

**GUIDELINES ON INFORMATION EXCHANGE
BETWEEN LEAD SUPERVISORS
AND OTHER COMPETENT AUTHORITIES**

**Annex to CEIOPS' Statement on the Role of the Lead
Supervisor**

**in the Context of Supplementary
Supervision as defined by
the Insurance
Groups Directive (98/78/EC)**

This paper sets out guidelines on the exchange of information between lead supervisors and other competent authorities within Coordination Committees in the context of the supervision on insurance groups

The paper is published as an annex to CEIOPS' Statement on the Role of the Lead Supervisor

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Background

The Insurance Groups Directive¹ (IGD) states the following in article 7 about cooperation between competent authorities *'Where insurance undertakings or reinsurance undertakings established in different Member States are directly or indirectly related or have a common participating undertaking, the competent authorities of each Member State shall communicate to one another on request all relevant information which may allow or facilitate the exercise of supervision pursuant to this Directive and shall communicate on their own initiative any information which appears to them to be essential for the other competent authorities.'*

Additional in the Helsinki Protocol² the principle is agreed to *'promptly and positively reply to requests for relevant information and provide any relevant information at their own initiative.'*

Having in mind the above mentioned provisions and the CEBS guidelines on information exchange³, CEIOPS' Members agreed on the publication of the following guidelines as an annex to CEIOPS' Statement on the Role of the Lead Supervisor⁴.

General aspects

1. A free flow of information is important in building cooperation. Information exchange is the starting point for developing sound relationships between supervisors, and building trust and confidence in their respective assessment processes. It is also a core element in planning supervisory tasks and coordinating the activities of supervisors under the umbrella of the lead supervisor. A proposed framework for information exchange in the context of ongoing supervision is set forth below. It is essential that any information exchange starts by communicating the status quo on these issues.

¹ Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance and reinsurance undertakings in an insurance or reinsurance group. http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31998L0078&model=guichett

² Protocol of May 2000 relating to the collaboration of the supervisory authorities of the Members 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. http://www.ceiops.org/media/files/publications/protocols/n1194_helsinki_gbfi.pdf

³ CEBS Guidelines on supervisory Cooperation for Cross-border Banking and Investment Firm Groups, part 3.2 Information Exchange. <http://www.c-eps.org/pdfs/GL09.pdf>

⁴ <http://www.ceiops.org/media/files/publications/standardsandmore/guidelines/StatementontheRoleoftheLeadSupervisor.pdf>

2. The communication of information between supervisors should:

- be a two way process, but should be balanced to reflect the needs of the supervisors involved. For certain matters, such as those related to local market characteristics, the other competent authorities will be best placed to collect and assess information that could be of interest to the lead supervisor. Likewise, there are matters for which the other competent authorities may find it necessary to obtain information which is best made available by the lead supervisor;
- be proportionate and risk focused, to avoid unnecessary information flow; and
- be as spontaneous as possible, allowing any supervisor to take the initiative, and should provide information on a timely basis.

3. A communication strategy should be developed under the auspices of the lead supervisor, in full consultation with other competent authorities. The strategy should coordinate at a minimum the gathering and the dissemination of information. It should have regard to defining by whom and to whom information should be disseminated, be it between other competent authorities and the lead supervisor or bi- or multi-laterally between other competent authorities. In particular, supervisors should ensure insofar as possible under relevant national legislation that:

- the lead supervisor has unfettered access to all relevant information;
- essential information and, if deemed useful, relevant information is provided to all supervisors at an appropriate level; and
- no undue limitations are imposed on spontaneous communication between supervisors.

The process may naturally lead to an asymmetric flow of information.

4. A distinction must be made between two types of information: 'essential information,' which supervisors shall communicate on their own initiative, and 'relevant information,' which they shall communicate on request. Beyond the exchange of 'essential' and 'relevant' information, supervisors will exercise restraint in order to avoid disproportionate or redundant flows of information.

5. Information shall be regarded as essential if it could materially influence another Member State's assessment of the financial soundness of an insurance or reinsurance undertaking. The table below provides an illustrative list of essential information, to be used by each Coordination Committee to agree upon the significance of information on a group-by-group basis.

6. 'Relevant information,' is understood to mean information that is relevant to the performance of another supervisor's obligations. Supervisors in each Coordination Committee should agree on the scope of relevant information to be communicated, and may consider specifying the content, format, and the manner in which information will be exchanged (e.g. contacts, regular conference calls, regular meetings, written agreements etc). Supervisors requesting information should state clearly the purpose for which the information is requested. This will help to assess relevance.

7. The lead supervisor shall provide other competent authorities with all relevant information. In determining the extent of relevant information, the importance of the subsidiaries within the financial system of the Member States where they are authorized should be taken into account. If structural changes in a group entail the involvement of new or the exclusion of existing supervisors, the lead supervisor will monitor a proper handover and an effective continuation of the cooperative process.

8. The following table provides an illustrative list of essential information that could be exchanged between the lead supervisor and other competent authorities.

Illustrative list of essential information

Objectives	Essential information to be communicated by the lead supervisor to other competent authorities on its own initiative	Essential information to be communicated by the other competent authorities to the lead supervisor on their own initiative
<p>1. Be aware of significant changes in the group structure and in the authorities involved in the group's supervision.</p>	<ul style="list-style-type: none"> • Significant changes in the group structure, including all supervised entities in the group unless they are negligible. • Any changes in the competent authorities involved in the supervision of the group. • The group structure should be understood as encompassing: <ul style="list-style-type: none"> – the legal structure of the group and the location of significant business units; – significant investments in group entities; – significant capital links between entities including the forms of those linkages e.g. contingent capital, sub-debt, hybrid; and – significant qualifying holdings. 	<ul style="list-style-type: none"> • Significant changes in the structure of all supervised entities within the group, unless they are negligible. • Any changes in the competent authorities involved in the supervision of these entities. • The structure of significant supervised entities should be understood as encompassing: <ul style="list-style-type: none"> – the legal structure of the entities and the location of significant business units; – significant investments in group entities; – significant capital links between entities including the forms of those linkages e.g. contingent capital, sub-debt, hybrid; and – significant qualifying holdings.

<p>2. Be aware of significant changes in the way information is reported to different supervisors within a group and exchange on methodologies used to review that information.</p>	<ul style="list-style-type: none"> • Changes in the procedures for the collection of information from the institutions in a group, and in the verification of that information. This covers: <ul style="list-style-type: none"> – the information to be collected by the different supervisors; – the means by which that information will then be disseminated; – any additional information flows from other competent authorities of significant entities. 	<ul style="list-style-type: none"> • Changes in the procedures for the collection of information from the institutions in a group, and in the verification of that information. This covers: <ul style="list-style-type: none"> – the information to be collected by the different supervisors; – any additional information flows from other competent authorities of significant entities.
<p>3. Communicate difficulties that have potentially significant effects within the group.</p>	<ul style="list-style-type: none"> • Adverse developments, such as: <ul style="list-style-type: none"> – matters which cast doubt on the viability of the group as a going concern; – factors which suggest a potentially high risk of contagion (significant intragroup transactions); – significant developments in the financial position of the group; – major fraud. 	<ul style="list-style-type: none"> • Adverse developments, such as: <ul style="list-style-type: none"> – matters which cast doubt on the viability of the subsidiary as a going concern; – excessive reliance on intragroup transactions or parental support (e.g. guarantees); – significant developments in the financial position of the subsidiary: declining solvency margins, breach of the minimum guarantee fund, failure to meet technical reserves, significant losses; – major fraud.

	<ul style="list-style-type: none"> • Major sanctions and exceptional measures taken by competent authorities. • Other matters, paying due consideration to how the group is organized (centralized versus decentralized functions): <ul style="list-style-type: none"> – changes in organisation or senior management that may have a significant impact on the group; – changes in strategy; – material changes in risk management or internal control system; – legal difficulties at the group level that could have an impact on the financial position of the group; – material changes in risks of entities that could have an impact on the financial position of the group; – transfer of risks to unregulated entities of the group. 	<ul style="list-style-type: none"> • Major sanctions and exceptional measures taken by competent authorities. • Other matters, paying due consideration to how the group is organized (centralized versus decentralized functions): <ul style="list-style-type: none"> – changes in organisation or senior management that may have a significant impact on the company; – changes in strategy; – material changes in risk management or internal control system; – legal difficulties at solo level that could have an impact on the financial position of the subsidiary/group; – risks newly covered by the entities, potentially raising new risks for the group and thus potentially having an impact on the group risk profile; – transfer of risks by the subsidiary to unregulated entities of the group.
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