Necessary provisions and arrangements should be in place to allow efficient and effective supervision through cooperation and exchange of information among supervisors of the group.**

**Objective:** Effective co-ordination and co-operation procedures, going beyond the simple exchange of information, are in place to facilitate group supervision

A.3.12. Please provide details and evidence as to the rights and duties of the third country group supervisor, which may include:

- The group supervisor is responsible for key questions at group level and be responsible for:
  - The coordination and dissemination of information;
  - Review of the groups financial position;
  - Planning and coordination;
  - A framework for crisis management;
  - The assessment of the application for a group internal model if relevant and take its decision in consultation with other supervisory authorities concerned.

A.3.13. Please provide a detailed overview of third country applicable regime as to the establishment and functioning of cooperation mechanisms i.e. , which may include:

- Willingness to submit information on intra-group transactions.
- Exchange of prior information on decisions that could affect the solvency of the entities belong to an EEA Member States.
- Willingness to allow the transfer of cash.
- Willingness to change the content of written coordination arrangements.
- Allowance to EEA Member States to participate in the validation process of group internal models.
- Willingness to support restrictions on free assets for supervised entities.

A.3.14. Please provide details as to third country requirements applicable for setting up of cooperation arrangements, including supporting evidence that:

- A college of supervisors or similar cooperation arrangements can be established composing a minima of all relevant authorities for the group supervision under the following circumstances:
  - Relevance of the group to overall financial stability;
  - Relevance of the group in specific insurance market;
  - Similarity of supervisory practices;
  - The nature and complexity of the business undertaken by the group.
- In case a College of supervisors or similar cooperation arrangements are established, the functioning and organisation of these mechanisms is based on written arrangements, including provisions on obligation to cooperate/exchange of information and decision-making processes.

The process of the College of Supervisors or similar cooperation arrangements should strive to achieve consensus by supervisory authorities.

A.3.15. Please indicate whether and, should it be the case, provide evidence as to the existence of a mechanism for dispute solving mechanism in case of disagreement with other relevant supervisory authorities.

A.3.16. Please indicate whether and how the exchange of information and cooperation between third country supervisors and EEA supervisors can be performed closely in a cooperative manner, in going concern circumstances as well as in crisis situations and shall comprise all relevant information, especially when the solvency requirement of an entity within the group / of the group are not longer complied with.

A.3.17. Please indicate whether, as EU supervisory authorities do, the supervisory authority has general supervisory powers and requires insurance and reinsurance undertakings to submit to the supervisory authorities the information which is necessary for the purposes of supervision.

#### **Principle no. 4 – System of Governance**

**Objective** – The Supervisory Regime shall require an effective system of governance across the group which provides for a sound and prudent management of the business. In particular, an adequate organisational structure with clear responsibilities fit and proper management and an effective system of ensuring the transmission of information should be an integral part of the system.

The establishment and maintenance of adequate risk management, compliance, internal audit and actuarial functions is expected. The different tasks of an appropriate risk management and group control systems should be regulated, and subject to regular review.

The financial strength of a group to which a (re)insurance undertaking belongs to is one of the main reasons for policyholders closing a contract with that undertaking. Therefore transparency of this issue is a significant aim and an important part of a prudent supervisory system. Group shall be required to disclose publicly a report of their financial performance.

A.3.18. Please provide a detailed presentation as to the governance and Risk Management general requirements applicable in your regime including supporting evidence as to the existence of:

- An effective system of governance (including but not limited to transparent organisational structure, effective system for transmission of information)
- Requirements relevant to the fitness (for example appropriate professional qualification, knowledge and experience) and propriety ( for example good repute and integrity) of for management and key function holders
- Effective and well integrated Risk Management System to identify measure, monitor, manage and report (on a continuous basis) the risks to which the group is or could be exposed (on an individual and aggregated level), and the amount of own funds necessary to cover them (comparable to an own risk and solvency assessment).



- Sound liquidity management policies which cover short and long term considerations and include stress test and scenario analyses. Liquidity management policies account in particular for situations where liquidity is managed at group level.
- Objective and independent Internal Audit function with a direct reporting line to the administrative, management or supervisory body
- Adequate internal control mechanisms
- Sound written administrative/accounting procedures
- Contingency plans

A.3.19. Please indicate whether and under which conditions is an Actuarial Function required by your system including whether there is a clear condition of knowledge of actuarial and financial mathematics appropriate to the nature, scale and complexity of the risk inherent in the business of the group.

A.3.20. Please indicate whether and how your supervisory system requires continuous supervision of outsourced functions or activities (in order to ensure that meeting of obligations shall not be affected)

A.3.21. Please indicate whether your supervisory system requires that a Compliance Function in place to provide the administrative, management or supervisory body advice on compliance with law, regulations and administrative provisions including an assessment of the possible impact of any changes in the legal environment and the identification and assessment of compliance risks

A.3.22. Please provide details as to requirements applicable in order to ensure identification of deteriorating financial conditions and remediation of deteriorating conditions with appropriate monitoring tools in place.

A.3.23. Please provide details as to the existence and extent of the auditors' duty to report among others:

- breach of laws, regulations, administrative provisions
- issues which may affect the continuous functioning of the undertaking
- refusal (or reservations) in respect of certification of accounts
- non compliance with Solvency and Minimum Capital Requirements

A.3.24. Should they exist, please provide a comprehensive overview of requirements for the public disclosure of report(s) on solvency and financial conditions at least on an annual basis with a description of :

- the business and performance
- system of governance,
- risk exposure, concentration, mitigation and sensitivity,
- assets,
- technical provisions, other liabilities
- intra-group transactions and risk concentration and
- capital management

## **Principle no. 5 - Business Change Assessment**

**Objective** – To ensure the acceptability of any proposed changes to the business from an operational, management and supervisory perspective.

A.3.25. Please provide evidence as to the existence/extent of provisions in respect of acquisitions including as to:

- Notification of intention to hold or increase directly or indirectly a qualifying holding
- Right of supervisory authority to oppose proposed acquisition
- Existence of thresholds prompting notification
- Possibility for assessment of acquisition by financial undertakings to be subject to prior consultation

A.3.26. Please provide evidence as to the existence/extent of provisions in relation to disposals, including as to

- Notification of intention to dispose directly/indirectly of a qualifying holding
- Thresholds prompting notification

A.3.27. Please provide evidence as to the existence/extent of provisions regarding the information obtainable from undertaking, including as to:

- Thresholds prompting notification of acquisitions/disposals
- Regular notification (e.g. annual) of qualifying holdings, including size

A.3.28. Please provide evidence as to the existence/extent of provisions in relation to outsourcing including as to the requirement for a notification to the supervisory authority prior to outsourcing of critical or important functions or activities as well as material subsequent developments

A.3.29. Please provide evidence as to the existence/extent of provisions in relation to the requirements for ongoing disclosure of relevant information (Disclosure of information, including information in respect of):

- portfolio transfers or transfer of individual contracts (e.g. in the context of reinsurance contracts);
- changes to Board /senior management; and
- scheme of operation

## **Principle no. 6 - Group solvency assessment**

**Objective:** The supervisory regime shall ensure that groups maintain adequate financial resources in order to prevent disorderly failure, and shall ensure that the assessment of the financial position of the group is based on sound economic principles.

Groups shall establish technical provisions (TP) with respect to all (re)insurance obligations that are calculated in a way that enables them to meet their (re)insurance obligations towards policyholders and beneficiaries of (re)insurance undertakings part of the group.

Assets covering technical provisions should be invested in the best interest of policyholders and beneficiaries, and groups should only be allowed to invest in assets and instruments where the risks can be properly identified, measured, monitored, managed and controlled.

Capital requirements should be based on sound economic principles and reflect a level of eligible own funds of sufficient quality that groups are able to absorb significant losses and gives reasonable assurance to policyholders and beneficiaries of (re)insurance undertakings part of the group that payments will be made as they fall due. Capital requirements are covered by own funds of sufficient quality and are based on a prospective calculation to ensure accurate and timely intervention by supervisors.

The calculation methods of the group capital requirement shall lead to a result at least equivalent to one of the two methods of the Level 1 text (consolidation method, aggregation method).

Each undertaking within the group maintains a minimum level of financial resources, below which it should not fall. This assessment should also include how non-insurance undertakings are considered as part of group supervision and how contagion risk is dealt with.

A.3.30. Please provide evidence as to the existence, content and extent of provisions in respect of Financial supervision including as to

- Communication of concerns, including those relating to the group's financial position
- Obligation on parent undertaking to respond to concerns raised

A.3.31. Please describe provisions as to rules for valuation of assets and liabilities, and indicate whether the following are applicable

- The valuation of assets and liabilities is based on an economic valuation of the whole balance sheet.
- Assets and liabilities are valued at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction.
- Valuation standards for supervisory purposes are consistent with international accounting standards, to the extent possible<sup>9</sup>.

A.3.32. Please provide details as to the legal & supervisory regime applicable in relation to technical provisions and indicate whether and/or how

- TP are established in respect of all (re)insurance obligations and aim to capture all expected risks related to (re)insurance obligations of the undertaking.
- TP are calculated in a prudent, reliable and objective manner.
- The level of TP is the amount a third country (re)insurance undertaking would have to pay if it transferred or settled its contractual rights and obligations immediately to another undertaking/knowledgeable willing parties in an arm's length transaction.
- The valuation of TP is market consistent and makes use, to the extent possible, of and be consistent with information provided by financial markets and generally available information on underwriting risks.

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<sup>9</sup> IFRS provide principles and guidance for the calculation of fair value for almost all assets and liabilities that are significant to (re)insurance undertakings. As a result, referring to the general IFRS framework for the determination of an 'economic valuation' is a useful starting point for determining the financial position of the undertaking. However, CEIOPS recognises that adjustments may have to be made for local GAAP when the impact on the balance sheet is significant.

- Segmentation of the (re)insurance obligation into homogenous risk group, and as a minimum by lines of business is carried out in order to achieve an accurate valuation of (re)insurance obligations.
- Processes and procedures exist to ensure the appropriateness, completeness and accuracy of the data used in the calculation of TP.
- The supervisor is able to require the undertaking to raise the amount of technical provisions if they do not comply with the requirements

A.3.33. Please provide details as to the regime applicable in relation to own funds including, where applicable, as to provisions requiring that:

- Own funds should be classified in accordance with their ability to absorb losses in the case of winding-up and on a going concern basis.
- The highest quality capital should be available to absorb losses in a going concern and in case of a winding up, with additional requirements of sufficient duration of the own fund item, absence of incentives to redeem, absence of mandatory servicing costs and absence of encumbrances.
- A distinction should be made between own funds on the balance sheet, and off balance sheet items (for example guarantees)<sup>10</sup>. –
- According to their classification, own funds are eligible to cover partially or fully (for the best quality own funds) of the capital requirements.
- Quantitative limits apply to the own funds to ensure the quality of own funds covering the capital requirements. In the absence of quantitative limits other supervisory requirements should ensure the high quality of own funds.
- Double gearing and the intra-group creation of capital are avoided,.
- The result of the assessment of fungibility / transferability issues (e.g. restricted assets) is communicated by the group supervisor.
- Solo deficits are fully taken into account at group level unless the group can prove that its responsibility is limited to its proportional share of the capital.

A.3.34. Please provide details as to the legal & supervisory regime applicable in relation to Capital requirements and indicate whether and/or how

- Capital requirements aim at measuring all quantifiable unexpected risks of the undertaking. Where a significant risk is not captured in the capital requirements, some mechanism should be applied to guarantee that capital requirements adequately reflect such risk.
- There is a capital requirement that reflects a level of own funds that enable the undertaking to absorb significant losses and that gives reasonable assurance to policyholders and beneficiaries that payments will be made as they fall due. The requirement ensures an economic strength from the undertaking comparable to withstanding a 1 in 200 ruin scenario over a one year period or ensure that policyholders and beneficiaries receive at least the same level of protection.
- There is a minimum level under which capital requirements should not fall or supervisory intervention point which equates to a minimum level of policyholder protection (“supervisory intervention ladder”). The supervisory authority has powers to take the necessary and appropriate actions against the undertaking to restore compliance with that requirement.

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<sup>10</sup> Also referred to as “ancillary own funds”

- Group capital requirements are calculated at least annually and monitored on an ongoing basis.
- Appropriate standards are in place where capital requirements take into account the effect of risk mitigation techniques and diversification effects at group level.
- In order to reflect the total risks that the group may face, the group SCR also reflects the risks that arise at the level of the group and that are specific to the group.
- The calculation methods lead to a result at least equivalent to one of the two methods for groups' calculations of the level 1 text.

A.3.35. Please describe the applicable provisions regarding specificities of assessment of internal models in the context of assessing capital requirements, including evidence that/of:

- Where the group uses a full or partial internal model to calculate its capital requirements, the requirements ensure an economic strength from the undertakings equivalent to withstanding a 1 in 200 ruin scenario over a year period.
- the resulting capital requirements provide a level of policyholder protection that is at least comparable to the level that would be required under local rules if no internal model is used (i.e. it adequately models the risks to the undertaking and produces capital requirements with the same confidence level as the standard approach)
- The regime have a process for the approval of group internal models which includes a requirement for prior approval of the group internal model before the group is permitted to use the model to determine its regulatory capital requirements
- if the regime includes an internal model element then it also includes the following requirements for an internal model to be used to calculate regulatory capital:
  - A pre-requisite for an adequate risk management system
  - A use test
  - Statistical quality standards
  - Validation standards
  - Documentation standards
  - Calibration standards
  - Profit and loss attribution
- Where the reinsurance undertaking uses a partial internal model to calculate its capital requirements, the scope of the partial internal model is clearly defined and justified to avoid the "cherry picking" of risks. There is no ambiguity as to which risks, assets and/or liabilities are included or excluded from the scope of the partial internal model.
- Consultation of EEA subsidiaries from which risks are included in the group internal model approved for regulatory purposes; if any.
- Possibility of joint inspection as regards group internal models.

A.3.36. Please describe the applicable regulatory & supervisory regime in relation to Investments providing evidence that/of:

- Undertakings are only be allowed to invest in assets and instruments where the risks can be properly identified, measured, monitored, managed, controlled, reported and appropriately taken into account in its solvency needs.
- Assets held to cover TP are invested prudently in the best interest of all policyholders and beneficiaries.
- All assets are invested in such a manner to ensure the security, quality, liquidity, availability and profitability of the portfolio as a whole.
- Prudent levels of investments in assets not admitted to trading.
- Investment in derivative instruments is possible insofar as they contribute to reduction of investment risks or facilitate efficient portfolio management.
- Avoid excessive reliance on any one particular asset, issuer or accumulations of risk; no excessive risk concentration.

A.3.37. Please describe the applicable regulatory & supervisory regime applicable in relation to group SCR indicating whether:

- Financial regulated entities in the group are subject to a minimum capital requirement or comparable intervention point which equates to a minimum level of policyholder protection. In the case of ongoing non-compliance the supervisory authority has powers to take the necessary actions against the undertaking to restore compliance with that requirement. This may include, for example, a withdrawal of the firm's permission to undertake regulated activities.
- The group SCR will therefore not fall below the sum of the solo minimum capital requirements of each undertakings of the group.

## **Principle no. 7 –Supervisory Cooperation, Exchange of information and Professional Secrecy.**

**Objective** – To ensure co-ordination and proper exchange and use of information between supervisory authorities involved in the supervision of groups, (re)insurance undertakings and others, where relevant. To ensure that all persons who are working or have worked for a supervisory authority are bound by the obligation of professional secrecy and that information disclosed to the authority by other supervisory authorities is subject to guarantees of professional secrecy.

A.3.38. Please provide details as to the existence and extent of provisions in respect of practical supervisory cooperation, including as to :

- Authorisation/ongoing assessment of compliance with operating conditions
  - Preauthorisation consultation in respect of undertakings which form part of a cross-border group
- Supervisory Activity
  - Communication of concerns regarding the group, including those relevant to the soundness of the group and/or undertaking's within the group's financial position, policies and procedures.

- Ability and willingness to cooperate in respect of the assessment of:
  - shareholder suitability; and
  - reputation/experience of directors
- Cooperation agreements
  - Ability to enter into cooperation agreements (subject to guarantees of professional secrecy)
- Crisis situations
  - Information sharing

A.3.39. Please describe the applicable provisions regarding the existence and extent of provisions with regard to your ability to exchange of information with, like for example:

- supervisory authorities
- other authorities/bodies/persons/institutions responsible for, or having oversight of:
  - supervision of financial organisations /markets
  - liquidation/bankruptcy proceedings
  - carrying out statutory audits of accounts
  - detection/investigation of breaches of company law
- central banks
- government administrations responsible for financial legislation (for reasons of prudential control)

A.3.40. Please describe the applicable regime with regard to the professional secrecy obligations the authority must observe (incl. the existence and extent of these obligations) including:

- Confidential information - identification
- Legal duty to protect confidential information
- Applicable to all relevant individuals (i.e. all those who work, have worked or act(ed) on behalf of the supervisory authority)
- Ongoing obligation (applicable whilst working/acting on behalf of supervisory authority and on continuous basis thereafter)
- Disclosure of confidential information in restricted and clearly defined circumstances as well as subject to conditions of professional secrecy
- Use of confidential information only in the course of supervisory duties:
  - compliance monitoring (including monitoring of technical provisions, solvency margins, administrative/accounting procedures and internal controls)
  - imposition of penalties
  - court proceedings/appeals
- Consent of Competent Authority where the confidential information originates from another competent authority
  - prior agreement to the disclosure

- disclosure is made in accordance with any specified conditions, including those relating to the purpose of the disclosure and use of the information.

A.3.41. Please describe the exceptions allowed by the applicable regime with regard to the professional secrecy obligations the authority must observe including::

- Express agreement to disclose/use
- Summary/aggregate disclosure (individual undertaking not identifiable)
- Civil/criminal proceedings (where the undertaking has been declared bankrupt or is being compulsorily wound up - information must not concern third parties involved in rescue attempts )

A.3.42. Please describe national applicable legal provisions in case of breach of the obligation of professional secrecy like for example the provisions in national law in respect of the breach of professional secrecy (for example offences, penalties, enforcement).