



**COVER NOTE TO THE RESPONSE BY THE  
ASSOCIATION OF BRITISH INSURERS TO CEIOPS SECOND WAVE OF DRAFT  
ADVICE ON LEVEL 2 IMPLEMENTING MEASURES FOR SOLVENCY II  
ISSUED 7 JULY 2009 (CP37 Annex & CP39 TO CP62)**

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The Association of British Insurers (ABI) is the voice of the insurance and investment industry. Its members constitute over 90 per cent of the insurance market in the UK and 20 per cent across the EU. They control assets equivalent to a quarter of the UK's capital. They are the risk managers of the UK's economy and society. Through the ABI their voice is heard in Government and in public debate on insurance, savings, and investment matters. And through the ABI they come together to improve customers' experience of the industry, to raise standards of corporate governance in British business and to protect the public against crime. The ABI prides itself on thinking for tomorrow, providing solutions to policy challenges based on the industry's analysis and understanding of the risks we all face.

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The ABI welcomes this opportunity of commenting on CEIOPS' draft advice on the implementation of the Solvency II Directive. However, we are disappointed by the conservative approach endorsed by CEIOPS in this second wave of CPs which significantly departs from the core principles of the Directive. In particular, we are concerned by the cumulative effects of the different measures proposed. Their interaction would lead to excessive margins of prudence resulting in a very serious financial impact for the industry as well as imposing considerable administrative burdens.

We set out below our key concerns and an overview of our initial estimate of the possible financial impact of CEIOPS's proposals for UK insurers. We also include an annex which summarises our most pressing concerns from across the 25 CPs.

**ABI Key concerns**

1. **Own funds / capital** – CP46 proposes extremely draconian restrictions on the eligibility of capital. It would significantly reduce the industry's regulatory capital base in Tier 1, Tier 2 and Tier 3. It is even more severe than the recent CEBS proposals. CP46 also fails to address grandfathering which could cause financial turbulence and increase the cost of capital significantly.
2. **Risk free rate** –The restriction to 'AAA' Government bonds in CP 40 would cause massive disruption in the capital markets and a huge artificial inflation in the value of liabilities. A 'liquidity premium' should be recognised and taken into account in the risk free rate, in particular for long term non redeemable liabilities.
3. **Technical Provisions** – CP 39 and CP 46 essentially force firms onto a "run-off" basis rather than "going concern" – either in provisions, or by way of a deduction to Tier 1 capital.
4. **Risk Margin** – CP 42 is based on a hugely conservative assumption of line-by-line separation of lines of business with no diversification on transfer to an empty shell company – this would massively increase the risk margin and hence required reserves for insurance business.
5. **SCR calculation** – The factors for the "standard approach" have been increased substantially, increasing required capital levels. This applies for life (CP 49) and non life (CP 48). On **re-insurance recoveries**, we find the effective 40% cap on recovery rates too low. With regard to CP 53 on **operational risk**, the proposed calibration appears highly conservative. We do not agree with the increase in the cap from 30% to 60% and in particular object to the additional blanket charge on outsourcing of 0.5%.

6. **Management actions** – CP 54 seems to restrict the scope of management actions to discretionary bonuses, ignoring other tools such as MVRs and changes to investment strategy. This contradicts current market practice and the approach suggested in CP32. Furthermore, it does not seem in line with currently existing UK policyholder protection rules (i.e. Treating Customers Fairly /Principles and Practices of Financial Management).
7. **Group structure and supervision** – CP 58 as well as CP 56 and CP 60 focus on solo entity supervision / reporting and fail to capture the group as a coherent, economic structure. Supervision as currently described is likely to be more burdensome for Groups than for individual firms, thereby completely missing the benefits of being a group. Furthermore, for groups operating in third countries there is still too much uncertainty on equivalence.
8. **The requirements on reporting and model approval could prove very burdensome.** CP 58 involves duplication of information and public disclosure of commercially sensitive information, insufficient rationalisation between SFCR, RTS and external reporting whilst taken together, the proposals for internal model approval could have significant operational implications in order to prepare, document and demonstrate compliance to the regulator.

### **Financial impact assessment**

At each stage there has been substantial increases in conservatism and taken together this is massively damaging and increases to completely unsustainable levels the degree of prudence in the regulatory system.

We have undertaken some preliminary work to understand the scale of impact of these proposals. This suggests that taken together the cumulative impact could easily be in the range of £30bn to £70bn of additional capital required by the UK insurance industry.

The main drivers of this requirement are:

- A run-off model for technical provisions.
- The use of a lower discount rate for technical provisions, based only on 'AAA' government bonds.
- The possible removal of the liquidity premium in the calibration of the discount rate for illiquid liabilities (in particular annuities)
- The over-calibration of the SCR under the standard formula (which may also be imposed on firms with internal models).
- Additional restrictions placed on the MCR and the interaction of solo MCRs and the Group SCR
- The lack of recognition of diversification
- The over-calibration of the risk margin
- The very significant restrictions on capital eligibility and the corresponding need to replace a wide range of existing hybrid instruments.

The annex and associated CP responses explain these concerns in more detail. We would of course welcome the opportunity to explain these concerns in more detail and to work with CEIOPS and other stakeholders to arrive at appropriate solutions to address these concerns and ensure that Solvency II will achieve its original aims as set out in the Level 1 Directive.

Association of British Insurers  
11 September 2009

## Annex – Overview of our responses to the main CPs

- **CP 40** – Article 85 b) Risk free interest rate term structure

We agree that the risk-free rate should be set using a series of principles, however **we strongly disagree with CEIOPS's conclusion that only AAA-rated Government Bonds can fulfil these criteria**. If applied this would contradict the principles of Solvency II and the Single Market and would have highly damaging consequences for Europe's economy and financial stability.

**We fundamentally disagree with the majority view at paragraph 3.30 which dismisses the liquidity premium without any proper consideration of the issue.** The liquidity premium has a very substantial impact, particularly in distressed markets, on the valuation of illiquid liabilities, such as annuities. To reject this would be entirely counter to the requirement in Article 76(2) to set best estimate equal to the probability weighted average of future cashflows, *using the relevant risk free interest rate term structure*. **This proposal would introduce a substantial layer of additional prudence, without justification and would be very damaging to the interests of millions of consumers in the UK and in other EU countries.**

**We urgently call upon CEIOPS to reverse this decision. We agree that further work is needed to agree a harmonised application of the liquidity premium and would propose that a working group is established including representatives of CEIOPS, the industry and other experts to agree an appropriate approach.**

**CEIOPS's proposals would oblige insurers increasingly to back their liabilities with AAA-rated government bonds otherwise an ALM mismatch would be introduced.** However, only some EU governments are currently AAA-rated. In the Eurozone a significant proportion of the AAA-rated government bonds are supplied by the German and French governments. **The effects of applying this policy may include:**

- **Insurers will be likely to sell domestic government bonds in non 'AAA-rated countries' (e.g. Italy, Spain, Greece, Poland, Ireland, etc).** This will make it harder for these governments to borrow and will increase the price they must pay to issue debt.
- **Insurers will be likely to reduce investment in industry,** by reducing holdings of corporate bonds since they will be penalised with excessive volatility against AAA government bonds if they hold them to back their insurance liabilities. This will reduce supply, and increase the cost, of capital to industry.
- **France and Germany will see government bond prices artificially inflated. This will push down yield curves beyond their proper equilibrium and result in an inappropriate reduction in discount rates,** forcing companies to increase technical provisions across the board beyond an economic level, building in excessive prudence, and so increasing the price of insurance.
- **The use of only AAA-rated government bonds will introduce a pro-cyclical effect.** If a government is downgraded from AAA-rated to AA-rated then this will impact the yield curve but it will also prompt insurers to rapidly move out of investment in this government's bonds.

These are highly damaging consequences which arise from a mistaken interpretation that only AAA-rated government bonds can provide a risk-free discount rate. This ignores the reality that insurers need to invest in a wide range of high quality instruments (in part because there is an insufficient supply of government bonds of appropriate duration). **It is perfectly possible to arrive at a yield adjusted to remove any reward for credit risk without requiring insurers to invest only in AAA-rated government bonds.**

Trying to force insurers to use only AAA-rated government bonds would introduce significant distortions and would apply a form of "tax" on the holding of any other asset, whether high quality corporate bonds or even government bonds in the insurer's own country. This "tax" would be over and above any adjustment for credit risk and would in part reflect the increased volatility introduced by the CP40 requirement to match all liabilities in essence to only two

euro-countries whose government bonds are AAA-rated. A mis-match would be unavoidable, as the total amount of insurance liabilities would exceed the supply of these bonds available to insurers.

- **CP 42** – Article 85 d) Calculation of the risk margin

**We are concerned with CEIOPS' proposals in CP 42** which, in a number of important areas, imposes overly prudent margins that could result in a risk margin significantly higher than the one required by the Framework Directive. We would remind CEIOPS that Recital 31 requires a market-consistent valuation of technical provisions and this will not be achieved if prudent margins are incorporated into the risk margin. Furthermore, this will be to the detriment of policyholders who will have to bear this cost, which is not in the intention of the Solvency II Framework Directive.

**In particular, we believe diversification effects between lines of business should be recognised.** Otherwise this would unfairly penalise any diversified portfolios, in particular well diversified ones.

- In practice, insurance liabilities are not transferred to an empty shell. The vast majority of transactions result in the transfer of all the business in a (re)insurance undertaking. Where insurance liabilities are transferred as separate lines of business, synergies are achieved between the portfolio of the acquirer and the lines of business acquired. Therefore, we believe the reference undertaking should equal a mirror of own undertaking and diversification effects should taken into account. This would also provide the right incentives for an insurer to build a well diversified portfolio of business. This incentive would not exist if the empty reference approach is chosen.
- This would also be in line with ALM-studies and Investment strategies where the insurer does not assess each line of business separately but in conjunction with each other.
- Finally, we would highlight that from a practical point of view, the calculation of risk margin for LoBs would represent a significant calculation burden as this would require a breakdown of the SCR for underwriting, counterparty and operational risk per LoB as well as a projection until run-off of each portion of the SCR.

**We believe further work is needed on the calibration of the cost of capital rate**, currently set at 6%, in order to ensure it does not result in excess prudence. To this effect, we would suggest a mechanism for periodic review, perhaps every 5 years to make sure the calibration is appropriate.

#### **There should be no duplication of market risk in the risk margin**

We believe that CEIOPS have defined replicatable cashflows far too narrowly in CP 41 and so far too much falls to the risk margin. We believe that in most cases unavoidable (or unhedgeable) market risk will be a small residual. We also believe that in most cases it would be disproportionately complex to require undertakings to explicitly allow for it in the risk margin in particular when they are not using internal models.

For example, for a market consistent valuation of the With Profits fund using an economic scenario generator, some parts of the calibration would be in respect of "hedgeable market risk" and some parts would be in respect of "unavoidable market risk" (e.g. medium to long term implied volatilities calibrated to OTC derivatives). It is impossible to see how this could all be unpicked in practice and so under the CEIOPS approach this might require a risk margin on the whole business. Given that the asset prices already have a risk margin incorporated, then this will end up with a double count of the market risk.

#### **The calculation of the risk margin should allow for the loss absorbing nature of deferred taxes**

Deferred taxes to be incurred on future cashflows are an economic reality and have a loss absorbing capacity (e.g. you make lower future profits then less tax is paid) and therefore should be included within the calculation of the risk margin. If the deferred taxes under the

stressed scenario result in an increase in existing deferred tax assets, then an assessment should be made of their recoverability on a going-concern basis.

**We welcome the clarification that the risk margin should only cover the risks for the existing business.**

- **CP 44** – Article 85 g) Counterparty default adjustment to recoverables from reinsurance contracts and SPVs

**We disagree with CEIOPS requirement of an effective 40% cap on recovery rates.** We believe recovery rates will sometimes be higher (collateral, cash collateral) and this should not therefore become a benchmark. In practice, where it is well justified and documented, it should be possible to have a higher recovery rate. In addition, the 40% being proposed is the same as for the stressed conditions in CP51 and so appears to be unreasonably low. We would expect a higher recovery rate under best estimate conditions compared to stressed conditions.

We believe **the approach proposed for the calculation of the adjustment for counterparty default** (calculated separately at least for each line of business and each counterparty) **to be too burdensome** for a very limited added value. Undertakings should be able to calculate their adjustment for counterparty default at aggregate level, in particular where there is an important number of counterparties.

- **CP 46** – Article 97 and 99 Classification and eligibility of own funds
  - 1) We are particularly concerned by **the draconian restrictions imposed on capital eligibility** by CEIOPS which largely restrict regulatory capital to ordinary shares and retained earnings and ignore the significant benefits of hybrid capital instruments. The proposals overtly go beyond the requirements set out in the Framework Directive and the objective of policyholder protection but are not supported by clear evidence or rationale. We believe this has been driven by failings in the banking sector and could have very serious consequences in terms of the range of funding options and to the cost of raising capital for insurers.
  - 2) There is no mention of **grandfathering** in the CP, which is another great concern. Ensuring grandfathering once the Solvency II regime is implemented will be crucial to avoid any turbulence in the financial markets as the non-recognition of grandfathering would force insurers to raise new capital and significantly increase its cost. We would highlight in this respect that for banks, the current proposal is that any instruments not eligible under the new capital regime but recognised under current national frameworks will be eligible for their current capital treatment for a minimum of 10 years and a maximum of 30 years. We would expect similar rules to apply to the insurance sector. The need for clarity on this issue is very urgent as firms will need time to implement any changes to their capital planning.
  - 3) **Hybrid capital instruments** have been vital for the preservation of insurance companies' regulatory solvency. They have provided efficient and effective protection to policyholders throughout the financial turmoil. They should not be eradicated. Restricting tier 1 capital to ordinary shares and retained earnings would relegate to tier 2 (or tier 3) a range of instruments with proven loss absorbing capacity and would substantially increase the cost of insurance both for firms and policyholders in Europe without delivering material economic benefit. Furthermore, restrictions on the use of hybrid capital instruments would also result in an unfair treatment of investors in such instruments who would be placed in inferior position compared to ordinary shareholders. We also believe that deferred tax assets and other loss absorbing items should be given appropriate recognition as eligible capital, provided these instruments meet IFRS definitions and are signed off by the Board and the auditors.
  - 4) Combined with the restrictions on tier 1 and tier 2 capital eligibility, the setting of **automatic triggers at the level of the SCR** will also contribute to the substantial increase of the cost of capital for insurers as this would make instruments extremely

unattractive to investors. Whilst firms could have the option to set triggers at the level of the SCR we believe this should not be mandatory. Triggers should normally be set at the level of the MCR which is the trigger for run off rather than going concern recovery. Furthermore, we believe that setting automatic triggers at the SCR level is inappropriate. As well as making hybrids highly unattractive, this would implicitly introduce a third capital requirement by forcing undertakings to hold a significant buffer above the SCR to absorb short term volatility. We believe that having the SCR as a hard target is inconsistent with the Directive. This proposal would add an explicit margin of prudence to the capital requirement which is in direct contradiction to the principle of Solvency II. The practical effect of this will be to change the SCR into the real MCR.

- 5) We are concerned that **the requirements proposed in CP 46 are more onerous than what is suggested in the draft bank Capital Requirements Directive**. If adopted as proposed, CP 46 would result in an unlevel market playing field where insurers would be disadvantaged compared to banks. At the very least insurers should get equal treatment to that of banks in the recognition of capital instruments - given the lack of an equivalent liquidity risk, and the longer term nature of insurance there is, in fact a good case for allowing debt capital instruments to a far greater extent.
- 6) **Maturity of capital instrument should not be directly related to the insurer's liabilities** - Although setting some criteria for the term of the sub-debt does give an indication of the quality of the capital for solvency purposes, we disagree with CEIOPS desire to link this to the duration of the longest liability. Although the assets backing the technical provisions should have sufficient duration, the capital requirements are just a buffer against adverse experience as measured by a one year VAR approach. Therefore, we would argue that capital is a buffer against adverse experience (and with the inclusion of the risk margin there is incentive to recapitalise the firm) and so the duration of the liabilities are less relevant.
- 7) **We are concerned by the confusion in this paper between calculating capital and calculating the best estimate with an additional deduction based on calculating technical provisions, on a run off basis rather than going concern**. This confusion should be avoided as it risks double counting and is not in line with Article 76 (2) of the Framework Directive, which requires technical provisions to be a best estimate of future cashflows.
- 8) No recognition of value of share transfer from with-profit funds would also be very damaging.

Given the issues above, the big risk here is that all these changes have been made **but are untested via QIS**. In addition, these have not been tested under different economic circumstances.

- **CP 48** – SCR standard formula: Non Life underwriting risk

We are concerned that in aggregate this proposal may result in an **excessively conservative calibration**, especially if the requirements are mapped to internal models. In particular we believe there is a strong case for recognising geographical diversification. Omitting recognition would be a serious departure from the Directive and lead to substantial additional prudence.

We believe that **entity-specific parameters** for calculating premium and reserve risks are important, since standard scenarios often fail to capture proper risks.

We would also be concerned that the **calibration of non-life parameters**, now postponed to the 3rd wave, will introduce significantly more conservative calibration and so further layers of prudence.

We would also note that CP 48 proposes a significant number of **simplifications and their cumulative effect should be usefully combined**. This may produce significantly different results from those obtained by firms using internal models.

- **CP 49** – SCR standard formula: Life underwriting risk

**Several of the assumed shocks seem to be too high.** Several of the shocks have been increased from their QIS4 level and we do not believe this is appropriate. We are particularly concerned about the life catastrophe risk stress (from 1.5 in QIS4 to 2.5 per mille) and the disability/morbidity risk stress (from 35% in QIS4 to 50% increases in 1<sup>st</sup> year inception rates). The 50% morbidity/disability stress is too high. By contrast a typical rate in the UK would be between 25-30%. The QIS 4 rates are generally more appropriate.

Furthermore, we request clarification whether or not the **25% longevity stress** is applied to best estimate technical provisions that already allow for longevity improvements (which is usually the case in the UK). If in other countries the stress test is applied to best estimate without longevity improvements then there will not be a level playing field.

A **one-off shock for mortality/longevity is appropriate only as a simplification.** The calculation with a one-off shock for mortality/longevity is appropriate as a simplification and these simplifications should be retained. However, they are not appropriately risk sensitive to form part of the standard formula. The standard formula should be refined to allow at least for the duration of the products and consideration/analysis should be carried out to determine whether it would also be appropriate to allow for additional refinement such as an allowance for other characteristics such as age or sex of the policyholder.

The continuing use of a **base table stress only for mortality/longevity risk is not appropriate.** A trend base table and trend stress is more appropriate.

The **mass lapse module should apply to all policies.** Application to only those with positive surrender strain is not realistic.

- **CP 53** – SCR standard formula: operational risk

The **proposed operational risk calibration appears highly conservative.** The revised set of factors provided appears to be calibrated to a level in excess to the results of internal models provided to CRO forum. We agree that these results are a useful reference but are concerned that this is not necessarily a representative sample. Furthermore, where internal models have been provided it is still possible that conservative approximations have been made and therefore it is not necessary to add a further margin on these results.

The paper seems to be **confusing normal operational risk and tail events**, which is not appropriate. We do not agree with the increase in the cap from 30% to 60% (paragraph 3.39). We strongly disagree with the introduction of an additional blanket charge for investments deposited or externally managed with a single third party of 0.5% (paragraph 3.41).

If the proposals are implemented as they stand they could result in a **significant increase in the level of capital required** to cover operational risk in 'wholesale' unit-linked life companies. These business are particularly simple and carry very limited risk in practice. This will increase the cost of operating such a company, and will ultimately have to be passed on to policyholders.

- **CP 54** – SCR standard formula: Loss absorbing capacity of technical provisions and deferred taxes

**Any form of management actions which would fulfil the criteria set out by CEIOPS should be recognised.** CP54 appears very restrictive in some instances, limiting management actions to changes in bonus rates only (paragraph 3.86, 3.43 and 3.44), which contradicts current market practice and the approach suggested in CP32. Furthermore, it does not seem in line with currently existing UK policyholder protection rules (i.e. Treating Customers Fairly / Principles and Practices of Financial Management).

The requirement for **both gross and net calculations is an excessive calculation burden**. Furthermore the gross calculation is artificial and does not represent the risk exposure of the undertaking.

The **single equivalent scenario** approach could be sensible, but quantitative tests should be performed more widely before concluding on this approach.

- **CP 56** – Articles 118 to 124: Tests and standards for internal model approval

The ABI broadly welcomes this paper which provides some helpful advice and interpretation on the different tests firms will have to comply with for the approval of their internal model. We welcome in particular:

- **Use test** – We welcome the principles based approach taken by CEIOPS
- The framework set out for **internal models governance**.
- **Statistical quality standards** - We agree less rich probability distribution forecast should be allowed for.
- **Calibration** - We agree with that CEIOPS firms should have the choice to use a different time horizon from one year, provided it can demonstrate equivalence.

We are concerned however by the following:

- **The use of internal model should be encouraged and should not become so burdensome that it would discourage firms to move away from the standard formula.** Whilst the majority of the proposals seem sensible individually, taken as a whole, they could have significant operational implications in order to prepare, document and demonstrate compliance to the regulator.
  - **Potential excessive efforts for groups** (ensuring group-wide consistency of approaches, data, etc.)
  - **Use test - We would interpret the list of uses provided as general guidance** and not as binding requirements as this would not fit all companies (particularly for companies whose parent is outside the EU) and as the use test is an evolving test that will require flexibility when being implemented (as was seen when Basel II was applied). The list of uses should therefore be seen as an illustration of best practice.
  - **Some documentation and validation requirements seem unrealistic**, especially regarding expert judgement and external models
  - **Differences between financial reporting and solvency II should be minimised**
- **CP 58** – Supervisory reporting and public disclosure requirements

**The public reporting requirements appear overly detailed.** We are concerned that the proposed requirements for the SFCR in this consultation paper are too detailed and will constitute an unreasonable burden on the industry. We believe that the correct way forward is to reduce the amount (but not the scope) of the information in the SFCR while retaining the detail in the RTS. This is particularly important as the more detailed the SFCR the more likely insurers will be forced into an extended compliance exercise rather than focusing on risk management.

**The target audience is not clear.** Both the SFCR and the RTS should contain some information that is appropriate to the target audience. However, the SFCR should be a higher-level document aimed at investors and advisors and in delivering this it would be of little value to any but the most knowledgeable policyholder.

**Duplication of reporting between other reports and the SFCR and the RTS should be minimised.** We believe that as far as possible the information in the SFCR and the RTS should be derived from the report and accounts and think that a better and more flexible approach would be to use the accounting requirements (as long as they also fulfil the SII requirements) as a starting point.

**Duplication between solo and group levels should be minimised.** Double reporting on group and solo level should be avoided. For Groups, the proposed structure of the annual SFCR is for a single group report, with annexes provided for each EU supervised subsidiary undertaking. It would make sense to structure the RTS in the same way. In relation to groups it is also unclear to us from the CP how non-EEA subsidiaries should be treated in group SFCR/RTS.

**The requirements ask for reporting of information that is too sensitive,** e.g. information on internal models or level of detail required in the case of a monoline insurer.

**Links and references to other documents should be permitted.**

- **CP 60 – Assessment of group solvency**

**We are disappointed to see in this paper a general failure by CEIOPS to recognise the group structure in developing its proposals for supervision. The proposed advice fails to resolve several issues with regard to groups and it is still unclear how the group structure will be regulated. Furthermore, we regret to see an excessive reliance upon solo requirements rather than viewing the group as a coherent economic entity.**

**The paper is too vague about what constitutes a Group and the Supervisors have too much discretion over the scope of what is within the group.**

Much clearer direction on the interaction and boundaries between this consultation paper and other requirements (e.g. FCD) are required in order to assess which rules and principles would override others.

**We do not agree with CEIOPS that there are additional risks arising from a group** We consider that any group risks will be integral to the Pillar I assessment or identified in the ORSA under Pillar II. There is no need for a separate structure to further increase capital requirements.

**It could be read from CP 60 that CEIOPS considers the aggregation deduction method to be the default approach.** It is quite clear from the Framework Directive that the accounting-consolidation method is the default method. Wherever possible the group consolidation under Solvency II should follow accounting consolidation unless there are strong arguments for divergence. Any differences will impose significant administrative burdens and will reduce transparency.

**We believe that diversification effects should be included in the risk margin calculated at group level. If this is not done an additional layer of prudence will be added to the technical provisions.** Diversification benefits in own funds for non-EEA entities should also be allowed at group level.

**Further details are needed on participations in non-financial sectors.** We would like more details on the methodology to follow for participations in non-financial sectors. CEIOPS states that it should be the same at the group and at the solo level, but this does not explain how to consolidate.

We would recommend aligning definitions of ‘dominant’ and ‘significant’ influence with international accounting standards. As those are likely to evolve, changes in definitions from the IASB would have to be monitored and reflected in the Solvency II regime. We would imagine that CEIOPS could play a role in ensuring consistency here.

**Further work is needed on clarifying when own funds are fungible and transferable.** The concepts of “fungibility” and “transferability” and their interaction should be clarified further.

**The section on third countries is unclear.**

Consistency and clarification would be appreciated for principles applicable to insurance groups where the head of the group is outside the EEA in a third country that is not

equivalent. We believe that determination of equivalence needs to be made as soon as possible and at EU level not at supervisors' discretion, ensuring also that for non-equivalent territories, exclusion guidance is clear and can be consistently applied. We are therefore concerned that the advice appears to invalidate the purpose of equivalence assessments: for example, identical treatment is advocated for both equivalent and non-equivalent regimes when using the alternative method. When using the default method, the equivalence of a 3<sup>rd</sup> country regime also appears irrelevant.

**Appropriate harmonisation should be ensured**

We believe that supervisors should work towards this common goal and avoid unjustified differences in approach

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