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Dr. Thomas Steffen
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Dear Thomas,

As you are aware Finance Ministers acknowledged at the last ECOFIN meeting on 5 May 2009 the positive vote by the European Parliament on 22 April 2009 concerning the Solvency II Framework Directive.

I know you agree with me that the crisis has demonstrated that we need Solvency II more than ever and the necessity of updating and modernising the European insurance regulatory framework in order to introduce a more harmonised risk based supervisory regime.

I would like to take this opportunity to thank you for the enormous efforts CEIOPS have made over the last few years, in helping to develop the new regulatory framework that has now been endorsed by both the European Parliament and ECOFIN.

Now that the Solvency II Framework Directive has been adopted I thought it would be helpful to provide you with an update of how we see the rest of the project panning out and in particular CEIOPS' on-going work related to the development of level 2 implementing measures and level 3 supervisory guidance.

Specifically, this letter and accompanying annexes include information regarding:

1. the timetable for the development of level 2 implementing measures and level 3 supervisory guidelines;
2. an updated list of level 2 implementing measures;
3. the structure and content of CEIOPS' advice on level 2 implementing measures;
4. impact assessment;
5. the fifth quantitative impact study (QIS5);

6. third country equivalence; and
7. hearings.

1. Timetable for the development of level 2 implementing measures and level 3 supervisory guidelines

It is the Commission's intention to have any necessary level 2 implementing measures in place at least 12 months before the new regime becomes operational, in order to give Member States sufficient time to transpose the new solvency regime into national law, and level 3 supervisory guidelines related to those measures in place at least 9 months before the new regime enters into force.

To meet this timetable (See Annex 1 – Updated Solvency II timetable), the Commission will need to formally adopt proposals for level 2 implementing measures by the end of 2010, in order to provide sufficient time for EIOPC to consider the proposals and issue an official opinion, the proposals to be translated and for Parliament to scrutinise the proposals once EIOPC has issued its opinion.

We anticipate that following receipt of CEIOPS' final advice on level 2 implementing measures, the Commission will need about 12 more months to prepare proposals for level 2 implementing measures.

This is based on the assumption that the Commission can already start discussing the legal form and structure of the proposals with Member State experts and can begin drafting the substance of the proposals in areas where CEIOPS' work is already well advanced after the summer.

This implies that we would like CEIOPS to provide us with their final advice on level 2 implementing measures by the **end of January 2010** at the latest, except for advice on the general criteria to be used to assess third country equivalence, an issue which is dealt with separately below.

Previously, we had asked CEIOPS to work to a deadline of October 2009 for its final advice on level 2 implementing measures. We note that CEIOPS launched a first round of consultation on draft advice in March 2009 and intend to launch a second round of consultation in July 2009.

We therefore expect CEIOPS' final advice on the vast majority of areas covered in this first and second round of consultations to be delivered by October 2009, as the negotiations in Council and Parliament in those areas have not resulted in major changes to the Commission's original proposal. Given the large number of papers being consulted on in the second round of consultations and that the consultation will take place over the summer, we would recommend that stakeholders are given at least 10 weeks to provide comments on this round of consultation.

However, we recognise that in other areas (e.g. quantitative limits for own funds, treatment of ring fenced funds, pillar 1 and pillar 2 dampeners, treatment of credit securitisations, the duration based equity approach and criteria for supervision for centrally managed groups) substantive changes have been made to the Commission's original proposal and that a third round of consultation may need to be launched in October 2009 with a view to providing final advice on these areas by the end of January

2010. Whilst recognising that timing will be tight for this round of consultation, we would recommend that stakeholders are given at least 6 weeks to provide comments in order to ensure that you receive good quality feedback.

With respect to level 3 supervisory guidelines, related to those issues dealt with in CEIOPS level 2 advice, we would suggest that CEIOPS work towards publishing draft supervisory guidelines for consultation in the first half of 2011 with a view to finalising and publishing the guidelines by the end of 2011, taking into account any changes made to the Commission's proposals for level 2 implementing measures following discussions in EIOPC and Parliament.

2. Updated list of level 2 implementing measures

All CEIOPS' work on the development of level 2 implementing measures and level 3 supervisory guidelines going forward should be based upon and in line with the Directive text adopted by the European Parliament and the Council.

Where CEIOPS has specific questions regarding the interpretation of the text of the Directive or if there are differences of view within CEIOPS on a specific point of interpretation, then CEIOPS should consult the Commission with a view to obtaining an agreed interpretation of the adopted text for the purposes of preparing its advice on implementing measures and supervisory guidelines.

In some areas, it is already clear that an implementing measure will be needed before the new regime enters into force. In other areas, where an implementing measure is foreseen, it may be possible to proceed, at least initially, with level 3 action fostering supervisory convergence (e.g. through the development of common practice and supervisory guidance) without introducing implementing measures.

These two cases are normally identified in the Directive by the use of the word "shall" and "may" in the various Articles that provide the Commission with powers to adopt implementing measures (See Annex 2 – List of Implementing measures in the Solvency II Framework Directive).

CEIOPS' final advice on level 2 implementing measures should cover all "shall" implementing measures. When preparing advice in these areas, CEIOPS should not restrict itself simply to the preparation of level 2 measures, but should also consider what level 3 guidance should be developed in order to ensure strong supervisory convergence, knowing that the ultimate split between level 2 and level 3 will be decided by the Commission in close consultation with the Council and the European Parliament.

3. Structure and content of CEIOPS' advice

For each point (or sub-point) of an implementing measure, CEIOPS' advice should include: 1) an introduction, describing the issue covered by the measure as well as its scope of application; 2) key extracts from the Directive, which are directly relevant for the issue being examined, including the legal basis for the measure; 3) explanatory text; 4) advice that clearly explains what undertakings, supervisors, and/or Member States will be expected to do in order to comply with the measure (See Annex 3 – Content and structure of CEIOPS' advice).

The advice should be both concrete and comprehensive, covering all potential aspects of a future measure. Where several reasonable implementation alternatives exist and where

it is considered desirable to provide undertakings with different options, all alternatives should be presented.

4. Impact assessment

Where CEIOPS' advice deals with a point (or sub-point) of an implementing measure covering an issue included in the latest version of the List of Policy Issues and Options (See Call for advice from CEIOPS on its contribution to the impact assessment and the updated annex to that call for advice) the advice should also include an annex covering the Impact Assessment contribution from CEIOPS with respect to that issue, both in narrative and table format.

The revised List of Policy Issues and Options annexed to this letter (Version 2) is an updated version of the list issued with the Call for Advice from CEIOPS regarding its contribution to the level 2 impact assessment (Version 1). The changes made to the list reflect the changes that have been made to the Commission's original proposal during negotiations in Council and Parliament. In particular, new issues dealing with quantitative limits for own funds, the pillar 1 dampener and the pillar 2 dampener have been introduced and the issues dealing with the calculation of the MCR and Group support have been removed.

If going forward CEIOPS wishes to make further changes to the List of Policy issues and options annexed to this letter, then these changes should first be agreed with us. Where Commission or CEIOPS proposes major changes to the List of Policy issues and options, EIOPC will be consulted before agreeing the changes. Whenever the list is updated, we will publish the new version on our web-site.

5. QIS5

In addition to the impact assessment work being conducted by both the Commission and CEIOPS on level 2 implementing measures, we believe that it is important that a further complete calibration exercise is run before level 2 implementing measures are adopted. This calibration exercise will take the form of a fifth Quantitative Impact Study (QIS5). We consider that the most appropriate time to run QIS5 would be between August and mid-November 2010, in order to ensure that the specifications are aligned with the Commission's proposal for level 2 implementing measures and that the results will be available before level 2 implementing measures are finally adopted.

This timing implies that we would need CEIOPS to provide us with a complete draft QIS5 technical specification along with a comprehensive calibration paper by the end of March 2010, in order to give the Commission Services time to consult EIOPC, the European Parliament and other stakeholders before updating the specifications in collaboration with CEIOPS and publishing the final QIS5 technical specification in mid June 2010. This would give CEIOPS six weeks to build and pre-test solo and group spreadsheets before publishing them at the end of July 2010. Solo results would need to be submitted by undertakings to national supervisors by the end of October 2010 and group results by mid November 2010.

As was the case in QIS4, group submissions should be sent to a European centralised database for analysis by CEIOPS. We would recommend to CEIOPS that solo submissions should also be sent to this database as this will help to ensure that the results of QIS5 can be relied upon for the purposes of checking that the level 2 implementing measures are appropriately and fairly calibrated and that the impact of any changes

suggested by EIOPC or Parliament can be rapidly assessed. In this regard we would ask CEIOPS to start discussions with the industry with a view to developing secure processes and procedures for the storage and analysis of solo and group submissions in the centralised database. We would recommend that all solo and group submissions should be sent by national supervisors to the centralised database by the end of December 2010, in order to provide sufficient time for CEIOPS to analyse the results and draft and publish the final QIS5 report by the end of April 2011.

We would like all EU undertakings, which will be subject to Solvency II once it enters into force in October 2012, and all insurance groups with EU parents to participate in QIS5. The Commission will approach industry representatives with a view to securing a commitment of a very high participation in the QIS5 exercise and would ask CEIOPS members to support those efforts. As the technical specifications for QIS5 should be aligned with the Commission's proposal for level 2 implementing measures, the technical specification should not test different options. The technical specification should also be a stand-alone document - i.e. it should not need to be supplemented by further national guidance.

6. Third country equivalence

With respect to third country equivalence, following negotiations with Council and Parliament it has been agreed to split the assessment process into two phases. The first phase will deal with the development of general criteria to be used in the assessment of the equivalence of third country regimes. These general criteria will be subject to the scrutiny of Parliament. The second phase will involve the assessment of individual third country's supervisory regimes. These individual assessments will take the form of a Commission decision. We believe that CEIOPS has an important role to play in both phases.

Given this change to the procedure for the assessment of third country equivalence, we would like CEIOPS to provide us with fully consulted upon final advice by March 2010 on the general criteria they believe should be used to assess third country equivalence, in order to allow the Commission to be in a position to formally adopt proposals for level 2 implementing measures by the end of 2010 following consultation with all stakeholders.

With respect to individual assessments, following delivery of CEIOPS' advice on general criteria, the Commission will, in consultation with all stakeholders, identify those third countries that should be looked at in the first wave of individual assessments of third country supervisory regimes. The Commission will then ask CEIOPS to provide fully consulted upon final advice by July 2011 at the latest in order to allow for sufficient time for decisions to be adopted, following further consultation by the end of June 2012.

7. Hearings


The Commission plans to hold a public hearing in Brussels in the first half of 2010 in order to provide all stakeholders with the opportunity to comment on future level 2 implementing measures, QIS5 draft technical specifications and the impact assessment.

In addition, the Commission plans to organise a number of stakeholder meetings with CEIOPS, the main industry trade associations and professional bodies in order to provide a forum for the main stakeholders and experts to discuss in detail the key technical issues arising during the development of level 2 measures.

Let me close by thanking you and your colleagues once again for all your good work on this important project and by asking you to confirm your agreement with the suggested deliverables and timing set out in this letter by the end of June 2009.

Yours sincerely,

And yours,


Jörgen HOLMQUIST

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