

CEIOPS-DOC-15/09
26 March 2009

Guidelines on preparation for and management of a financial crisis

**in the Context of Supplementary Supervision as
defined by the Insurance Groups Directive
(98/78/EC) and the Memorandum of Understanding
on Cooperation between the Financial Supervisory
Authorities, Central Banks and Finance Ministries of
the European Union on Cross-Border Financial
Stability**

This paper sets out guidelines on preparation for and management of a financial crisis.

The proposals in no way impinge on the current legal responsibilities of supervisors in relation to solo or subgroup supervision and are to be interpreted within the legal limits of the legislation applying in the Member States.

Introduction

1. The Helsinki Protocol¹ was entered into force in 2000 pursuant to the Insurance Groups Directive (IGD, Directive 98/78/EC) and states that cooperation between insurance supervisors should be facilitated through the organization of Coordination Committees (Co-Cos). The Guidelines for Coordination Committees (Co-Co Guidelines)² prepared by the Insurance Groups Supervision Committee in 2005 serve as a tool for supervisors participating in the Co-Cos. The Co-Co Guidelines include a chapter 4.2 about crisis situations. These guidelines will further develop the cooperation and coordination in crisis situations and complement the chapter about crisis situations in the Co-Co Guidelines.
2. The Memorandum of Understanding on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability³ (the "MoU") of 1 June 2008 was entered into in order to ensure cooperation in financial crisis between the signatories (the "Parties") through appropriate procedures for sharing of information and assessments preparing them for the management and resolution of a cross-border financial crisis.
3. The purpose of these guidelines is to further develop the cooperation and coordination between supervisory authorities, as set out by the MoU, to enhance their preparedness in normal times and deal with the different stages of the crisis, while preserving sufficient flexibility and time to deal with the specific circumstances of a crisis. The main objective of the coordination is to ensure that information is shared and that decisions, policy measures and related external communications of the supervisory authorities are coordinated and consistent.
4. Cooperation between the Parties will take place on the basis of the existing institutional and legal framework for stability in Member States as well as the applicable Community legislation, fully respecting the roles and the division of responsibilities among the Parties. In the cross-border context the Parties are expected to use its normal channels of cooperation. The Co-Cos will be the existing cross-border networks of insurance supervisory authorities, on which the cooperation arrangements set out in the MoU will be based.
5. The role of the supervisors and the Co-Cos may vary depending upon the nature and stage of a crisis. Although these guidelines will concentrate on the work of the Co-Cos related to insurance undertakings and insurance groups, they will also take into account the role of the insurance supervisors in case of a crisis in a cross- sectoral group or in several cross-sectoral groups. The MoU establish a basis for the cooperation with other financial supervisory authorities within the banking and securities sectors as well as finance ministries and central banks.
6. The members of the Co-Co may be a part other cooperation arrangements set out by the MoU. The supervisory authorities may be part of the Domestic Standing Groups (DSG), which shall operate on the national level. The supervisors may also be part of a Cross-Border Stability Group (CBSG),

¹ http://www.ceiops.eu/media/files/publications/protocols/nl194_helsinki_gbfi.pdf

² http://www.ceiops.eu/media/files/publications/standardsandmore/guidelines/guidelines_coordination.pdf

³ http://www.ceiops.eu/media/docman/public_files/publications/protocols/MoU-Cross-Border-Financial-Stability.pdf

Attached as annex 1.

typically composed of the relevant supervisory authorities, the relevant central banks and the relevant finance ministries from the countries that share financial stability concerns and which could focus on one or several financial groups. The Lead Supervisor may also have the role of the Cross-Border Coordinator, which is responsible for the overall coordination of actions in a particular cross-border context, but this may vary according to the nature and stage of the crisis.

7. The MoU applies both in normal times to enhance the preparedness to deal with a cross-border systemic financial crisis, and in a crisis situation regardless of its origin, affecting the stability of the financial system in at least one Member State with a potential cross-border systemic impact in other Member States and involving at least one financial group or affecting the financial infrastructure or the functioning of financial markets.
8. These guidelines will however apply also if a crisis situation not covered by the MoU occurs. An insurance undertaking in crisis can be defined as potentially being partially or totally unable to settle its claims and to pay to its policyholders their benefits.
9. It should also be noted that the principle of proportionality is relevant for the application of those guidelines. This might concern for example groups with marginal cross border activity.

2. Preparation for crisis management

10. In order to ensure preparedness in a crisis situation the Co-Co should in normal times, engage in sharing and reflecting upon information and assessments relating to issues of common interest based on the Co-Co Guidelines and the Guidelines on information exchange between lead supervisors and other competent authorities of November 2007⁴.
11. The Co-Co should also engage in sharing and reflecting upon information needed for assessing the systemic implications of a crisis and for the preparation of the handling of a cross-sectoral systemic financial crisis. The supervisory authorities should be aware of the potential channels of contagion from other financial sectors to the insurance sector and especially the risk of a direct contagion to insurance undertakings from other financial undertakings in the group.
12. In order to allow communication among the Co-Co members to take place promptly whenever needed, secure means of communication should be established to allow confidential exchange of information and conference calls to take place. In advance, consideration should be given to the other relevant authorities that should be contacted in a crisis situation.
13. To avoid crisis situations as far as possible and to be fully prepared for any action that may be required, the Co-Co should analyse beforehand any crisis situation that may arise and any potential conflicts of interest. Furthermore, the Co-Co should agree on a specific emergency plan, including cooperation and coordination in these kinds of situations. The emergency plan should be based

⁴ Annex to CEIOPS' Statement of the Role of the Lead Supervisor:
http://www.ceiops.eu/media/docman/public_files/publications/standardsandmore/recommendations/CEIOPS-DOC-16-07%20Information%20exchange.pdf

on the specific risks of the insurance group. It may be natural for the Co-Co to agree that crisis situations regarding the insurance group should always involve the top level of the supervisory authorities.

14. The Co-Cos should consider how to deal with publicly listed insurance groups in the context of public intervention or application of supervisory actions. A crisis situation affecting a publicly listed insurance group should be addressed rapidly enough to allow legally required transparency rules to be fulfilled in the light of legal obligations of the institutions and the supervisory authorities. The provision of the EU Market Abuse Directive provides the basis for disclosure in such occasions, including circumstances when the public disclosure of information may be delayed for a limited period of time.

3. Crisis alert

15. The supervisory authority who becomes aware of the emergence of a potentially serious financial disturbance or is aware of facts or events that may give rise to significant problems for an insurance group or the functioning of financial markets will inform as soon as possible the Lead Supervisor. The Lead Supervisor or the supervisory authority mentioned before should ensure that information is shared among the other supervisors as soon as practicable. Similarly, any reasonable request for information or assessment from one supervisory authority to another will be promptly considered and fulfilled to the maximum extent possible without delay.

16. The information about the crisis situation should be distributed to the contact persons for the insurance group in the Helsinki Protocol List and the persons from the relevant countries in the CEIOPS Crisis Contact List.

17. The Co-Co should consider whether it is necessary to inform other relevant authorities. If there is a CBSC relevant for the insurance group, the Cross-Border Coordinator is responsible for sharing the information within the CBSG.

18. Concerning actions to be taken on a cross-border basis the Lead Supervisor should activate the subsequent steps and procedures as outlined in these guidelines. The activation may be requested by any member of the Co-Co. When the procedures are activated, all supervisors concerned should be involved at an early stage. If the Lead Supervisor does not have the role as the Cross-Border Coordinator, the Lead Supervisor should if relevant coordinate with the Cross-Border Coordinator with respect to the activation of the crisis management procedures and provide the necessary information.

19. To the best of its ability it is the responsibility of each supervisory authority to share with the Lead Supervisor, the necessary information needed by the relevant supervisory authorities to fulfil their responsibilities.

4. Crisis assessment

20. After a crisis alert, the Lead Supervisor should as soon as practicable assess the nature of the financial crisis and its implications. The other supervisory authorities should help to reach a common understanding within the Co-Co of the nature of the crisis in the cross-border context and perform its own assessment of the crisis and its implications at a national level. Each Co-Co

member should undertake the assessment from a different perspective having regard to different legal entities and different jurisdictions.

21. The assessment of the crisis should be based on the common analytical framework for assessing systemic implications of a financial crisis established by the MoU. For this purpose they should use the template for a systemic assessment framework (annex 2 of the MoU) which may be further developed by the supervisory authorities. The framework is designed to assess the implications of a crisis situation of the financial system and real economy as defined in the MoU. In case the crisis is limited to an insurance group or one or several undertakings within an insurance group without affecting the stability of the financial system or without having potential cross-border systemic impact, the Co-Co could use the framework in so far as appropriate.
22. The goal of the assessment phase is to assess the systemic implications of the crisis and provide a basis for the decision of whether to intervene, and if so, how to intervene. The supervisors should also consider the possibility of a potential private sector solution of the crisis and the possibilities offered by available tools such as insurance guarantee schemes.
23. Considering that the assessment is being performed within the Co-Co it should be taken upon the perspectives of specific implications for the relevant insurance group, including identification of possible sources of systemic risk and wider implications for the financial system and real economy. Systemic implications may occur if an event, such as a failure of an undertaking to meet its obligations, triggers a chain reaction leading to loss of economic value and of confidence in the financial system that has significant adverse effects on the real economy. Co-Co members should especially be aware of the possible occurrence of the following scenarios for a crisis in an insurance undertaking to spread to other financial institutions or cause damage to the real economy:
 - Whether there is a shortage of insurance cover supply which may have effects on the industry;
 - Whether the insurance group or individual undertakings in the group may have to sell parts of its assets (e.g. due to investments rules or in order to alter its risk profile) which may lead to and/or strengthen a downward cycle on the financial markets;
 - Whether there is a risk of direct contagion from one undertaking in the insurance group to other undertakings or to other financial institutions.
24. In the cases where systemic assessments are conducted by each supervisory authority, the common view on these assessments of each of the DSGs that may be established, should be made available to the Co-Co. These assessments are used to identify the severity of the crisis, the need for policy actions and the need to involve other authorities or relevant bodies.
25. Based on the individual supervisory authorities' assessment of the crisis situation, the Co-Co should agree on a common assessment of the situation of the insurance group and its undertakings. The Lead Supervisor is responsible for working towards a common understanding about the severity of the crisis on a cross-border basis and keep the other supervisors informed of the crisis situation and propose which level of involvement is required from the other supervisors in the decision making process in the particular circumstances. Despite the general nature of the assessment, it should also include specific sections on the implications at the level of each affected Member State.

26. Each Co-Co member should update its assessment on a regular basis or whenever a material development takes place.

5. Crisis management

5.1 The role of crisis management networks

27. The management and resolution of a cross-border crisis require close cooperation between the supervisors and well structured coordination based on procedures and processes agreed upon in normal times taking into account the responsibilities set out within the legal framework and the MoU. It should be taken into account that other authorities, such as ministries and central banks and their cooperation arrangements, such as the DSG and CBSG may take part in the crisis management and resolution.

28. When considering possible actions, the first priority is given to private sector solutions. If there is a CBSG relevant for the insurance group, the Cross-Border Coordinator is responsible for coordinating contact with private sector players and the coordination of subsequent policy actions that follow the initial assessment, unless otherwise agreed. All supervisors should cooperate actively and closely in order to identify possible solutions to manage and resolve the crisis, either private or public, or a mix of them, and they should assess appropriateness of various options to the extent possible.

5.2 Supervisory functions

29. In a crisis situation in an insurance group, the Lead Supervisor will plan and coordinate the supervisory activities and will in close cooperation with other authorities, coordinate the management of the situation. In case of a cross-border systemic financial crisis comprised by the MoU, the coordination should have a view towards specifying the assessment of the situation based on information provided by other relevant Parties, reaching a common understanding of the crisis situation and identifying possible remedial measures. Such a cross-border systemic financial crisis may require the management and resolving at the ministries level in several countries, and the supervisory authorities should be expected to be involved as technical experts by the relevant ministries. The supervisory authorities may be expected to gather and update data that could be used as a basis for possible public interventions and assess the possibilities to use various tools, and if public intervention requiring public funds is considered, as an input for objective criteria for burden sharing.

30. Based on the common assessment, the Co-Co should analyse the need, scope and conditions for any supervisory actions to be taken towards the insurance group or any of its undertakings. The analysis should include the following elements:

- Which actions are needed
- What is the content of the measure that should be taken
- What is the scope of the proposed actions
- What are the conditions for supervisory action
- How the application will be monitored and reported to the members of the Co-Co

31. The result of the initial analysis of the need and details of any supervisory actions is presented to the decision –makers of the relevant authorities taking the decision according to their national mandates. In case of a group-wide application of supervisory tools, the Co-Co members contribute to the enforcement of such measures in the subsidiaries and perform the monitoring of the measures and reporting back to the Lead Supervisor and the Co-Co.
32. Based on the information of the results of the application of supervisory actions, the Co-Co should assess the actions taken and analyse the need for additional actions to be taken.

6. External communication

33. As a general rule, the Lead Supervisor is in charge of coordinating the public communication at each stage of a crisis. It should ensure that the communication (or non communication) of the supervisors take into consideration the communication of the insurance group to the public. If the supervisory authorities are members of a CBSG, the Cross-Border Coordinator is in charge of coordinating the public communication.
34. Communication towards the public should, to the maximum extent possible, be handled in a coordinated fashion at all stages of the crisis (alert, assessment, management), taking into account the possibility of exercising discretion regarding the information that should (or should not) be disclosed in order to maintain market confidence.
35. Supervisors should prepare joint public statements even in the case where only one supervisor has to make such statement, if the interests of the other may be at stake. If such statements are relevant also for other relevant parties, those should also be involved in the joint preparation.
36. It is essential to identify at an early stage, the legal obligations and constraints of the insurance group to communicate to the public. In particular, the insurance group may become under pressure to disclose information or if its shares are listed in a stock exchange, face legal requirements for disclosure.
37. Only in exceptional circumstances with an overriding and sudden public need, the supervisory authorities may issue separate statements from each others. In the case when one supervisor is obliged to make such a separate public statement, it should
 - Coordinate as much as possible with the other supervisors, which should be in a position to respond promptly
 - Ensure, to the maximum extent possible and practicable, that all supervisors are informed about the statement before its release
 - Ensure that no use of information delivered by one supervisor to another will be made without the consent of this authority

Annexes:

- Annex 1: Memorandum of Understanding on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability
- Annex 2: Tasks of the Cross-Border Coordinator and Group Supervisor (Lead Supervisor)
- Annex 3: List of information which may need to be exchanged in a crisis situation

Annex 1:

The Memorandum of Understanding on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability

Brussels
ECFIN/CEFCPE(2008)REP/53106 REV REV

**MEMORANDUM OF UNDERSTANDING ON COOPERATION BETWEEN THE
FINANCIAL SUPERVISORY AUTHORITIES, CENTRAL BANKS AND
FINANCE MINISTRIES OF THE EUROPEAN UNION
ON CROSS-BORDER FINANCIAL STABILITY**

1 June 2008

ANNEXES:

ANNEX 1: THE COMMON PRACTICAL GUIDELINES

ANNEX 2: TEMPLATE FOR A SYSTEMIC ASSESSMENT FRAMEWORK

Annex 2:

Tasks of the Cross-Border Coordinator and Group Supervisor (Lead Supervisor)

The Cross-Border Coordinator is the Party from the Home Country which is responsible for the overall coordination of actions in a particular cross-border context, and which may vary according to the nature and stage of the crisis. The Home Country is the country of the Group Supervisor responsible for the supervision on a consolidated basis.

According to the MoU paragraph 4.4 the National Coordinator of the Home Country assumes the task of Cross-Border Coordinator in the management of a cross-border financial crisis. The National Coordinator is the authority designated by the Parties of the Domestic Standing Group which, taking into account its legal competences, is responsible for the overall coordination of activities in order to enhance preparedness in normal times and facilitate the management and resolution of a crisis at the national level in a particular crisis situation. The party assuming the role of National Coordinator may vary according to the nature and stage of the crisis.

Based on the description of the role of the Cross-Border Coordinator in the MoU, it can be assumed that the Lead Supervisor may have this role at some stage of a crisis.

Tasks of the Cross-Border Coordinator according to the MoU and the Common Practical Guidelines for crisis management (CPG):

- Ensure that information about the emergence of a potentially serious financial disturbance are shared among the Relevant Parties (MoU p. 4.1 and CPG p. 10 and 13)
- Activate crisis procedures (MoU p. 4.2 and CPG p. 11)
- Ensure, in light of the particular features of the potential crisis, that information will be shared among Relevant Parties in view of the possible effects of the crisis on financial groups, financial infrastructures or the functioning of financial markets within the competence of those Parties (MoU p. 5.3)
- In charge of coordinating the public communication process at a cross-border level and at each stage of the crisis (MoU p. 6.3 and CPG p. 39)
- Responsible for distributing contact lists to the Parties regarding each particular financial group or financial infrastructure (CPG p. 2)
- Responsible for working towards a common understanding about the severity of the crisis on a cross-border basis and keep the Relevant Parties informed of the situation and propose which level of involvement is required by the Relevant Parties in the decision making process in the particular circumstances (CPG p. 19)
- Initiate involvement of other Relevant Bodies from third countries if necessary according to the impact assessment (CPG p. 19)
- Responsible for establishing contacts with the private sector and the coordination of subsequent policy actions that follow the initial assessment (CPG p. 27)
- Endeavour at an early stage to involve other Relevant bodies that are likely to be involved in the management of the cross-border crisis, including especially the deposit guarantee schemes in some countries (CPG p. 36)

Tasks of the Cross-Border Coordinator in case a Voluntary Specific Cooperation Agreement on crisis management and resolution is entered into (attachment to CPG):

- Chair the meetings of the Cross-Border Stability Group (CBSG) (p. 18)
- Organise the work and the meetings of the CBSG (p. 18)
- Convene restricted multilateral or bilateral meetings when the situation so require (p. 19)

Independent of the role of the Cross-Border Coordinator, the MoU and the CPG also assign some tasks to the Group Supervisor (i.e. Lead Supervisor in the insurance sector):

- Responsible for assessing the systemic nature of the financial crisis and its cross-border implications (MoU p. 4.3 and CPG p. 15)
- Coordinate the gathering and dissemination of information and alert Relevant Parties in the case of a crisis affecting a cross-border financial group (MoU p. 4.4)
- Plan and coordinate supervisory activities, including the assessment of the systemic nature of the crisis and its cross-border implications as well as possible corrective actions towards individual institutions within the supervisors' competencies (MoU p. 4.4)
- Where supervisory functions are performed in separate entities at a national level, the Group Supervisor will be responsible for establishing contacts to insurance, occupational pensions' and investment firms' and financial markets' supervisors (MoU p. 4.4)
- Coordinate the management of the situation with a view towards (i) specifying the assessment of the situation based on more detailed information provided by the Relevant Parties, (ii) reaching a common understanding of the crisis situation among relevant Supervisory Authorities and (iii) identifying possible remedial measures (CPG p. 29)

Annex 3: List of information which may need to be exchanged in a crisis situation

LS = Lead Supervisor

SS = Solo Supervisor

Relevant supervisor = the supervisor having taken the mentioned action

	Type of information	Description	Source
	Crisis information and impact assessment		
1	Affected entities	The undertaking in crisis and undertakings with exposures to the undertaking in crisis or likely to be affected through the possible contagion channels.	SS
2	Description of the crisis	The cause of the problem which requires intervention of supervisory authorities. Is the crisis a genetic crisis potentially affecting the financial system as a whole or is the crisis specific to the group and/or one of its undertakings?	LS, SS
3	Size of the undertaking	Size of the undertaking in crisis: total assets and premium income.	SS
4	Significance of the affected entity	Is the undertaking significant for the group and/or systemic important in one or several countries?	SS, LS
5	Operational deficiencies issues	Information on fraud, problems with IT systems, legal or regulatory issues that might have caused or might exacerbate the crisis.	SS
6	Market impact	Does the crisis affect the financial market? Holdings of shares, bonds etc. Market price data on the entity/group. If the undertaking/group must sell part of its assets, may it lead to or strengthen a downward cycle in the financial markets?	LS, SS
7	Systemic assessment results	Outcome of the assessment of the systemic nature of the financial crisis.	LS, SS
	Actions and resolution measures		
8	Measures and recovery actions by the group	Measures and actions taken and planned by the undertaking/group, and its impact on the financial and solvency position.	LS, SS
9	Actions taken by supervisors	Description of the action, its purpose and effect.	Relevant supervisor
10	External communication	Information on communication made without involving all supervisors.	Relevant supervisors

11	Legal powers	The power of supervisors with regard to restrictions, transfer of capital, administration and insolvency.	LS, SS
12	Existing national safety net arrangements	State guarantees or insurance guarantee schemes, extent of coverage, level, source of funds.	LS, SS
13	Public disclosure requirements	Information of relevant public disclosure requirements applicable for the group.	LS
	Group structure and entities, other group related information		
14	Ownership structure	Major shareholders (> 10 percent) of the group/its undertakings.	LS, Annual report, Company website
15	Legal structure	Chart of significant participation/ownership in supervised entities and other companies.	LS, Annual report
16	Geographical organisation	Country of incorporation: where the undertakings of the group are situated. Location of main branches and subsidiaries in the group. List of countries where an undertaking has systemic impact as defined by market share, premium income and assets.	LS, SS, Annual report
17	Management structure	List of Board of Directors and senior executives of the supervised entities. Organisational charts and information on how the supervised entities and the group function.	LS, SS, Annual report, Public sources
18	Nature of business	List of activities of the group and its undertakings, materiality of the activities (key business areas).	LS, SS, Annual report, Public sources
19	Recent mergers or acquisitions		LS, SS, Public sources
20	Foreign supervisors	List of non-EEA supervisors having a supervised entity of the group within their territory.	LS
21	MoU	Any MoU regarding the supervision of the insurance group.	LS, MoU signatories
	Financial and capital issues		
22	Financial information	Details of financial statements (last income statement, balance sheet etc).	LS, SS
23	Quality of capital	Is the capital of the entity/group of adequate quality? Information on capital structure and its ability to absorb the	LS, SS

		impact of the crisis.	
24	Availability of capital	Does the group have the ability to raise additional capital and where might it be able to source this capital from?	LS, SS
25	Allocation of capital and possibility of transferability	How the capital is allocated around the group and is there a possibility of transferring the capital around the group (e.g. through intra-company loans, reinsurance dividends).	LS, SS
26	Stress testing results	Impact of various possible negative developments on capital adequacy estimated by stress tests.	LS, SS
27	Quality of assets	Type of assets, liquid assets.	LS, SS
28	Liquidity issues	Is the cause of the related to liquidity problems or may the crisis lead to liquidity problems? Information on liquidity position, the sources of liquidity and the short term liabilities.	SS
	Solvency Information		
29	Adjusted solvency calculations for the group	Latest reported adjusted solvency calculations according to the IGD.	LS
30	Solvency ratio of affected entities	Significant changes in the solvency ratio prior to the crisis.	SS, LS
31	Non-compliance with solvency requirements	Non-compliance at group level (adjusted solvency) and/or at solo level.	LS, SS
32	Coverage of technical liabilities with assets		LS, SS
	Group relevant risks		
33	Performance of internal systems and control	Adequacy of internal systems and control (internal audit, risk management, internal governance etc) with a special focus on crisis management and contingency plans.	LS, SS
34	Intra-group transactions and exposures	Information on specific loans, guarantees and off-balance sheet transactions, elements eligible for solvency margin, investments, reinsurance operations or agreement to share costs, which may be a channel of contagion. Any unusual transactions or transactions not on arms length or on cost basis?	LS, SS
35	Investment policies applied	Do the investment rules require the undertaking to sell parts of its assets?	LS, SS
36	Exposures	Nature of risks, major and relevant risks, quantification of those risks.	LS, SS