Delivering on the European Commission Call for Advice on Equivalence

Update to the Insurance and Reinsurance Stakeholder Group

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Equivalence

Overall objective:

- ensuring that the third country solvency or prudential regime demonstrates an equivalent/similar level of policy holder and beneficiary protection as that provided under Solvency II.
- Equivalence comes with additional benefits i.e. avoids duplication in supervisory actions; reduces regulatory arbitrage and facilitates the global (re)insurance market.

Assessment focus:

- Article 66 – Professional secrecy
- Article 172 – Reinsurance supervision
- Article 227 – Group solvency calculations
- Article 260 – Group supervision

Overarching principles

- **Equivalence is a flexible process** based on principles and objectives
- Supervisory cooperation & **professional secrecy is a key, determinative** element of a positive equivalence finding.
- Equivalence incorporates the **proportionality principle**
- An equivalence judgment 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
- Equivalence assessments **will be kept under review**.

Professional secrecy: Article 66

Objective :

- To ensure that all persons who are working or who have worked for the third country supervisory authorities, as well as auditors and experts acting on behalf of those authorities, are bound by obligations of professional secrecy.
- To ensure professional secrecy obligation in the third country extend to information received from supervisory authorities of Member States

Positive equivalence determination :

- The ability to exchange of information with relevant third country supervisors is fundamental to positive equivalence determinations under Solvency II (art. 172, 227 or 260).

Reinsurance supervision: Article 172

Objective:

- To establish whether third country (re)insurance undertakings are 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.

Positive equivalence determination:

- Reinsurance contracts with third country reinsurers treated in same manner as those concluded with EU reinsurers.
- Member States <u>cannot</u> require:
  - pledging of assets to cover unearned premiums and outstanding claims provisions
  - location of assets within the Community

Inclusion of related third country (re)insurance – Article 227

Objective:

- The equivalence assessment is limited to the calculations laid out in Title I, Chapter VI (*valuation of assets and liabilities, technical provisions, own funds, solvency capital requirement, minimum capital requirement and investment rules)* and it aims to establish whether the third country undertaking's contribution to the aggregated group solvency requirement is based on a similar standard to that of an undertaking in the EEA.

Positive equivalence determination:

- The calculation of the group solvency takes into account – as regards the specific undertaking – the solvency capital requirement and the own funds eligible to satisfy that requirement, as laid down by the third country concerned.

Group supervision: Article 260

Objective:

- To ensure that third country based groups are 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.

Positive equivalence determination:

- Member States shall rely on the equivalent group supervision exercised by the third country supervisory authorities i.e. exemption of a group from group supervision at Community level

Absence of equivalence determinations

- **Art. 172:**
  - ➢ Treatment of reinsurance cessions a matter for Member States. Member State may undertake its own equivalence assessment based on the equivalence criteria, but could equally apply other measures in respect of reinsurance cessions.
- **Art. 227:**
  - ➢ Group supervisor may carry out the verification of the equivalence of the third country regime, and shall do so at the request of the participating undertaking. Group supervisor will consult other supervisory authorities concerned and EIOPA
- **Art. 260:**
  - ➢ The EU authority that would be the Group Supervisor absent the third country parent may carry out the verification of the equivalence of the third country regime, and shall do so at the request of the parent undertaking or any of the insurance or reinsurance undertakings authorised in the Community. Group Supervisor will consult other supervisory authorities concerned and EIOPA

EIOPA reports on Bermudan, Swiss and Japanese supervisory systems:

December 2010: Call for evidence & Questionnaires sent to BMA, FINMA and JFSA

End January 2011: BMA, FINMA and JFSA provided their replies.

February - March 2011: EIOPA Desk-based assessment

April 2011: Additional rounds of written clarifications

May – June 2011: On-site visits to BMA, FINMA and JFSA

August 2011: Public consultation procedure (ends 23.09.2011)

October 2011 (Final Advice delivered to EC)

Equivalence Assessments - statistics

- 11 month long project
- Highly intensive exercise for EIOPA members
- 3 separate teams – coordination is of the essence

No	Country	Team members nationality:
1	Bermuda	DE, ES, FR, UK, EIOPA
2	Japan	DE, FR, SI, UK, EIOPA
3	Switzerland	AT, DE, IE, UK, EIOPA

- 11 meetings of the Equivalence Committee
- EIOPA financial and staff support

Equivalence work - Next steps:

EIOPA to revise current findings following publication of OMD II and Level 2 text

European Commission to engage in decision making process needed

Equivalence Decisions to be published

Thank you!

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