

**CEIOPS' Advice for  
Level 2 Implementing Measures on Solvency II:  
Supervision of Risk Concentration and  
Intra-Group Transactions**

(former CP61)

**October 2009**

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# 1. Introduction

- 1.1. Membership of an insurance group creates a number of potential benefits for a solo entity. This includes the pooling and diversification of risk, intra group financing and integrated governance structures. However, group membership also presents a range of risks to a solo entity. This includes, for example, direct or indirect risk exposures to other group entities, conflicts of interest and inadequate risk assessment.
- 1.2. Risk Concentration (RC) and Intra-group Transactions (IGT) are examples of intra-group relationships that can influence the risk profile of a solo entity. For prudential purposes, an understanding of RC and IGT is important in assessing the benefits and risks to an insurer via its membership of a group and its relationships with other entities inside and outside the group. RC and IGT also provide a mechanism for assessing risks arising at the level of the group (e.g. contagion risk).
- 1.3. The issue from a supervisory perspective is how RC and IGT are captured and managed within a group supervision framework in order to enhance supervision at solo and group level. In particular, an assessment of how RC and IGT are addressed and reported within the broader Pillar II framework.
- 1.4. The financial crisis has highlighted the high impact RC and IGT can have on the financial well-being of groups. As a result, CEIOPS decided that there is merit in an own initiative paper to develop its initial views on the supervision of RC and IGT under Solvency II. This paper sets out CEIOPS' advice for the purposes of facilitating Level 3 guidance and, potentially, the development of Level 2 implementing measures if requested by the European Commission.

## 2. Extract from Level 1 Text<sup>1</sup>

### 2.1. Recital 109

*Risk concentrations and intra group transactions can affect the financial position of insurance or reinsurance undertakings. The supervisory authorities should therefore be able to exercise supervision over such risk concentrations and intra group transactions, taking into account the nature of relationships between regulated entities as well as non regulated entities, including insurance holding companies and mixed activity insurance holding companies, and take appropriate measures at the level of the insurance or reinsurance undertaking where its solvency is or may be jeopardised*

### 2.2. Article 13(19)

*'intra-group transaction' means any transaction by which an insurance or reinsurance undertaking relies either directly or indirectly on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment.*

### 2.3. Article 244 (Supervision of risk concentration)

*Supervision of the risk concentration at group level shall be exercised in accordance with paragraphs 2 and 3, Article 246 and Chapter III.*

*The Member States shall require insurance and reinsurance undertakings or insurance holding companies to report on a regular basis and at least annually to the group supervisor any significant risk concentration at the level of the group. The necessary information shall be submitted to the group supervisor by the insurance or reinsurance undertaking which is at the head of the group or, where the group is not headed by a insurance or reinsurance undertaking, by the insurance holding company or by the insurance or reinsurance undertaking in the group identified by the group supervisor after consultation with the other supervisory authorities concerned and with the group. The risk concentrations shall be subject to supervisory review by the group supervisor.*

*The group supervisor, after consultation with the other supervisory authorities concerned and the group, shall identify the type of risks insurance and reinsurance undertakings in a particular group shall report in all circumstances. When defining or giving their opinion about the type of risks, the group supervisor and the other supervisory authorities concerned shall take into account the specific group and risk management structure of the group. In order to identify significant risk concentration to be reported, the group supervisor, after consultation of the other supervisory authorities concerned and the group, shall impose appropriate thresholds based on solvency capital or technical provisions or both. When*

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<sup>1</sup> Latest version from 19 October 2009 available at <http://register.consilium.europa.eu/pdf/en/09/st03/st03643-re01.en09.pdf>

*reviewing the risk concentrations, the group supervisor shall in particular monitor the possible risk of contagion in the group, the risk of a conflict of interests, and the level or volume of risks.*

*The Commission may adopt implementing measures, as regards the definition and identification of a significant risk concentration and the reporting on such a risk concentration, for the purposes of paragraphs 2 and 3. Those measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 301(3).*

2.4. *Article 245 (Supervision of intra-group transactions)*

*Supervision of intra-group transactions shall be exercised in accordance with paragraphs 2 and 3, Article 246 and Chapter III.*

*The Member States shall require insurance and reinsurance undertakings or insurance holding companies to report on a regular basis and at least annually to the group supervisor all significant intra-group transactions by insurance and reinsurance undertakings within a group, including those performed with any natural person linked to any undertaking within the group by close links. In addition, Member States shall require reporting of very significant intra-group transactions as soon as is practicable. The necessary information shall be submitted to the group supervisor by the insurance or reinsurance undertaking which is at the head of the group or, where the group is not headed by an insurance or reinsurance undertaking, by the insurance holding company or by the insurance or reinsurance undertaking in the group identified by the group supervisor after consultation with the other supervisory authorities concerned and with the group. The intra-group transactions shall be subject to supervisory review by the group supervisor.*

*The group supervisor, after consultation with the other supervisory authorities concerned and the group, shall identify the type of intra-group transactions insurance and reinsurance undertakings in a particular group must report in all circumstances. Article 244(3) shall apply by analogy.*

*The Commission may adopt implementing measures, as regards the definition and identification of a significant intra-group transaction and the reporting on such an intragroup transaction, for the purposes of paragraphs 2 and 3. Those measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 301(3).*

2.5. *Article 246(1)(2)(3) (Supervision of the system of governance)*

*The requirements set out in TITLE 1, Chapter IV, Section 2 shall apply mutatis mutandis at the level of the group. Without prejudice to the first subparagraph, the risk management and internal control systems and reporting procedures shall be implemented consistently in all the undertakings included in the scope of group supervision pursuant to points*

*(a) and (b) of Article 213(2) so that those systems and reporting procedures can be controlled at the level of the groups.*

*Without prejudice to paragraph 1, the group internal control mechanisms shall include at least the following:*

- adequate mechanisms as regards group solvency to identify and measure all material risks incurred and to appropriately relate eligible own funds to risks;*
- sound reporting and accounting procedures to monitor and manage the intra-group transactions and the risk concentration*

*The systems and reporting procedures referred to in paragraph 1 and 2 shall be subject to supervisory review by the group supervisor, in accordance with the rules laid down in Chapter III.*

### 3. Advice

- 3.1. CEIOPS considers that the supervision of RC and IGT should be built on the principles of the Insurance Groups Directive (IGD) and be consistent with the Financial Conglomerates Directive (FCD).
- 3.2. However, there are some key differences between the Level 1 text and the IGD. For example:
- The scope of transactions is not specified in the Level 1 text;
  - The Level 1 text states that the supervisors shall monitor in particular three specific issues (contagion, conflicts of interest and the level or volume of risks);
  - The Level 1 text distinguishes between “*significant*” RC and IGT and “*very significant*” IGT, which raises the issue of how and where these concepts should be defined;
  - The supervision of RC and IGT is subject to Level 1 requirements on the system of governance, including the supervisory review process. Therefore, supervisors need to consider how RC and IGT are captured in the group governance framework;
  - The Level 1 text states that the group supervisor, in consultation with other supervisors, “*shall*” identify the specific types of RC and IGT that must be reported. In addition, the group supervisor, in consultation with other supervisors, “*shall*” impose appropriate thresholds based on solvency capital or technical provisions or both. Therefore, the Level 1 text places a clear obligation on supervisory authorities to work together in developing the supervision of RC and IGT in accordance with Article 248(1)(c).
- 3.3. CEIOPS considers that the supervision of RC and IGT under Solvency II is designed to be more comprehensive than the current regime under the IGD (RC is not referred to in the IGD). This demands an enhanced RC and IGT framework for insurance group supervision. In saying that, CEIOPS considers that any advice should take into account the findings and recommendations of the FCD Review.

### ***Intra-group transactions***

#### **Definition, Scope and Types of IGT**

- 3.4. IGT are defined in Article 13(19) of the Level 1 text as:

*"intra-group transaction' means any transaction by which an insurance or reinsurance undertaking relies either directly or indirectly on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the*

*fulfilment of an obligation, whether or not contractual, and whether or not for payment.”*

- 3.5. CEIOPS notes that this is consistent on a cross-sectoral basis with Article 8 of the FCD.<sup>2</sup>
- 3.6. The Level 1 text does not define the scope of IGT. However, under Article 8(1) of the IGD, the scope of supervision includes transactions between:
- a) a (re)insurance undertaking<sup>3</sup> and:
- a related undertaking of the (re)insurance undertaking;
  - a participating undertaking in the (re)insurance undertaking;
  - a related undertaking of a participating undertaking in the (re)insurance undertaking;
- b) a (re)insurance undertaking and a natural person who holds a participation in:
- the insurance undertaking, the reinsurance undertaking or any of its related undertakings;
  - a participating undertaking in the (re)insurance undertaking;
  - a related undertaking of a participating undertaking in the (re)insurance undertaking.
- 3.7. CEIOPS considers that the scope of IGT referred to in Article 8(1) of the IGD should continue under Solvency II. Consistent with Recital 72, CEIOPS considers that the type of entities that may fall within the scope of a related undertaking include, in particular:
- Third country (re)insurance undertakings;
  - Other regulated entities (e.g. credit institutions);
  - Unregulated entities (e.g. holding companies).
- 3.8. The enlarged scope reflects the desire to consider a wider range of transactions that may exist within the group. The reference to other regulated entities and unregulated entities recognises the potential importance that transactions involving these entities may have on the financial position of insurance undertakings. However, CEIOPS recognises the importance of the proportionality principle in establishing the scope of a group's reporting requirements for RC and IGT. This is particularly relevant for large groups that have numerous separate legal entities.

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<sup>2</sup> CEIOPS is aware that RC and IGT form part of the current FCD review and that any future advice may be influenced by the outcome of that review.

<sup>3</sup> The Reinsurance Directive (2005/68/EC) amended the IGD to include reinsurance undertakings.

- 3.9. The IGD also lays out the specific types of transactions that are subject to supervision. CEIOPS proposes that the types of IGT referred to in Article 8(1) of the IGD should apply in the application of Article 245. In the IGD, they include in particular (non exhaustive list):
- Loans;
  - Guarantees and off-balance sheet transactions;
  - Elements eligible for the solvency margin;
  - Investments;
  - Reinsurance and retrocession operations;
  - Agreements to share costs.
- 3.10. CEIOPS considers that supervisors should also pay particular attention to the following types of IGT (non exhaustive list):
- Dividends, coupons and interest payments;
  - The transfer of own funds from undertakings to parent undertakings;
  - The transfer of own funds from parent undertakings to undertakings;
  - The payment of fees and commissions;
  - The costs associated with IGT (e.g. reinsurance costs);
  - Transactions involving intra-group special purpose vehicles;
  - Agreements for the centralised management of assets and liquidity in the group.
- 3.11. CEIOPS considers that the reporting of IGT should account for the impact of a winding up of each relevant entity of the group on the viability of the group and the effect on policyholders.
- 3.12. CEIOPS considers IGT should be carried out at arms length consistent with the principles in the Level 1 text for the protection of policyholders. Without prejudice to Member State treatment of IGT, CEIOPS considers that in exceptional circumstances where IGT are not carried out at arms length<sup>4</sup>, those transactions shall be reported to the group supervisor at least annually.

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<sup>4</sup> Transactions not carried out according to the arm's length principle may, for example, breach national company or tax laws.

## IGT and Governance

- 3.13. The assessment of IGT under the IGD is focussed on financial transactions between entities in a group (e.g. inter-company loans). CEIOPS considers that this should remain the focus under Solvency II and that, as noted above, the range of financial transactions that may be reported could be enlarged, particularly in light of some of the lessons learnt from the financial crisis.<sup>5</sup>
- 3.14. However, the supervision of IGT is also placed firmly within the group Pillar II requirements on systems of governance. Article 249 states that the supervision of IGT shall be exercised in accordance with paragraphs 2 and 3 of Article 246 and chapter III. The reference to Article 250 refers to the monitoring and management of RC and IGT within a group's internal control mechanisms and measures to facilitate group supervision.
- 3.15. CEIOPS interprets the reference to the group governance requirements to mean that the supervision of IGT encompasses a wider set of issues than just the reporting of financial data. Indeed, it implies that RC and IGT must be assessed within the broader Pillar II framework. CEIOPS notes that information on IGT may be sourced from other existing requirements, for example, the group systems of governance. Therefore, information on IGT may already exist and need not be replicated or necessarily reported separately (see section on reporting).
- 3.16. To take account of this, CEIOPS considers that the reporting of IGT should capture the qualitative inter-linkages between group entities, particularly between parent and subsidiary undertakings. Therefore, the supervision of IGT can be seen as one tool that can be used in the broader assessment of intra-group relationships and their impact on the financial position of different entities.<sup>6</sup>
- 3.17. To that end, CEIOPS considers that a description of how a group's governance systems account for IGT should be included in the annual reporting at group level. This is consistent with Article 250(2)(b) which refers to the reporting and accounting procedures to monitor and manage IGT and RC. Similarly, CEIOPS notes that this qualitative information may be sourced from other existing Pillar II requirements.
- 3.18. Information on the governance of IGT may assist supervisors to better understand a regulated entity's risk exposures to other parts of the group through intra-group relationships. It may also enhance the group supervisor's ability to identify group-specific risk that may be difficult to recognise through the reporting of purely financial transactions.

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<sup>5</sup> <http://www.ceiops.eu/media/files/publications/reports/CEIOPS-SEC-107-08-Lessons-learned-from-the-crisis-SII-and-beyond.pdf>

<sup>6</sup> The IWCFE noted that the supervision of IGT can assist supervisors by widening the scope of group supervision. See IWCFE 08/30 "Supervision of Risk Concentrations and Intra-group Transactions: Practical Guidance Note".

## **Risk concentration**

### **Definition, Scope and Types of RC**

3.19. The Level 1 text defines 'Concentration risk' in Article 13(35) as:

*"...all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position of insurance and reinsurance undertakings".*

3.20. CEIOPS notes that this definition is consistent with the definition of 'Risk concentration' in Article 2(19) of the FCD<sup>7</sup>. However, the FCD definition goes on to state:

*"such exposures may be caused by counterparty risk/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks."*

3.21. As there is no specific definition of 'risk concentration' in the level 1 text, the FCD definition is useful for the purpose of developing this advice.

3.22. CEIOPS acknowledges that further detail is required on the concept of RC and its application in practice. CEIOPS considers that further work may be done at level 3 and should take into account any future CEIOPS work on stress testing and the findings of the FCD Review.

3.23. CEIOPS considers it useful to explain the difference between RC and concentration risk. 'Risk concentration' is a broad term that covers single risk exposures and combinations of risk exposures that may arise in a group. RC within a specific risk category are usually referred to as "concentration risk". For example, concentrated exposures may arise with reference to specific counterparties or specific industry sectors or countries.<sup>8</sup>

3.24. RC requires an assessment of the interrelationships and interdependencies between different risk categories. They can have an important impact on the assessment of risk at group level, but as noted by the Joint Committee on Financial Conglomerates (JCFC), this is often a difficult and complex task. The Financial Stability Forum also noted that some financial conglomerates are striving to assess RC across risk categories ("horizontal view").<sup>9</sup> CEIOPS considers that this should be taken into account when developing the RC framework for insurance groups. CEIOPS also notes that modelling may play a useful role in understanding the interrelationships between different risk types.

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<sup>7</sup> According to the definition in article 2.19, risk concentration refers to all exposures "borne by entities within a financial conglomerate" (FC) which may affect the solvency of regulated entities in the FC. The JCFC found that the expression "entities in the FC" seems to include all the undertakings, within the conglomerate, regulated and unregulated, subsidiaries and non-controlled participations (associates). The inclusion of associates stems indirectly from the reference to Articles 2(14) and 2(12). The scope of the "group" also included the participations defined in the Article 2(11) (i.e. participations within the meaning of article 17 of Fourth Directive 78/660/EC).

<sup>8</sup> See the working definition of the Joint Forum report "Cross-sectoral review of group-wide identification and management of risk concentrations", page 2.

<sup>9</sup> See FSF report on Enhancing Market and Institutional Resilience, page 17

- 3.25. By combining business lines, financial conglomerates offer the potential for broad diversification. However, new risk concentrations may arise at group level. In particular, different entities within the conglomerate could be exposed to the same or similar risk factors, or to apparently unrelated risk factors that may interact under some unusually stressful circumstances.
- 3.26. There is no requirement to supervise RC in the IGD. Therefore, there is no current supervisory approach in which to compare the Solvency II requirements. However, CEIOPS considers that the scope of entities referred to in relation to IGT, should apply also to Article 244.
- 3.27. CEIOPS considers that the supervision of RC should also include the impact on the group of risks from outside the group, that is, that the assessment of an undertaking's exposures is not limited to exposures to another entity within the group. This is important in ensuring the correct assessment of the undertaking's risk profile.

### ***Reporting of RC & IGT***

- 3.28. Articles 244 and 245 state that all significant RC and IGT shall be reported to the group supervisor on a regular basis and at least annually. CEIOPS considers that the reporting of RC and IGT should be consistent with the principles established for the solo and group Solvency and Financial Condition Report (SFCR) and the Report to Supervisors (RTS)<sup>10</sup>.
- 3.29. CEIOPS considers that groups should include information on RC and IGT in the annual RTS. It is important to note that the reporting of RC and IGT shall be done at the level of the group, not at the level of the solo undertaking (i.e. the group RTS).
- 3.30. As referred to in the above section on governance, CEIOPS considers that the reporting of RC and IGT should contain quantitative and qualitative elements. Requiring a combination of quantitative and qualitative reporting better captures the notion of RC and IGT as part of the Pillar II framework and places an onus on firms and management to explain the risks associated with different types of transactions or risk concentration. The reporting of significant RC should contain information on the probability of those risks. For example, this may be captured by scenario analysis.
- 3.31. However, Articles 244 and 245 also refer to "*regular*" reporting and to the types of significant RC and IGT that must be reported "*in all circumstances*". CEIOPS interprets this to mean that in certain circumstances it is appropriate for groups to report certain significant RC and IGT more frequently than in the annual RTS. Indeed, this may be very important from a supervisory perspective as the timeliness of reporting may have a high impact on the assessment of the risk profile of a solo undertaking and the group. However, the timeliness of the reporting will

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<sup>10</sup> See Draft CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: Supervisory Reporting and Public Disclosure Requirements.

be dependent on the materiality of the transaction or exposure and hence reporting should be proportionate to the risks involved.

### **Ex-ante reporting of IGT**

- 3.32. CEIOPS interpretation of the Level 1 text is that Article 245 refers to ex-post IGT (i.e. transactions that have taken place and are subsequently reported). However, CEIOPS considers that there can be circumstances in which the ex-ante reporting of significant IGT may be appropriate.<sup>11</sup> This is designed to allow the group supervisor to engage with the group on the impact of the transaction. Hence, the development of any ex-ante reporting must be done in consultation with the group taking into account the group's own assessment and reporting IGT framework.
- 3.33. The advantage of ex-ante reporting is that it provides a period to assess the transaction and discuss with the group any risks that may jeopardise the solvency or financial position of an undertaking, especially where the transaction is particularly complex. CEIOPS may prepare Level 3 guidance on this issue.

### **Thresholds on RC and IGT**

- 3.34. CEIOPS considers that the purpose of establishing thresholds is to set certain measurable limits that would trigger reporting requirements at group level. The information reported may be used to inform subsequent supervisory actions designed to protect the solvency and financial position of the undertaking or group.
- 3.35. The Level 1 text states that the development of appropriate thresholds on the reporting of RC and IGT shall be "*based on solvency capital or technical provisions or both*".<sup>12</sup> CEIOPS considers that "*solvency capital*" refers to the solvency capital requirement (SCR).<sup>13</sup> Establishing thresholds based on the solvency capital requirement is consistent with the FCD.
- 3.36. CEIOPS considers that supervisors should be able to establish thresholds based on the group SCR/technical provisions and solo SCR/technical provisions. This is in order to assess the impact of RC and IGT on the solvency position of individual undertakings as well as at group level (i.e. the aggregate impact of RC and IGT). Thresholds based purely on the group SCR may not be sensitive enough to account for the impact of RC and IGT on solo undertakings, particularly where they have a disproportionate impact on individual undertakings.
- 3.37. CEIOPS notes that while thresholds may be set at both solo and group level, the reporting itself is only required at the level of the group.
- 3.38. CEIOPS considers that applying absolute thresholds to all groups may not be appropriate. However, CEIOPS considers that there should be a

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<sup>11</sup> CEIOPS notes that some supervisory authorities under their national regulatory frameworks require pre-notification or pre-approval of certain types of IGT.

<sup>12</sup> Articles 244(3) and 245(3)

<sup>13</sup> The Joint Forum has also suggested the idea of having thresholds fixed on earnings (not on own funds).

common methodology for determining thresholds to promote the harmonization of thresholds across the EEA. CEIOPS considers that further Level 3 guidance is needed to promote this harmonization.

- 3.39. CEIOPS considers that the development of thresholds must take account of the materiality principle, namely in defining the meaning of “*significant*” RC and IGT and “*very significant intra-group transactions*”. This is necessary to ensure the reporting framework is proportionate to the risks of the group. It is important that material RC and IGT are reported to ensure the group supervisor receives only relevant and timely information and to ensure groups are not required to report unnecessary or duplicated information.
- 3.40. In order to clarify the meaning of materiality for both undertakings and supervisors, CEIOPS proposes using as a reference the definition of materiality used in International Accounting Standards (IAS)<sup>14</sup> as CEIOPS considers that by using this definition undertakings should be familiar with this concept.<sup>15</sup> This definition states that:
- 3.41. *“Information is material if its omission or misstatement could influence the economic decisions of users taken on the basis of the financial statements. Materiality depends on the size of the item or error judged in the particular circumstances of its omission or misstatement. Thus, materiality provides a threshold or cut-off point rather than being a primary qualitative characteristic which information must have if it is to be useful”.*
- 3.42. For the purposes of establishing thresholds, this means “significance” relates to the impact of the RC or IGT on the solvency and financial position of the undertaking. The nominal size of the exposure or transaction in relation to the SCR or technical provisions is one way to measure significance. However, an exposure or transaction could also be significant if it has a large impact on the business model or capital structure of the undertaking or group. CEIOPS considers that further detail on the materiality of RC and IGT may be included in Level 3 guidance.
- 3.43. When developing thresholds, it will be important to understand how the governance requirements can help to identify, monitor and manage RC and IGT. CEIOPS considers that this should include analysis of a group’s own risk management structure and internal control systems.<sup>16</sup> The materiality concept should be consistent with the undertaking’s approach to materiality in other areas of solvency assessment and reporting, and should be reflected in the undertaking’s own risk and solvency assessment (ORSA). Clearly, the group’s own views on what RC and IGT it considers to be “significant” in relation to its own business model should be taken into account when defining materiality.

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<sup>14</sup> Materiality is defined in the glossary of the [International Accounting Standards Board’s](#) “Framework for the Preparation and Presentation of Financial Statements”

<sup>15</sup> Cf. CEIOPS-DOC-50-09, (October 2009), see <http://www.ceiops.eu/content/view/17/21/>.

<sup>16</sup> See IWCFC 08/30 “Supervision of Risk Concentrations and Intra-group Transactions: Practical Guidance Note”.

- 3.44. Supervisors are particularly interested in the extent to which centralised group functions review and challenge the information they receive on RC and IGT from entities within the group. The recent market events have highlighted the failure of some of these central functions in addressing risks. Therefore, CEIOPS recommends a strong focus on the governance structure of a group when developing thresholds on RC and IGT. This also highlights the importance of the consistency of reporting within the group.
- 3.45. CEIOPS considers that supervisors should pay particular attention to scenarios where multiple transactions are linked to each other in terms of time, function and planning. Assessing the totality of multiple transactions may help supervisors to better understand the risks at group level. In assessing these links, supervisors should also take into account the continuous or periodic relationships of the transactions and the connections of a functional and causal nature that may exist between the transactions.

### ***RC and IGT and the College of Supervisors***

- 3.46. Article 248 states that the coordination arrangements of the college of supervisors may specify the consultation among the supervisors concerned with respect to Articles 244 and 245. CEIOPS considers this essential given the potential scale and complexity of supervising RC and IGT, particularly for large insurance groups.
- 3.47. The college of supervisors plays an important role in establishing the thresholds that may apply at solo and group level and the types of RC and IGT that supervisors will expect in the RTS. Under a risk-based system, it is important that supervisors have the flexibility to determine the most appropriate framework for each group. Article 244(3) states that supervisors must take into account the specific group and the risk management structure of the group. A pre-determined standard reporting approach may not be adequate in identifying the risks generated by RC and IGT, particularly where risks are dynamic and change over time. Therefore, cooperation and information sharing between supervisors within the college is essential.
- 3.48. CEIOPS considers that the reporting requirements developed in the college should take into account the principle of proportionality. However, CEIOPS considers that Level 3 guidance is necessary to promote the harmonisation of the supervision of RC and IGT and may further develop some of the principles and concepts established in this paper.

#### **CEIOPS' advice**

- 3.49. The principles for the supervision of RC and IGT under Solvency II should be consistent with the current IGD and FCD. Any future Level 2 advice or Level 3 guidance should take into account the findings of the FCD Review.

#### **Intra-group Transactions**

- 3.50. The scope of IGT referred to in Article 8(1) of the IGD should apply in the application of Article 245:

a) A (re)insurance undertaking and:

- a related undertaking of the (re)insurance undertaking;
- a participating undertaking in the (re)insurance undertaking;
- a related undertaking of a participating undertaking in the (re)insurance undertaking.

b) A (re)insurance undertaking and a natural person who holds a participation in:

- the insurance undertaking, the reinsurance undertaking or any of its related undertakings;
- a participating undertaking in the (re)insurance undertaking;
- a related undertaking of a participating undertaking in the (re)insurance undertaking.

3.51. The scope of IGT may include:

- Third country (re)insurance undertakings;
- Other regulated entities;
- Unregulated entities.

3.52. The types of IGT referred to in Article 8(1) of the IGD should be taken into account in the application of Article 249:

- loans;
- guarantees and off-balance sheet transactions;
- elements eligible for the solvency margin;
- investments;
- reinsurance and retrocession operations;
- agreements to share costs.

3.53. CEIOPS considers that the supervision of IGT should pay particular attention to:

- Dividends, coupons and interest payments;
- The transfer of own funds from undertakings to parent undertakings;
- The transfer of own funds from parent undertakings to undertakings;
- The payment of fees and commissions;

- The costs associated with IGT;
- Transactions involving intra-group special purpose vehicles;
- Agreements for the centralised management of assets and liquidity in the group.

3.54. CEIOPS considers that IGT that are not carried out at-arms length should be reported annually.

### **Risk Concentration**

3.55. The FCD definition of RC is useful for the purpose of developing level 2 measures for insurance groups. The concept of RC may be elaborated in Level 3 guidance.

3.56. The scope of RC should be consistent with the scope of IGT.

3.57. The reporting of RC should include specific risk categories and, where possible, the interrelationships between risk categories.

3.58. The reporting of RC should include exposures arising from inside and outside the group.

3.59. The reporting of RC should include information on the probability of risks. For example, this may be captured by scenario analysis.

### **Reporting, Thresholds and the College of Supervisors**

3.60. The reporting of RC and IGT should be contained in the annual group Report to Supervisors (RTS). The reporting should cover quantitative and qualitative aspects of RC and IGT and take into account existing sources of information under the Pillar II framework.

3.61. CEIOPS considers that applying absolute thresholds to all groups may not be appropriate. However, CEIOPS considers that there should be a common methodology for determining thresholds to promote the harmonization of thresholds across the EEA. CEIOPS considers that further Level 3 guidance is needed to promote this harmonization.

3.62. Appropriate thresholds on RC and IGT should be based on quantitative and qualitative elements. The development of reporting requirements and appropriate thresholds should take account of a group's own internal risk management and internal control procedures.

3.63. To ensure supervisors receive relevant and timely information, reporting may be more frequent than the annual reporting in the group RTS depending on the risks associated with the RC and IGT.

3.64. Supervisors should pay particular attention to scenarios where multiple transactions are linked to each other in terms of time, function and planning, even if each individual transaction value is below a given threshold.

