

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
Company name:	The American Insurance Association (AIA)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. <p>Please send the completed template to Consultation_Set2@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-048.</p>		
Reference	Comment	
General Comment	<p>The American Insurance Association (AIA) welcomes the opportunity to comment on the EIOPA proposal for Guidelines on the supervision of branches of third-country insurance undertakings.</p> <p>AIA is the leading property-casualty insurance trade organization in the United States, representing approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to consumers and businesses in the U.S. and around the world. AIA members write more than \$117</p>	

Comments Template on EIOPA-CP-14-048
Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings

Deadline
02.Mar.2015
23:59 CET

billion annually in U.S. property-casualty premiums and approximately \$225 billion annually in worldwide property-casualty premiums. AIA members make up some of the most globally active property-casualty insurers.

Branches are a well-established form of business around the world that should not be discouraged or disadvantaged if they are complying with local market conduct requirements and policyholders are protected against insolvency. Branches bring capacity and capital, which benefit local markets and consumers. Generally, local markets are doubly protected by local assets and the fact that the local business is written by a much larger entity that would be obligated to cover liabilities even if the local assets were insufficient.

We are concerned that the proposed EIOPA guidelines shift the focus from policyholder protection to creating requirements that are at least as burdensome as setting up a new entity in the EU. That seems unnecessary, and drastically reduces the efficiency and other advantages that utilizing branches offers to international insurance groups.

Our general comments on the proposal are as follows:

- 1) The rules on non-admitted insurance and reinsurance generally should be clarified as a necessary context for foreign companies considering the benefits of establishing a branch.
- 2) It should be clear that if the EEA branch of a third-country undertaking is treated similarly to separate undertakings, the Solvency II Directive should give a right to the EEA branches to conduct business in other Member States on the freedom of services basis. Where such right is not provided, EEA branches should be subject to less onerous requirements than an insurance undertaking established in the Member State.
- 3) Where there is Solvency II equivalence or some other form of reciprocity, the focus should shift from redundant Solvency II compliance for the branch to simply assuring that there is similar equivalence or reciprocity on branch requirements.
- 4) We encourage EIOPA to consider a "grandfathering" or a longer transition period for existing branch operations.
- 5) As with any EU or other multi-jurisdictional requirement, there should be strong disincentives for local jurisdictions to impose additional requirements.

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
1.1.		
1.2.		
1.3.		
1.4.		
1.5.		
1.6.		
1.7.		
1.8.		
1.9.		
1.10.		
1.11.		
1.12.		
Guideline 1 - 1.13		
Guideline 1 - 1.14	It is unclear how the host supervisory authority (EU supervisor) would be able to assess the adequacy of the solvency margin of the whole third-country undertaking based on prudential requirements of the home jurisdiction. The EU supervisor should instead request the relevant third-country supervisor to confirm that, under home jurisdiction rules, the third-country insurance undertaking has an adequate solvency margin. Indeed, in paragraph 1.13, the EU supervisor is already required to ask the third-country supervisor to confirm that the undertaking meets the relevant home jurisdiction rules.	
Guideline 2 - 1.15	Requiring the third-country undertaking to provide an analysis of the differences between the home country solvency rules and the rules of Solvency II is an onerous requirement.	
Guideline 3 - 1.16		
Guideline 4 - 1.17		
Guideline 4 - 1.18		
Guideline 5 - 1.19		
Guideline 6 - 1.20		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
Guideline 7 - 1.21		
Guideline 7 - 1.22		
Guideline 7 - 1.23		
Guideline 8 - 1.24		
Guideline 9 - 1.25		
Guideline 10 - 1.26		
Guideline 11 - 1.27		
Guideline 12 - 1.28		
Guideline 13 - 1.29		
Guideline 14 - 1.30		
Guideline 15 - 1.31		
Guideline 16 - 1.32		
Guideline 16 - 1.33		
Guideline 17 - 1.34		
Guideline 17 - 1.35		
Guideline 18 - 1.36		
Guideline 18 - 1.37		
Guideline 18 - 1.38		
Guideline 19 - 1.39		
Guideline 20 - 1.40		
Guideline 20 - 1.41		
Guideline 21 - 1.42		
Guideline 22 - 1.43		
Guideline 23 - 1.44		
Guideline 24 - 1.45		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
Guideline 25 - 1.46		
Guideline 26 - 1.47		
Guideline 27 - 1.48		
Guideline 28 - 1.49	<p>An important underpinning of global insurance markets is that groups should be free to use the corporate form of their choice when operating abroad, subject to appropriate regulations. However, we are concerned that the Governance and Risk Management guidelines (<i>i.e.</i> guidelines 28 to 36) will place regulatory burdens on branches and the insurance group that do not reflect the principle of proportionality that is central to the stated aims of the branch supervision guidelines (see paragraph 1.3). Applying governance and risk management requirements under Solvency II, including the ORSA, to branches is not proportional, is inconsistent with the limited scope of branch operations, and is duplicative of the contemplated requirements with respect to the foreign entity generally. It effectively means that the system of governance of a third-country undertaking will have to be Solvency II-compliant, at least to the extent that it covers branch operations. Since the system of governance of the undertaking is normally based on third-country governance requirements, it may be difficult in practice to impose two sets of standards within the undertaking's corporate structure: an undertaking-wide governance model based on third-country rules and a Solvency II-based governance for branch operations.</p> <p>If requirements on branches are too onerous, EIOPA's guidelines could inadvertently discourage the use of branches and the development of insurance markets as a result. We suggest that the guidelines for governance and risk management need to reflect the differences between branches, subsidiaries of non-EEA insurance groups, and EEA insurance groups.</p> <p>This comment concerns guidelines 28 to 36 (paragraphs 1.49 to 1.57).</p>	
Guideline 29 - 1.50		
Guideline 30 - 1.51		
Guideline 31 - 1.52		
Guideline 32 - 1.53		
Guideline 33 - 1.54		
Guideline 34 - 1.55	Requiring an annual (or more frequent) ORSA (guidelines 34, 35, 36) could place an undue burden	

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
	on branches, particularly those that have minor operations and are closely tied to the head office of the undertaking. The solvency requirements and any ORSA requirements would be part of the home country solvency regulation set forth in guideline 1. Having a separate solvency, ORSA or governance requirement for the branch is inconsistent with guideline 1 and does not reflect the limited operations of a typical branch. The focus of branch regulation should be local market conduct compliance and a reasonable level of local assets or security to protect local policyholders.	
Guideline 35 - 1.56	Many smaller branches offer highly specialized lines that, while essential to corporate policyholders, are not offered on a scale that would support a subsidiary. We understand that France, Germany and Poland already require separate ORSAs for branches, and that some undertakings with branches in those countries have found the requirement to be very burdensome and disproportionate to the scale of their operations. We hope that such requirements will not be duplicated in other markets as a result of the EIOPA guidelines. This comment also applies to guideline 36 (paragraph 1.57).	
Guideline 36 - 1.57		
Guideline 37 - 1.58		
Guideline 38 - 1.59	Reporting should be limited to the core activities of the branch as determined by the third country undertaking and should not extend to functions and processes not necessary to the branch operations and not performed locally. They should be limited to the adequacy of the capital or assets available locally for the branch. This comment relates to guidelines 38 to 50 (paragraphs 1.59 to 1.82).	
Guideline 38 - 1.60		
Guideline 38 - 1.61		
Guideline 39 - 1.62		
Guideline 39 - 1.63		
Guideline 40 - 1.64		
Guideline 40 - 1.65		
Guideline 40 - 1.66		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
Guideline 40 - 1.67		
Guideline 41 - 1.68		
Guideline 42 - 1.69		
Guideline 43 - 1.70		
Guideline 44 - 1.71		
Guideline 44 - 1.72		
Guideline 45 - 1.73		
Guideline 45 - 1.74		
Guideline 46 - 1.75		
Guideline 46 - 1.76		
Guideline 47 - 1.77		
Guideline 47 - 1.78		
Guideline 47 - 1.79		
Guideline 48 - 1.80		
Guideline 49 - 1.81		
Guideline 50 - 1.82		
Guideline 51 - 1.83		
Guideline 52 - 1.84		
Guideline 53 - 1.85		
Guideline 54 - 1.86		
Guideline 55 - 1.87		
Guideline 56 - 1.88		
Guideline 57 - 1.89		
Guideline 58 - 1.90		
Guideline 58 - 1.91		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
Guideline 59 - 1.92		
Guideline 60 - 1.93		
Guideline 61 - 1.94		
Guideline 62 - 1.95		
TA I (1)		
TA I (2)		
TA I (3)		
TA I (4)		
TA I (5)		
TA I (6)		
TA I (7)		
TA I (8)		
TA I (9)		
TA I (10)		
TA I (11)		
TA I (12)		
TA I (13)		
TA I (14)		
TA I (15)		
TA I (16)		
TA I (17)		
TA I (18)		
TA I (19)		
TA I (20)		
TA I (21)		

**Comments Template on EIOPA-CP-14-048
Draft proposal for Level 3 Guidelines on the supervision of branches of third-country
insurance undertakings**

**Deadline
02.Mar.2015
23:59 CET**

TA I (22)		
TA I (23)		
TA I (24)		
TA I (25)		
TA I (26)		
TA I (26)		
TA I (27)		
TA I (28)		
TA I (29)		
TA I (30)		
TA I (31)		
TA I (32)		
TA I (33)		
TA I (34)		
TA I (35)		
TA I (36)		
TA I (37)		
TA I (38)		
TA I (39)		
TA I (40)		
TA I (41)		
TA I (42)		
TA I (43)		
TA I (44)		
TA I (45)		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
TA I (46)		
TA I (47)		
TA I (48)		
TA I (49)		
TA I (50)		
TA I (51)		
TA I (52)		
TA I (53)		
TA I (54)		
TA I (55)		
TA I (56)		
TA I (57)		
TA I (58)		
TA I (59)		
TA I (60)		
TA II		
TA III - S.01.02 Opening submission		
TA III - S.02.01 Opening submission		
TA III - S.23.01 Opening submission		
TA III - S.01.01		
TA III - S.01.02		
TA III - S.02.01		
TA III - S.02.03		
TA III - S.06.02		

Comments Template on EIOPA-CP-14-048 Draft proposal for Level 3 Guidelines on the supervision of branches of third-country insurance undertakings		Deadline 02.Mar.2015 23:59 CET
TA III – S.23.01		
TA III – S.23.03		
TA III – S.29.01		
TA IV – S.01.02 Opening submission		
TA IV – S.02.01 Opening submission		
TA IV – S.23.01 Opening submission		
TA IV – S.01.01 Regular		
TA IV – S.01.02 Regular		
TA IV – S.02.01 Regular		
TA IV – S.02.03 Regular		
TA IV – S.06.02 Regular		
TA IV – S.23.01 Regular		
TA IV – S.23.03 Regular		
TA IV – S.29.01 Regular		