

ANNEX to CEIOPS' Letter 22 December 2005

CEIOPS' Contribution to the preparation of the FSC's Supervision report to the Spring 2006 EFC-Financial Stability Table

CEIOPS, background

Since its recent establishment, CEIOPS has immediately been faced with working on the so-called Solvency II project, for the new solvency rules for insurance companies. While this continues to be CEIOPS' most demanding and challenging work, CEIOPS is already carrying out a number of tasks aimed at consistent implementation of existing EU regulation and convergent supervisory practices, for example in the fields of occupational pensions, supplementary supervision of supervisory groups, insurance mediation and IFRS.

CEIOPS submitted a "Report on Supervisory Convergence in the Field of Insurance and Occupational Pensions" to the FSC in September 2005. The Report includes description of the areas on which CEIOPS has undertaken concrete action to enhance convergence of supervisory practices and highlights further opportunities for greater convergence.

CEIOPS recognizes that there are tools aimed at education (seminars/workshops, distance learning, secondments, manuals/guidelines, training schemes and the CEIOPS' website/FAQ are mentioned below), and tools directly aiming at policy issues in a stricter sense (such as protocols/MoU's, data sharing, or peer reviews). While the latter are supposed to produce immediate results, the former may take more time to influence supervisory behavior in day-to-day business. However, CEIOPS considers this to be a promising way to generate long-lasting, sustainable impact on supervisors' ways of operating and thus is ready to work further on these measures, particularly when the Solvency II project becomes less demanding on its resources.

FSC letter

1. *An update on the (planned) use of different tools for co-operation and convergence in CEIOPS' ongoing operational work, where relevant including on the use of secondment schemes, common training schemes, etc.*

CEIOPS' Members individually tend to use combinations of **seminars and workshops** as part of their standard general training programmes. **Secondment schemes** are sometimes arranged as well. Where used, these tools are an important part of staff induction and continuing education. So there are opportunities for CEIOPS to direct them more towards the aim of enhanced cooperation and convergence.

It is thought that seminars and workshops could help in developing a common understanding between supervisors of how supervision is conducted in practice. They could also inform work on future convergence in their areas.

Where secondments are exchanged between supervisory authorities, occasionally both in and beyond the EU, they have been found to help relationships between those authorities. The feedback experience has been positive.

CEIOPS could consider a number of initiatives in this area, to build on Members' individual activities. It would wish to give strong support to the best use of these tools, since they are viewed as effective in furthering overall convergence in supervisory practice. They are thought to be practical achievables for CEIOPS and for Members individually, with considerable opportunities for development. CEIOPS' actions might cover organizing seminars and workshops and providing help to Members over secondments, for example by advertising potential opportunities on the Members' area of its website. Staff exchanges are thought to bring benefits, to those exchanged and their exchanging authorities. CEIOPS would wish to encourage these, though the actual take-up would ultimately have to be bilateral between authorities.

The **sharing of national manuals and guidelines on supervisory practices** can already take place. It is simplest where authorities publish them on their websites. Problems include the level of language and understanding necessary for effective sharing.

CEIOPS could seek to encourage and smooth further sharing. This would serve at least two significant objectives. First, sharing would lead to greater transparency. That in turn should help towards increased convergence in supervisory practice. There could be special benefits for supervision areas already seeing new cross-sector cooperation, for example on financial conglomerates. Secondly, sharing should be seen as less problematic for CEIOPS Members and their sectors, than other tools such as Mediation or Peer Review. Those proposals carry with them certain limits and difficulties in practice for CEIOPS' Members, apart from in principle, which sharing should avoid. Again, exchanges on this basis would finally be bilateral, or multi-lateral.

Such sharing is separately addressed in the Solvency II project. On the basis being considered there, it could become part of the regime.

Common training schemes within the EU would be a new tool for CEIOPS Members with which they have no experience so far. This tool might facilitate similar training courses across the insurance sector, for example when further level 2 advice and level 3 standards, recommendations and guidelines are issued. Before then, CEIOPS could consider arranging a sector-specific course on existing topics, such as the effective cooperation of Co-ordination Committees, explained next, in the supervision of insurance groups.

The main day-to-day co-operative supervisory exchanges at Members' level, are through the **Protocols** governing insurance supervisory authorities. CEIOPS' views of these are positive. They are considered helpful in setting out practical arrangements for supervisory co-operation, whether or not imposed by directives and regulations. Two new Protocols are being drafted by CEIOPS. They will organize the co-operation between supervisors for the implementation of the Directives on Insurance Mediation and on the Activities and Supervision of Institutions for Occupational Retirement Provision. CEIOPS will continue its work with this tool.

One sectoral model for CEIOPS to build on is the so-called Helsinki Protocol¹. This was a Protocol concluded by EU insurance supervisors regulating their collaboration and co-ordination in the actual supervision of multinational insurance groups, under the requirements of the Insurance Groups Directive. Its arrangements were innovative for insurance supervisors faced with multinational groups. Not only did the Protocol's high level provisions enable their co-operation over the supervision of multinationals, it put in place the necessary organisation for this to function. A permanent network of supervisors was established, forming Co-ordination Committees of supervisors for each multinational group.

Each Co-ordination Committee is composed of the national supervisors involved in the day-to-day supervision of the group's entities. Specific contact lists, including identification of national supervisors involved and a key supervisor with co-ordinating tasks, have been established for each insurance group involving more than one European supervisor. By means of this arrangement EU supervisors exchange relevant information for the application of the Directive, co-operate on common supervisory issues and, when appropriate, take co-ordinated supervisory actions concerning the respective groups. In this context, CEIOPS issued in June 2005 its Guidelines on the functioning of the Co-ordination Committee². CEIOPS could continue to foster this **co-ordinated supervision** of major insurance groups by its Members, through the work of its Insurance Groups Supervision Committee.

CEIOPS believes that these or similar co-ordination arrangements could have added value besides functioning in the specific application of supplementary supervision. They could represent the basis for facilitating a common understanding of regulation and supervisory issues across the EU, enhancing the average EU quality of supervisory actions and encouraging a common approach in practice to supervision.

CEIOPS notes the ongoing high level work on **crisis management and co-ordination procedures** being carried out at EU level. CEIOPS welcomes any involvement in initiatives, such as by the European Union Financial Services Committee and the Banking Supervision Committee of the European System of Central Banks, in this direction.

Amongst ideas for consideration within CEIOPS, is the establishment and running of a sectoral network to identify and react to crises. These processes could start with the establishment of contact lists and procedures for crisis management. CEIOPS' Co-ordination Committees just mentioned, could play a particularly prominent role.

¹ "Protocol relating to the collaboration of the supervisory authorities of the member states of the European Union with regard to the application of Directive 98/78/EC on the supplementary supervision of insurance undertakings in an insurance group", adopted in 2000.

² Guidelines for Coordination Committees in the Context of Supplementary Supervision as Defined by the Insurance Groups Directive (98/78/EC) CEIOPS-DOC-02/05

The concept of **Peer Reviews** outside the Solvency II project, has prompted varied initial comments by CEIOPS' Members. These have ranged from supporting that they may ultimately be essential to achieving greater supervisory convergence, to certain scrutiny reservations. Those cover matters of principle, such as over any real benefit from extending them throughout the entire EU supervisory field, for example by on-site assessment. Preliminary concerns also cover matters of detailed application and procedures. They have yet to be further debated and elaborated on by CEIOPS.

CEIOPS generally supports **Peer Reviews** as a means of enhancing convergence of supervisory practices, and sees them as a tool with built-in convergence possibilities. The concept was analysed in CEIOPS' Answers to the European Commission's second wave of Calls for Advice in the Solvency II project. There, CEIOPS supports the inclusion of high-level general principles in the Framework Directive on Peer Reviews, to promote increased convergence of supervisory working methods, thereby securing high-level protection for policyholders. To smooth problems that are likely to occur on the detail, CEIOPS will define a set of level 3 principles and measures which supervisors should take into account when designing a concrete procedural framework for the Peer Review.

CEIOPS could be helped by any other Level 3 Committee lessons learned.

If pursued, CEIOPS could also provide Level 3 information to the European Commission when the Commission is discharging its responsibilities for Member States' compliance with EU legislation, where CEIOPS' Members' performance was part of the issue.

2. An assessment of possible obstacles to, preconditions for and merits of the use of the tools, which were mentioned by the FSC subgroup report and would deserve further discussion, i.e. mediation, delegation of tasks, joint inspections, arrangements for data-sharing and streamlining reporting to supervisors (e.g. joint databases), as well as an outline and planning of steps needed to arrive at a final assessment and a possible implementation of those tools.

CEIOPS' practical experience of these tools and their use for the purposes in the FSC letter, is still small. Apart from the good use of Protocols already mentioned, CEIOPS is at the development stage of these objectives for itself and therefore of the tools to achieve them.

That development is taking place principally through the evolution of CEIOPS' Medium-Term Work Programme. Recent publication of an issue paper³ launched considerations for the possible future direction of CEIOPS' work under such a Programme. It includes mention of many tools and their possible applications, including those under query here. The paper offers initial suggestions for CEIOPS' potential future roles with them.

It is too early for feedback and detailed comment by CEIOPS. The paper also states that it is a first proposal only and not a position of CEIOPS. Its issues have not been debated yet. The Programme will be considered and given shape

³ CEIOPS' Consultation Paper No. 10, "Developing CEIOPS' Medium-Term Work Programme", CEIOPS-CP-07/05 dated 11 November 2005.

during 2006, through due process at CEIOPS. Issues should include the topics identified in your letter. CEIOPS would be pleased to use any conclusions towards future contributions. Meanwhile the following tentative views may help.

Mediation is an untried area for CEIOPS. It has been suggested in the proposed Programme as an area for CEIOPS' thorough future study. Under the proposal, this examination would look at the appropriateness and feasibility of putting in place a mechanism for resolving differences in supervisory actions at CEIOPS level, as well as the identification of the scope and functioning of any procedure identified.

Some apparently contentious features will require in-depth consideration by CEIOPS. While the 3 Level 3 Committees will continue to cooperate in analyzing any process toward the establishment of this type of tool, CEIOPS' Members are very conscious of sectoral differences between supervisory authorities, their regulated firms and their markets. CEIOPS' current priorities are dominated by the need to deliver advice to the Commission on Solvency II. Although implementation issues are already being addressed, conduct of business matters are not yet dealt with on an EU-wide basis. Prudential supervisory review requires the analysis of the specific risk profile of the entities, including specific market considerations. In general, this goes beyond the mere application of a rule. So the susceptibility to mediation as a remedy for supervisory differences, may vary from those of other sectors.

The **delegation of tasks** by supervisors is another area for careful examination in CEIOPS before offering conclusions. First, a workable opportunity to delegate tasks is not automatically a key to enhanced cooperation and convergence, but it may lead to those longer-term. Moreover, its uniform operation across the EU would be affected by any transposition into domestic law of relevant specific directive provisions, or if none, on relevant supervisors being empowered by their domestic law to delegate and receive the tasks in question. Other questions to be resolved would include legal, practical and accountability issues for supervisors. These could become acute when faced with crisis situations.

The legal limits on the delegation of tasks by supervisors in CEIOPS' sectors, should be highlighted. Currently delegation is permitted, although not required, by the Directive on the supplementary supervision of insurance undertakings in an insurance group. Even here it is limited, being based on 'solo plus' supervision. CEIOPS' Members will need legal clarity over their respective supervisory responsibilities, in order to proceed with mutual delegation. The Solvency II project will assist, by increasing provision for specific delegation lines. Meanwhile, the acceptability of the practice to Members may require excluding the delegation of ultimate responsibility.

Acceptability to market participants such as firms and consumers would also be essential, along with their understanding. They would recognize that delegation would probably involve derogation from home-host responsibilities expected by the directives and therefore national law.

Joint inspections would be positively fostered by CEIOPS as expected to reduce duplication of supervisory action and increase more efficient and effective supervision. CEIOPS could build on the co-operation already in place in the framework of its Helsinki Protocol, to amend its Guidelines for Co-ordination

Committees so as to allow for joint inspections. A framework arrangement with a wider scope may also be agreed for enabling the organization of inspections whenever different supervisors are involved in the same case. However that might best involve only those supervisors with a direct interest in the activities being inspected. Supervisors with a broader interest in a group as a whole, could be encouraged to accept reports from supervisors directly involved, through the relevant Co-ordination Committee.

Arrangements for **data-sharing and streamlining reports** to supervisors, would fit with CEIOPS' aim to facilitate the exchange of any kind of information that can be useful to its Members. Data-sharing and streamlining supervisory reports under this heading is seen as going beyond the existing regular identification and exchange of information relevant for insurance and pension fund supervision which takes place.

Expense is one issue. The potential costs of a party establishing and operating a common database would have to be subjected to rigorous cost-benefit analysis. There may be advantages in an alternative of a networked system, which permitted access to existing domestic databases. The issues here would include confidentiality and data protection requirements. Another step might be the use of CEIOPS' website as a hub platform, allowing access to certain information on Members' websites or their databases.

There is a further question of benefits and burdens to firms. Major firms and groups with significant cross-border activities might be expected to be the main beneficiaries. That is more likely to be the case if appropriate reconciliation is achieved first, of the very diverse current reporting requirements of Member States, into one data set. If instead, the common base became an aggregation of all the data formats presently demanded, the benefit to those firms could be minimal, whereas heavy burdens could result for smaller firms whose business is restricted to their domestic markets and who become subject to a sum total of data sets.

With those qualifications, CEIOPS sees the scope for investigating the pluses of convergence in reporting. It has the opportunity to consider streamlined data requirements, in its design work on the Solvency II project. The aim could be a minimum core set of data needing to be produced, which would be available to all supervisors. Based on that, individual supervisory authorities could have the power to ask for further information from firms whose prudential regulation is their responsibility.

CEIOPS will have a further opening to assess future data sharing and streamlined reports, in the pensions field, following its work there in 2006 on information-gathering.

At a less futuristic level, CEIOPS is setting up the regular gathering and summarizing of statistical information on the insurance sector. This is presently confined to its work on Financial Stability and is restricted to the purpose of preparing Reports on Financial Stability. Techniques learned by CEIOPS could be applied to a future wider purpose.

It must be remembered, however, that the current diversities in the details of prudential regimes across the EU and the lack of a harmonized accounting

framework, limit any progress to be made by CEIOPS in streamlining supervisory reporting, before the establishment of the new Solvency II model.

At least, CEIOPS can carry out some work in the field of data sharing regarding its website. It is envisaged to establish it as a forum for information exchange, where discussions are being held, notification procedures being performed, and **Frequently Asked Questions** being answered. As to the latter, CEIOPS is planning the setting up of Frequently Asked Questions lists, based on Members' experience. They might assist supervisors and also market participants if published on CEIOPS' website. CEIOPS' opportunities to issue further versions would coincide with its issuing any level 3 standards, recommendations and guidelines.

CEIOPS, future contribution

Beyond the specifics the FSC letter raises, CEIOPS expects to serve as the lead forum for discussion of any issue that might directly or indirectly affect supervision of its sectors across the EU. It should therefore be strongly placed to identify any other openings for improvement and the realization of the FSC's objectives, in this work. CEIOPS can also help in its capacity as a thinktank for insurance, reinsurance and occupational pensions supervision.

As offered, CEIOPS will be glad to comment in future if wished and to answer any queries now.