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:	Life Insurance Corporation of India - UK Branch (LICI UK)	
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
	Please follow the instructions for filling in the template: ⇨ Do **not** change the numbering in column "Reference". ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. o 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. o If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. **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).** The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-048.	
Reference	**Comment**	
General Comment	LICI UK branch (LICI UK) is a very small life insurance branch of Life Insurance Corporation of India (LICI) which is a very large global life insurance firm having its head office in Mumbai, India. LICI is wholly owned by the Government of India and is authorised and regulated by the Insurance Regulatory and Development Authority of India (IRDA). The annual GWP (gross written premium) of LICI UK branch is less than £ 5million which is much less than 0.05% of LICI's overall business	

	1. As we understand the draft guidelines apply with respect to the branches of third country insurance undertakings (ie. LICI UK) and not to the third country insurance undertakings (i.e LICI) 2. Guidelines appear to state that the third country insurance undertaking (ie. LICI) has to implement and/or provide information and/or carry out assessments etc in respect of its branch (ie. LICI UK) for a number of TCB guidelines. The role/responsibility of the third country insurance undertaking which is not required to be Solvency II compliant appears to be, excessive and onerous. 3. Based on its size, nature, scale and complexity of the risks inherent in the business/operations, LICI UK branch has been categorised as Category 5 firm (small and minium risk profile) by the PRA,UK. Being a category 5, TCB such as LICI UK, the requirements from third country insurance undertaking (ie. LICI) themselves are therefore disproportionate 4. Additionally as the guidelines apply similarly to third country insurance undertakings, whether in Solvency II equivalent/non equivalent jurisdictions - compliance will be even more excessive and disproportionate for non equivalent third country undertakings (ie. LICI) and their TCBs (i.e LICI UK) 5. Our representation, therefore, as a very small life insurance TCB , to EIOPA in this connection is to : a) Primiarily require the Solvency II compliance to be implemented at the branch level (LICI UK), and b) Require respective third country undertakings (i.e LICI) to provide oversight and monitoring in connection with the branch (LICI UK) compliances of Solvency II rules and requirements c) Waive the several information requirements from the third country insurance undertakings, and require the third country insurance undertakings (i.e LICI) to submit their annual global balance sheet prepared in accordance with LICI's home regulatory requirements (ie. IRDA) as evidence of overall solvency of the third country insurance undertaking. This is particularly relevant where the LICI UK branch which is a TCB and a very small and less complex life insurance branch accounts for much less than 0.05% of LICI's, (the third country insurance undertaking) world wide business	

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1.1.		
1.2.		
1.3.		
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1.6.		
1.7.	Templates and log files for reporting on the branches (TCB) of third country insurance undertakings have been provided - It is not clear whether the guidelines / information in CP 14-048 including its annexures is to be followed or TCBs can make use of the templates and log files developed under the proposed Implementing Technical Standards for the submission of information to the supervisory authorities	
1.8.	Not clear as to how specific TCB templates will be provided - reference is made to Technical Annexes III & IV	
1.9.	Will the complete package of templates applicable to third country branches be available with the final EIOPA Policy Statement? Simplification of reporting requirements is requested as otherwise excessive and disproportionate.	
1.10.		
1.11.		
1.12.		
Guideline 1 - 1.13	Third country insurance undertakings (ie. LICI) and TCBs (ie. LICI UK) need to be advised of: i. the basis for adequacy of the solvency margin which will be to the satisfaction of the host regulator (ie. PRA, UK) ii. the type of information required for satisfying host regulators of the whole undertaking's (LICI's) solvency. iii. the type of information that host regulators (PRA,UK) will require for demonstration of the adequacy of solvency at the third country insurance undertaking level (LICI) under the home jurisdiction rules (ie. IRDA) and that the home supervisory authority confirms that those home jurisdiction rules are met.	

	iv. the additional requirements from third country insurance undertakings appear to be disproportionate, as the third country insurance undertakings (ie. LICI in our cae) are not required to be Solvency II compliant and/or equivalent. v. Solvency II applies to the third country branches only. Third country insurance undertakings with UK branches already submit their third country insurance undertaking's annual returns / balance sheet from which undertaking's global solvency (using home regulator's solvency rules) is readily available. vi. Third country insurance undertakings like LICI which have Category 5 TCBs, (LICI UK) can submit its global annual return to satisfy host regulators (ie. PRA, UK) of LICI's overall solvency adequacy requirement.	
Guideline 1 - 1.14	1. Solvency margin of the undertaking as a whole (ie. of LICI) on the basis of the prudential requirements of the home supervisory authority (IRDA) is available in the undertaking's annual balance sheet. This can be submitted annually for satisfying this requirement. 2. Any further additional information requirement would be excessive and disproportionate for LICI, the third country insurance undertaking, which is neither required to be Solvency II compliant and/or equivalent. Its solvency adequacy is being sought only on account of its very small branch in the UK (LICI UK) which is required to be Solvency II compliant. 3. LICI UK Branch has an existing waiver direction from the UK regulators (PRA & FCA) under which LICI submits its abridged annual global returns duly audited by the external auditors in India and certified by the Directors of LICI. The existing waiver direction states....... *"The PRA, on the application of the firm, made a direction (1743365) under section 138A of the Financial Services and Markets Act 2000 in March 2014. The effect of the direction is to modify GENPRU 2.1.3R, IPRU (INS) 1.1R, INSPRU 1.1.3R, INSPRU 1.2.1R, INSPRU 3.1.1R and INSPRU 3.2.1R so as to permit the firm to calculate the realistic reserve and realistic balance sheet figures in relation to its UK branch business and on the basis of the valuation and capital resource requirement calculations for the global business as calculated by the Indian parent under the Indian regulatory requirements."*	
Guideline 2 - 1.15	1. Third country insurance undertakings are not required to be compliant with Solvency II solvency rules. Only the TCB has to comply with Solvency II capital rules & requirements. 2. The reason for the undertaking therefore being asked for an analysis of the differences in Solvency rules between Solvency II regulation and the home supervisory authority's solvency rules are not understood.	

	3. It is exceedingly onerous and disproportionate for LICI to have to provide this information only on account of having its very small UK branch (less than 0.05% GWP and low risk profile) 4. EIOPA is requested to waive the requirement of a comparative analysis between Solvency II solvency rules and LICI's home regulator's solvency rules	
Guideline 3 - 1.16	1. The host regulatory authority has to satisfy themselves of this requirement. The UK Branch returns and financial data will provide this information if/as may be required. 2. The branch assets would be solely used for paying branch liabilities (claims of branch policy holders). Branch would maintain the required solvency for the branch liabilities. 3. Please advise if any other information is required by the host regulator from the TCB in this connection	
Guideline 4 - 1.17	The legal opinion regarding the winding up arrangements and distribution of branch assets appears to be another additional requirement from the third country insurance undertaking in connection with its UK branch. It is excessive, onerous and disproportionate, considering that the TCB such as LICI UK is very small having minimal risk in both business and risk profile and its third country undertaking -- LICI is very large global life insurance firm. As stated earlier, LICI UK branch is considered to be a Category 5 firm by PRA, UK ie very small and low risk having negligible potential for creating disruption in markets.	
Guideline 4 - 1.18	We request EIOPA to advise the minimum key considerations, explanations and analysis that they would expect in the legal opinion (if LICI is at all required to submit such information), to avoid potential additional legal opinion requirement, if analysis is insufficient and individual providing opinion inadequately qualified	
Guideline 5 - 1.19	Please refer to 1.17 & 1.18 response	
Guideline 6 - 1.20		
Guideline 7 - 1.21		

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Guideline 7 - 1.22		
Guideline 7 - 1.23		
Guideline 8 - 1.24	UK regulators has to satisfy themselves in this respect - Regulators may advise how they wish to satisfy themselves in this connection given that the LICI UK branch has been categorised as Category 5 firm (small and minium risk profile) by the PRA,UK based on its size, nature, scale and complexity of the risks inherent in the business/operations	
Guideline 9 - 1.25	Please refer to 1.24 response	
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	Host regulator (ie. PRA, UK) to advise whether they wish to communicate with the third country undertaking's regulator –IRDA. LICI as the third country insurance undertaking of LICI UK Branch is subject to IRDA regulations and communicates with IRDA for all regulatory and reporting compliances	
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		
Guideline 25 - 1.46		
Guideline 26 - 1.47		
Guideline 27 - 1.48	Third country insurance undertaking is required to provide all the information listed under 1.48 (a) to (k) for assessment of branch assets and their availability for payment of branch liabilities Extent of information required is onerous, excessive and disproportionate, if a very large global third country insurance undertaking (ie. LICI - which is not required to comply with Solvency II directives), is required to provide this disproportionate amount of information in relation to assessment, availability, and movement of assets of its very small UK branch (LICI UK - GWP less than £5m only and less than 0.05% of LICI's global business). LICI's (third country insurance undertaking) global solvency should be adequate to satisfy host regulators (PRA) of the capital adequacy of its world wide business and the way the LICI UK branch assets are ring-fenced for making them available to UK branch policyholders only.	
Guideline 28 - 1.49		
Guideline 29 - 1.50		
Guideline 30 - 1.51		
Guideline 31 - 1.52		
Guideline 32 - 1.53	The general representative of LICI UK Branch will be the PRA approved person, who under PRA's proposed changes to the 'approved person regime' can be the 'third country branch manager'. This person will also effectively run the branch operation. As LICI UK is a very small TCB, the approved person (general reprsentative in this case) could hold multiple responsibilities including key functions. We seek further clarification in this matter from EIOPA.	
Guideline 33 - 1.54		
Guideline 34 - 1.55	Guideline 34 - Own risk and solvency assessment (ORSA) states ..... The third-country insurance undertaking should perform, at least annually, an ORSA complying with Article 45 of Directive 2009/138/EC with regard to *branch operations.*	

	However under explanatory text 2.76 of Guideline 34 it states ...... *A third-country insurance undertaking may fulfil its obligations under Article 45 of Directive 2009/138/EC by performing an assessment substantially equivalent to an ORSA <u>in respect of the entirety of its operations,</u> prepared in accordance with the requirements of a jurisdiction deemed to be equivalent for purposes of Directive 2009/138/EC.* Apparently there is some contradiction between the two statements which are highlighted. Please advise on this matter.	
Guideline 35 - 1.56	1. ORSA is meant for the TCB only. 2. However it is being extended to include any risks with regards to the third country insurance undertaking's other operations which may have a material impact on UK branch operations. Analysis of such risks will be extremely onerous and disproportionate for LICI 3. ORSA does not apply to the third country insurance undertaking, but to the UK Branch only. LICI UK branch is the only branch of LICI operating in EEA. The LICI UK Branch has no business interactions and or inter-dependence with other operations including other overseas operations of LICI 4. Any consideration of risks with regard to undertaking's other operations is considered disproportionate especially when the LICI UK branch is considered to be a Category 5 firm by PRA, UK ie. very small and low risk having negligible potential for creating disruption in markets.	
Guideline 36 - 1.57		
Guideline 37 - 1.58		
Guideline 38 - 1.59	1. LICI UK, a very small UK TCB will be applying to PRA for waiver of quarterly reporting. It will submit annual return as per Solvency II standards on it branch business. 2. As regards its parent undertaking ie. LICI will submit annual returns and balance sheet as calculated under the Indian regulatory requirements (ie. IRDA requirements) providing solvency and other information	

	3. The UK Branch ORSA will also be submitted	
Guideline 38 - 1.60	The information sought from the third county insurance undertaking (ie. LICI) is extremely onerous for having a miniscule , small and extremely low risk profile UK branch. The understanding was that third country undertaking would be required to provide information on adequacy of entity level capital only	
Guideline 38 - 1.61		
Guideline 39 - 1.62		
Guideline 39 - 1.63	Please refer to 1.56 response	
Guideline 40 - 1.64		
Guideline 40 - 1.65		
Guideline 40 - 1.66		
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	LICI UK will apply for waiver of quarterly reporting so that an annual supervisory report will be adequate and proportionate.	
Guideline 46 - 1.76		
Guideline 47 - 1.77		
Guideline 47 - 1.78		
Guideline 47 - 1.79		

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Guideline 48 - 1.80	Proportionality considerations are requested for both TCBs and their third country undertaking's reporting requirements – 1) LICI UK branch (TCB) will submit annually the solvency assessment and balance sheet as required by Solvency II rules 2) LICI as third country insurance undertaking will submit its annual balance sheet for its overall global operations as per regulatory requirements of its home regulator (IRDA)	
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	1. Difference between previous year's and current year's branch asset valuation can arise only on account of application of Solvency II rules in current year's accounts. The requirement for third- country insurance undertakings to submit to the host supervisory authority, separately for each material class of branch assets and branch liabilities, a qualitative explanation of the main differences between the figures reported in the opening valuation and those calculated according to the solvency regime previously in place, is excessive and avoidable. 2. EIOPA is requested to waive this requirement and accept from LICI UK – a vary small TCB their current year's asset valuation made according to Solvency II rules	
Guideline 59 - 1.92		
Guideline 60 - 1.93		
Guideline 61 - 1.94		

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Guideline 62 - 1.95		
TA I (1)		
TA I (2)	Please refer to 1.17 and 1.18 response	
TA I (3)		
TA I (4)		
TA I (5)		
TA I (6)		
TA I (7)		
TA I (8)		
TA I (9)		
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TA I (58)		
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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		
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TA III – S.29.01		

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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		