



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL INSTITUTIONS

Insurance and Pensions

Brussels, March 2009

CONSULTATIVE DOCUMENT

CALL FOR ADVICE FROM CEIOPS

(CEIOPS' CONTRIBUTION TO THE IMPACT ASSESSMENT OF THE LEVEL 2 IMPLEMENTING MEASURES FOR SOLVENCY II)

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 requests CEIOPS to contribute to the Impact Assessment of the potential future Level 2 implementing measures for Solvency II by: a) identifying in collaboration with Commission Services the main policy issues and options; b) analysing and comparing those policy options; and c) collaborating with other parties involved in the Impact Assessment, in particular in the context of the external study to be commissioned by the Commission.

Table of contents

1.	PURPOSE.....	3
2.	BACKGROUND	3
2.1.	Impact Assessment of the Solvency II implementing measures	3
2.2.	Key parties involved in the Level 2 Impact Assessment.....	4
2.3.	General methodology	5
3.	CEIOPS' CONTRIBUTION TO THE IMPACT ASSESSMENT OF THE LEVEL 2 IMPLEMENTING MEASURES FOR SOLVENCY II	5
3.1.	Identification of policy issues and options	5
3.2.	Analysis and comparison of the various policy options.....	6
3.3.	Collaboration with other parties involved in the Impact Assessment.....	7
3.3.1.	<i>Collaboration in the context of the study to be undertaken for the Commission by an external contractor in 2009</i>	<i>7</i>
3.3.2.	<i>Collaboration with respect to other external contributions.....</i>	<i>9</i>
ANNEX I: LIST OF POLICY ISSUES AND OPTIONS FOR THE LEVEL 2 IMPACT ASSESSMENT OF SOLVENCY II		

CALL FOR ADVICE FROM CEIOPS: CEIOPS' contribution to the Impact Assessment of Level 2 implementing measures for Solvency II

1. PURPOSE

- CfA 1. Both the Commission and CEIOPS are committed to the principle of better regulation and agree that Impact Assessment (IA) is a key tool in this regard. To this end, both the Commission and CEIOPS (in collaboration with the other 3L3 Committees) have published guidelines explaining how their impact analysis will be conducted in practice^{1&2}.
- CfA 2. As part of the work on the development of Level 2 implementing measures for Solvency II, the Commission will, in line with its White Paper on Financial Services Policy³, conduct a full Impact Assessment, similar to the exercise performed for the Level 1 Directive. The decision to conduct a full Impact Assessment was supported by the Commission's IA Board.
- CfA 3. In order to ensure that there is no overlap between the impact assessment work carried out by the Commission and CEIOPS and that the work on policy development and impact analysis are properly integrated and aligned, this Call for Advice outlines CEIOPS' contribution to the impact assessment work for Level 2 implementing measures.

2. BACKGROUND

2.1. Impact Assessment of the Solvency II implementing measures

- CfA 4. As part of the work on the development of Level 2 implementing measures for Solvency II, the Commission will conduct a **full Impact Assessment**, similar to the exercise performed for the Level 1 Framework Directive, and produce an Impact Assessment report to accompany the Commission's proposal for the Level 2 implementing measures (foreseen for 2010)⁴.

¹ "European Commission Impact Assessment Guidelines", SEC (2005) 791, and following updates, http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_en.pdf

² Impact Assessment Guidelines For EU Lamfalussy Level 3 Committees http://www.ceiops.eu/media/docman/public_files/publications/standardsandmore/guidelines/3L3IAGUIDELINES.pdf

³ White Paper on Financial Services Policy 2005-2010 http://ec.europa.eu/internal_market/finances/docs/white_paper/white_paper_en.pdf

⁴ Letter of Director-General Jörgen Holmquist to CEIOPS regarding further work on Solvency II, 19 July 2007 (Plus annexes including list of implementing measures and timetable).

- CfA 5. The **structure** used for the Impact Assessment Report for technical (Level 2) implementing measures will be the same as that used for the Impact Assessment report accompanying the (Level 1) Framework Directive¹. It will therefore be comprised of four parts:
- an Executive summary;
 - a Main report;
 - (detailed) Analysis and comparison of the impact on different stakeholder groups of the various options identified for each Level 2 issue; and
 - Contributions on specific areas, issues or topics.
- CfA 6. In line with the Commission's Impact Assessment guidelines, the Main report will have seven sections: procedural issues (including the consultation with stakeholders), identification of the problem, definition of the objectives, identification of alternative policy options likely to achieve those objectives, analysis of the impacts of the various policy options on different groups, comparison of the options considering all the relevant positive and negative impacts, and assessment of the overall impact of the approach ultimately retained, plus future monitoring and evaluation. The assessment of the administrative costs related to the introduction of Solvency II will be addressed in the analysis of the various policy options, based on the external study contracted by the Commission (see § 3.3.1 below).
- CfA 7. The Impact Assessment Report for technical (Level 2) implementing measures will build on the same problem definition and objectives used for the Impact Assessment Report accompanying the (Level 1) Framework Directive Proposal, subject to elaboration of existing operational objectives where necessary².

2.2. Key parties involved in the Level 2 Impact Assessment

- CfA 8. A number of key parties will be involved in the Level 2 Impact assessment, each of them contributing to one or more parts of the Impact Assessment Report.
- The **European Commission**, which is responsible for the Impact Assessment of Level 2 implementing measures, will coordinate the various work-streams and will produce the Executive Summary and Main report, based on the contributions produced by CEIOPS following this Call for Advice, as well as contributions from other stakeholders on specific areas.
 - **CEIOPS'** contribution to the Level 2 Impact Assessment is described in **section 3** of this Call for Advice.

1 European Commission, "Executive Summary of the Impact Assessment Report accompanying Solvency II proposal", SEC(2007) 870, 10 July 2007; European Commission, "Impact Assessment Report accompanying Solvency II proposal" SEC(2007) 871, 10 July 2007.

2 European Commission, "MARKT/2516/07 - Draft outline of the Impact Assessment for the level 2 implementing measures of Solvency II", October 2007.

- With respect to the work to be conducted on specific areas, the European Commission will commission¹ an **external study** with special focus on the areas of mass risks, health insurance, long-term savings and retirement products, business to business insurance, and administrative costs.
- In addition, the **Joint Research Centre** of the European Commission is developing a quantitative model to assess the macroeconomic impact of Solvency II that will complement the qualitative assessment already performed for the Level 1 Framework Directive by the Commission's Directorate General for Economic and Financial Affairs (DG ECFIN).
- Furthermore, it has also already been agreed that the **European Central Bank** will re-run the econometric analysis done for the Level 1 Impact Assessment², based on more recent data, for the Level 2 Impact Assessment.

2.3. General methodology

CfA 9. The methodology to be adopted will be aligned with the European Commission's **Impact Assessment Guidelines**³. In particular, as regards the assessment of the administrative burden on insurance and reinsurance undertakings, the **EU Standard Costs Model**⁴ will be used.

3. CEIOPS' CONTRIBUTION TO THE IMPACT ASSESSMENT OF THE LEVEL 2 IMPLEMENTING MEASURES FOR SOLVENCY II

3.1. Identification of policy issues and options

CfA 10. Concerning the identification of the policy issues and policy options that should be analysed as part of the Level 2 Impact Assessment, CEIOPS and Commission Services have put together a "**List of policy issues and options**", which is annexed to this Call for advice (see Annex I). This list reflects the current state of discussions as regards the Level 2 implementing measures. The list should be viewed as a **living document**, which will be updated when necessary, in the light of the political negotiations and progress made by CEIOPS in the development of its advice on potential future Level 2 implementing measures. The list will ensure that the work of all parties involved in the Level 2 Impact Assessment is joined up and is based on analysis and comparison of the impact of the same set of policy options and issues.

CfA 11. The **policy options** for the Level 2 implementing measures must be strictly aligned with the Level 1 text of the framework Directive. For each issue, the different policy options should be mutually exclusive.

¹ See http://ec.europa.eu/dgs/internal_market/calls_en.htm for contract notice; call for tender available on request from ec-intmarket-contracts@ec.europa.eu

² European Central Bank, "Potential impact of Solvency II on financial stability", July 2007.

³ "European Commission Impact Assessment Guidelines", SEC (2005) 791, and following updates, http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_en.pdf

⁴ Annex 10. to Impact Assessment Guidelines: Assessing administrative costs imposed by legislation, http://ec.europa.eu/governance/impact/docs/sec_2005_0791_anx_10_en.pdf

- CfA 12. The **policy issues** are divided into "high level issues", "low level issues" and "other issues", depending on the type of analysis to be conducted as part of the external study to be commissioned by Commission Services: multi-dimensional analysis with respect to the "high level" issues and stand-alone analysis for the "low level" issues. "Other issues" will not be covered by the external study .
- CfA 13. The list of policy issues and options set out in Annex I is based on the Amended Directive Proposal adopted by the Commission in February 2008¹. Once the Level 1 Directive for Solvency II has been adopted by the European Parliament and Council, the list will be reviewed and updated where necessary.

Contribution requested from CEIOPS: CEIOPS is requested in the light of its continuing work on providing advice on potential future Level 2 implementing measures to regularly review, and update where necessary, the list of policy issues and options which is annexed to this Call for advice, in agreement with Commission Services. Where a major change to the list of policy issues and options is proposed by CEIOPS, Commission Services will consult with EIOPC members before the list is updated.

3.2. Analysis and comparison of the various policy options

Contribution requested from CEIOPS: CEIOPS is requested to provide a contribution, aligned with the structure of the "**B Annexes**" of the Level 1 Impact Assessment, on the analysis and comparison of the various policy options considered. This contribution will be provided along with CEIOPS' technical advice on potential future Level 2 implementing measures and therefore should be delivered by October 2009². The contribution should also be consulted upon at the same time and in the same manner as that technical advice.

Methodology to be followed by CEIOPS:

- CfA 14. For each of the policy options identified, CEIOPS should analyse their respective impacts. For each policy issue, the description of the various options and their impacts should be provided both in narrative form, as well as being presented in tables.
- CfA 15. The impacts should be analysed on three groups of **stakeholders**: industry, policyholders, and supervisors. Whenever relevant, CEIOPS will divide these into sub-groups of stakeholders with an appropriate level of **granularity**, depending on the issues considered e.g.: by line of business / sector (e.g. life vs. non life, direct insurance vs. reinsurance); by Member State or geographical area; by company dimension (e.g. SMEs vs. large firms, individual companies vs. groups); by policyholder groups (e.g. lower income household vs. higher income household, lower risk groups vs. higher risk groups, younger vs. older); by type of supervisory authority (e.g. non integrated vs. integrated).
- CfA 16. For each group of stakeholders, the pros and cons of the various options should be examined, identifying "winners" and "losers". The analysis should be **both qualitative**

¹ COM (2008) 119, http://ec.europa.eu/internal_market/insurance/docs/solvency/proposal_en.pdf

² Letter of Director-General Jörgen Holmquist to CEIOPS regarding further work on Solvency II, 19 July 2007 (Plus annexes including list of implementing measures and timetable).

and quantitative in nature. The quantitative analysis will primarily be based on the results of the third and fourth quantitative impact studies (**QIS3 & QIS4**). However, where CEIOPS has identified other relevant sources of readily available information, these should also be taken into account. The analysis should consider both potential positive and negative impacts and even where only a qualitative assessment is possible, an estimate of the order of magnitude of the impact, the likelihood of the impact (e.g. with a high/medium/low likelihood) and assessment of whether the impact will be permanent or not (e.g. short term/medium/permanent impact), direct or indirect, should be provided.

- CfA 17. These impacts will then be used as a basis for **comparison** of the different options. Firstly, for each policy issue, the relevant (operational) **objectives** will be specified by CEIOPS in agreement with Commission Services. Secondly, for each issue, the various policy options will be compared against the relevant objectives selected, and a final choice will be made based on the extent to which each option meets the objectives in terms of **effectiveness** (i.e. the extent to which the policy option delivers the objectives) and **efficiency** (i.e. the extent to which the overall societal benefits of the policy option outweigh the costs associated with that option, or at least minimise them), as well as other quality criteria, where appropriate (e.g. consistency across stakeholder groups, etc.).
- CfA 18. The analysis should be based on an assessment of the real impact of the change in requirements at EU level – i.e. the **move from Solvency I to Solvency II**. For that purpose, account should be taken of already existing requirements and practices both at national and company level (baseline scenario) including: legal obligations that stem directly from the Solvency I regime, obligations imposed through national laws or by supervisors, as well as practices companies voluntarily abide by for both internal purposes and external reasons ("business as usual" practices).
- CfA 19. The issue of **proportionality** should be addressed in the Impact analysis in two ways: 1) by considering the consistency of the impact on different stakeholder groups, and 2) where appropriate, via the use of operational objective 3.3.4 ("Introduce proportionate requirements for small undertakings").

3.3. Collaboration with other parties involved in the Impact Assessment

3.3.1. Collaboration in the context of the study to be undertaken for the Commission by an external contractor in 2009

- CfA 20. Commission Services is appointing an external contractor to undertake a study in 2009 which will focus on the areas of mass risks, health insurance, long-term savings and retirement products, business to business insurance, and administrative costs. The work of the contractor appointed by Commission Services to carry out the study will be steered by a "**Steering Committee**". The Steering Committee will include representatives from Commission Services, CEIOPS and the industry, as well as representatives from other stakeholder groups and organisations. Commission Services will provide EIOPC with regular updates on discussions in the Steering Committee.

Contribution requested from CEIOPS: CEIOPS is requested to nominate a representative or representatives to participate in the Steering Committee set up by Commission Services. In addition, the Contractor may contact CEIOPS Members to check the accuracy of its (the Contractor's) assessments of national specificities of (re)insurance markets and legal environment in each Member State, where it is strictly necessary to ensure the veracity of the contents of the assessment.

- CfA 21. As the analysis conducted for the Impact Assessment within the frame of this external study should be both qualitative and quantitative in nature and should, in particular, make maximum use of the results of the third and fourth quantitative impact studies (QIS3 and QIS4) as well as other relevant sources of quantitative data, it is important that the Contractor has access to aggregate information during the course of the study. In particular, the Contractor will have to analyse the respective impacts of the policy options considered on various stakeholder groups and sub-groups, with a sufficient level of granularity (e.g. by lines of business, by countries, by company dimension, by policyholder groups, etc.). In this regard, the data collected from QIS4 participants and EU supervisory authorities during the **QIS4 exercise** represents an important source of information. All requests from the Contractor for aggregate data collected from QIS4 participants and EU supervisory authorities will first be examined by the Commission Services before being forwarded to CEIOPS.

Contribution requested from CEIOPS: Upon receipt of a request for specific information from Commission Services, CEIOPS is requested to provide Commission Services with the necessary QIS4 data within a reasonable timeframe. That timeframe will not exceed 15 working days and will be agreed between Commission Services and CEIOPS before the request is sent. That data will be provided in aggregate form, such that individual undertakings cannot be identified. The information should also be provided in electronic format (i.e. excel spreadsheet) in order to facilitate statistical analysis.

Specific collaboration with respect to the area of administrative costs

- CfA 22. As regards the area of administrative costs, the Contractor will have to calculate the net administrative costs related to the introduction of Solvency II in accordance with the **EU Standard Cost Model**. Administrative costs are defined as the costs incurred by businesses in meeting legal obligations to provide information on their action or production. In particular, detailed information will have to be collected to determine the net administrative cost of supervisory reporting and public disclosure requirements under the new system.
- CfA 23. The net administrative costs will have to be calculated for a number of different policy options – i.e. with respect to each of the different policy options identified regarding supervisory reporting and public disclosure. The analysis will have to be conducted with a sufficient level of granularity. In particular, the assessment of the impact will be broken down by size of insurer and by Member State. In addition, as well as analysing the situation at solo level, analysis of the impact on cross-border groups will also be conducted.
- CfA 24. A distinction is made between the information that would be (or is) collected and processed by businesses even in the absence of the legislation for both internal purposes and external reasons, on the one hand, and the information that is solely collected because of a legal obligation, on the other hand. The former are called "business as

usual" costs (BAU) whilst the latter are referred to as administrative burdens. Added together the administrative burdens and BAU costs are the administrative costs. The Contractor will have to clearly distinguish between administrative burdens and BAU costs.

CfA 25. The estimation of administrative costs has to be conducted against a baseline defined by the **present information obligations** that companies comply with. These include:

- legal obligations that stem from the Solvency I regime;
- Obligations imposed through national laws and supervisors;
- stricter than necessary rules companies voluntarily impose on themselves and which can be defined as BAU; and
- stricter than necessary rules companies comply with according to the wishes of a third party (not being an administration or executive/supervisory body) and which can be defined as BAU.

CfA 26. The Contractor will then have to assess the changes in administrative costs related to each of the **various implementation options** designed by CEIOPS as part of its advice on potential future level 2 implementing measures, in particular with respect to supervisory reporting and public disclosure.

Contribution requested from CEIOPS: CEIOPS is requested to provide the Contractor with the following:

- for each Member State, a public source of information (e.g. Internet address) where the Contractor will be able to find the supervisory reporting and public disclosure requirements currently in force in that Member State;
- for each Member State, a contact point in the supervisory authority to allow the Contractor to seek clarification on specific items of those supervisory reporting and public disclosure requirements, where necessary;
- the list of policy options considered as part of CEIOPS Level 2 advice - as referred to in § 3.1 above - with respect to the policy issues of supervisory reporting and public disclosure.

3.3.2. *Collaboration with respect to other external contributions*

CfA 27. CEIOPS is also encouraged to exchange views and cooperate with other parties involved in the Level 2 Impact Assessment (e.g. ECB, FIN-USE, industry, etc.) as appropriate.

CfA 28. In particular, CEIOPS is invited to provide feedback on the analysis carried out by the **Joint Research Centre** of the European Commission with respect to the macro-economic impact of Solvency II.