



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL INSTITUTIONS
Insurance and Pensions

Brussels,

MARKT/H2/JH/CR/ad(2010)348677

CONSULTATIVE DOCUMENT

DRAFT CALL FOR ADVICE FROM CEIOPS

(THIRD COUNTRY EQUIVALENCE)

Purpose of this document

This document contains a Call for Advice from the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS). The Call for Advice is structured in two parts. The first part requests CEIOPS to provide final advice on which third country supervisory regimes should be included in the **first wave of equivalence assessments**. The deadline for this work is the **end of August 2010**. The second part requests CEIOPS to provide final advice on whether the **supervisory regimes of these first wave third countries satisfy the general criteria for assessing third country equivalence**. This part should be commenced only once the list of first wave third countries has been agreed with the European Commission and completed by the **end of July 2011**.

Table of contents

1.	BACKGROUND.....	4
2.	PART 1: IDENTIFICATION OF THIRD COUNTRY SUPERVISORY REGIMES TO BE INCLUDED IN THE FIRST WAVE.....	4
	2.1. Factors to be taken into account.....	4
	2.2. Methodology.....	5
	2.3. Stakeholder involvement.....	5
	2.4. Timetable.....	6
3.	PART 2: EQUIVALENCE ASSESSMENTS OF FIRST WAVE THIRD COUNTRIES.....	6
	3.1. Methodology.....	6
	3.2. Stakeholder involvement.....	7
	3.3. Timetable.....	7

CALL FOR ADVICE FROM CEIOPS: EQUIVALENCE

1. BACKGROUND

CfA.1 The overarching aim of the equivalence assessment should be to ensure that the third country supervisory regime ensures a similar level of policy holder and beneficiary protection as the one provided under Solvency II.

CfA.2 Solvency II adopts an economic risk-based approach to insurance regulation. The equivalence assessment provides a real opportunity to converge internationally towards a risk-based approach. The focus of equivalence assessments should therefore be on the substantive issue of whether the third country (re)insurance undertakings are subject to a risk-based supervisory regime.

2. PART 1: IDENTIFICATION OF THIRD COUNTRY SUPERVISORY REGIMES TO BE INCLUDED IN THE FIRST WAVE

CfA.3 The first part of this Call for Advice requests CEIOPS to provide fully consulted upon final advice on which third country supervisory regimes should be included in the first wave of equivalence assessments ("first wave third countries").

CfA.4 The aim of this process is to identify the third countries, where an equivalence assessment would be desirable before the introduction of Solvency II in 2012. It is foreseeable that further equivalence assessments will be carried out after 2012 and the Commission will seek CEIOPS involvement in that process as necessary.

2.1. Factors to be taken into account

CfA.5 The determination of which countries should be included in the first wave will necessarily take into account a broad range of factors. Below is a non exhaustive list of some of the factors that CEIOPS should take into account when determining the list of first wave third countries:

- Whether the third country currently has a supervisory regime that is fully risk-based or has taken measures to move towards such a system
- The materiality of an equivalence finding to EU insurance and reinsurance undertakings and their policy holders
- The number of related undertakings situated in the third country held by EU insurance and reinsurance undertakings
- The importance to the insurance market in the third country of the equivalence finding

- The existence currently of mutual recognition or equivalent arrangements between third countries and Member States

CfA.6 The final advice produced by CEIOPS should clearly set out the factors, in addition to those set out above, that have been taken into account in determining the list of first wave third countries.

2.2. Methodology

CfA.7 CEIOPS should in its final advice outline the methodology used to define the list of first wave third countries. For example, if data on the number of related undertakings situated in third countries is collected then the method for collecting this data should be clearly set out.

CfA.8 CEIOPS shall indicate whether an assessment should be made of the first wave third country:

1) solely in relation to equivalence under Article 172 of Directive 2009/138/EC (reinsurance undertakings with their head office in the third country);

2) solely in relation to Article 227 of Directive 2009/138/EC (group solvency of a participating undertaking in a third country insurance or reinsurance undertaking where deduction and aggregation is used to calculate group solvency);

3) solely in relation to Article 260 of Directive 2009/138/EC (third country group supervision); or

4) in relation to a combination of the aforementioned articles.

CfA.9 The Commission recognises that for some third countries the consideration of the factors outlined above will result in different conclusions with respect to the different articles and that therefore a flexible approach is needed. However, the Commission would encourage simultaneous assessments of equivalence in relation to all three articles relating to equivalence, Articles 172, 227 and 260 ("the relevant articles"), wherever possible and appropriate.

CfA.10 Notwithstanding the above, the assessment of equivalence in accordance with Article 227 and Article 260 in particular should be combined wherever possible. While the assessments involved in each case are different, both are likely to be relevant to large internationally active groups.

CfA.11 Where CEIOPS advises that an assessment should only be in relation to one or a combination of two of the three articles, then a clear rationale should be set out in the final advice explaining why this is considered to be the most appropriate approach.

2.3. Stakeholder involvement

CfA.12 As always, consultation and discussions with stakeholders are paramount to ensure a fully transparent process. CEIOPS should consult a wide range of

stakeholders, including the European insurance industry, third country supervisory authorities and the insurance industries of third countries.

2.4. Timetable

CfA.13 CEIOPS is asked to produce fully consulted upon final advice on the third countries to be included in the first wave by the end of August 2010.

3. PART 2: EQUIVALENCE ASSESSMENTS OF FIRST WAVE THIRD COUNTRIES

CfA.14 The second part of this Call for Advice requests CEIOPS to provide fully consulted upon final advice on the extent to which the first wave third countries satisfy the general criteria for assessing third country equivalence.

CfA.15 Although the Commission's proposal for level 2 implementing measures on the general criteria to be used for the assessment are unlikely to be published before the end of 2010, the assessment by CEIOPS should nonetheless be carried out using the draft proposed implementing measures that will have been tabled by the Commission for discussion at the Solvency Expert Group meetings. Once the Commission's proposal on the general criteria is published, CEIOPS should then check that the final published proposals are consistent with its advice.

CfA.16 The assessment should include an analysis of the extent to which the criteria are fulfilled. This assessment should not only examine the legislation in place in the third country, but also look at supervisory practices, implementation and application of that legislation within the third country's supervisory regime.

CfA.17 Based on this assessment the advice should indicate whether it is possible for the Commission to adopt a positive equivalence finding in relation to that third country based on the criteria.

CfA.18 In the event that CEIOPS forms the view that certain parts of the criteria are not met and therefore a positive equivalence finding in relation to that third country would not be possible, CEIOPS should identify which aspects of the third country's regime could be deemed equivalent to Solvency II and what additional steps would need to be taken by the third country supervisory regime in order for the remaining criteria to be met. CEIOPS should also indicate what concrete measures that third country has taken or plans to take to address these issues.

CfA.19 As outlined in section 3.3 below, the above assessment should be commenced once the final list of first wave third countries has been provided to CEIOPS. This list will also make clear whether the assessment should be carried out in relation to all or a combination of the relevant articles.

3.1. Methodology

CfA.20 CEIOPS in its final advice on the criteria for assessing third country equivalence outlined in an annex a high level proposed methodology to be

applied when assessing the equivalence of a third country supervisory regime.

CfA.21 CEIOPS should review and expand this methodology taking into account comments received from stakeholders during the consultation on the general criteria. A fully consulted upon methodology should be published by mid November 2010.

3.2. Stakeholder involvement

CfA.22 As above, CEIOPS should consult a wide range of stakeholders including the European insurance industry, third country supervisory authorities and the insurance industries of third countries.

3.3. Timetable

CfA.23 The second part of the call for advice should only be commenced once the Commission has made a final decision on the third country supervisory regimes that will be included in the first wave of assessments. CEIOPS can expect that this decision will be communicated to it by the end of October 2010. The Commission will communicate to CEIOPS at the same time which of the relevant articles the assessment should be in relation to.

CfA.24 Fully consulted upon final advice should be provided to the Commission by the end of July 2011.