

<b>Comments Template on CEIOPS-CP 78</b> <b>Draft CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: Technical criteria for assessing 3rd country equivalence in relation to art. 172, 227 and 260</b>		<b>Deadline</b> <b>05.02.2010</b> <b>12.00 CET</b>
Name of Company:	Group of North American Insurance Enterprises, Inc.	
Disclosure comments:	of CEIOPS will make all comments available on its website, except where respondents specifically request that their comments remain confidential.  Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ <u>Do not change the numbering</u> in the column "reference".</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> <li>○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.</li> <li>○ If your comment refers to sub bullets/subparagraphs, please indicate this in the comment itself.</li> </ul> </li> </ul> <p><b>Please send the completed template, <u>in Word Format</u>, to <a href="mailto:secretariat@ceiops.eu">secretariat@ceiops.eu</a>. Our IT tool does not allow processing of any other formats.</b></p> <p>The numbering of the paragraphs refers to Consultation Paper No. 78 (CEIOPS-CP-78/09).</p>		
<b>Reference</b>	<b>Comment</b>	

<b>Comments Template on CEIOPS-CP 78 Draft CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: Technical criteria for assessing 3rd country equivalence in relation to art. 172, 227 and 260</b>		<b>Deadline 05.02.2010 12.00 CET</b>
General Comment	<p>GNAIE greatly appreciates the opportunity to comment on CEIOPS' draft advice on the assessment of regulatory equivalence. GNAIE represents large international reinsurers, life and non-life insurers. A number of our members either write substantial business in the European Union or are affiliated with EU-based companies.</p> <p>Before beginning with comments on this draft, we would like to urge the CEIOPS and the European Commission to undertake the development of implementing measures related to other aspects of equivalence beyond just the criteria and valuation process. Many insurers and regulators in third countries remain uncertain as to the impact of equivalence decisions on their operations because guidance on the other aspects has not been developed. Three examples of the issues which need to be clarified for third country companies with European operations are the conditions under which non-equivalent third countries subsidiaries would need to form a single European holding company, the manner in which solo plus supervision would be applied to third country holding companies, and how corporate calculations and models would be accepted by the group regulator in Europe in cases of non-equivalence. We are equally concerned about the implications of equivalence on the overall market. GNAIE believes that regulations in all jurisdictions should treat market participants equally regardless of the country of origin. Equivalence decisions could have an impact on third country markets if they create conditions in which capital requirements are applied unevenly. We believe there needs to be further discussion of these effects. A few implementation issues have been discussed in other consultation papers, but not all. It would be helpful to consolidate the existing advice related to third countries in a single document to facilitate assessment by third country regulators and their insurers, as well as expanding the advice in other areas which need to be addressed.</p> <p>We would also like to state before beginning comments on the draft that we agree with the proposal from the CRO Forum presentation on January 7 that delays in equivalence consideration could result in harm to certain markets and jurisdictions. As a result, a process should be considered for granting temporary equivalence status to jurisdictions which meet international standards, such as having an equivalence accounting system as judged by the EU, being a signatory of the IAIS MMOU, and having a successful rating from the IMF on an FSAP. While these criteria do not duplicate the requirements for equivalence recognition, they would demonstrate the existence of an efficient regulatory framework and would provide a transitional period until a complete assessment can be conducted.</p>	

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Draft CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: Technical  
criteria for assessing 3rd country equivalence in relation to art. 172, 227 and 260**

**Deadline  
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Regarding CP 78, we urge CEIOPS and the European Commission to keep the following principles in mind in setting equivalence standards:

1. The assessment should not require uniformity with Solvency II, but rather examine whether the other regime properly protects the policyholders within its jurisdiction.
2. The assessment should be based exclusively on the principles and objectives identified by CEIOPS. None of the indicators should be considered vital to an equivalence finding.
3. The equivalence assessment should be results-focused. CEIOPS should evaluate the outcomes of regulation in the third country, rather than whether particular regulatory provisions are identical.
4. The assessment should not require that each objective is "fully observed". As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.
5. The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements which have been adopted but not implemented. CEIOPS should bear in mind that Solvency II itself is not yet implemented, although the commitment to do so is clear.
6. The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not agree to the evaluation, either by the Commission or a group supervisor, it would seem inadvisable to conduct such an evaluation.
7. A ruling by a group regulator regarding equivalence of a third country regime should apply universally to the supervision of all entities in the jurisdiction.

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1.		
1.1.		
1.2.		
1.3.	<p>We suggest the deletion of the words "each of" in the second sentence, so it reads, "In order to be considered equivalent, a third country regime will have to meet the principles and objectives laid out in this advice." As we stated in our general comments, the equivalence assessment should not require that all objectives are judged to be "fully observed." As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.</p> <p>We further suggest that CEIOPS emphasize the statement that the evaluation is to be based on the principles and objectives and that the indicators are "guidance." We support this approach, but believe that the importance of this statement is lost by being made only at the end of this paragraph. We suggest it be reiterated in a separate paragraph.</p>	
1.4.	We support the decision not to require an internal model regime to be in place as a prerequisite to equivalence. While the focus on internal models in Europe has prompted other regimes to assess the value of internal models in regulatory oversight, the process itself is still developing and it would be premature to add such a requirement.	
1.5.	This paragraph should be applied flexibly, given the current divergence in asset and liability valuation rules among jurisdictions that perform successful solvency regulations and the difficulty in developing coherent international insurance liability valuation standards. Even the term "economic approach to valuation" is being extensively debated at the IAIS and IASB and we are uncertain at this point that international accounting standards will be consistent with an economic valuation of assets and liabilities.	
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2.1.2.		
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2.1.7.	We agree with scope of this paragraph and agree that it would be inappropriate to include a group supervision requirement in the reinsurance assessment. The assessment should not require that all objectives are "fully observed." As long as there is general observance of most of the objectives and the jurisdiction under review is broadly equivalent, a finding of equivalence should be made.	
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2.3.1.	We agree entirely with the first sentence that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.	

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2.3.2.		
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2.3.7.	We suggest the deletion of the words "each of" in the first sentence.	
2.3.8.		
2.3.9.		
2.3.10.		
2.3.11.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
2.3.12.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
2.3.13.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
2.3.14.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
2.3.15.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
2.3.16.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
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2.3.30.	Many jurisdictions do not adopt fit and proper requirements, but do have requirements for management personnel. We would suggest a broader indicator should be used.	
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2.3.49.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 2.3.44 is "fully observed". No other jurisdiction requires use of "current exit value" for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system.</p> <p>The same comment applies with regard to consistency "with international accounting standards, to the extent possible." Those standards have not yet been developed. A finding of compliance with this objective should be based upon the jurisdiction's overall effectiveness in protecting policyholders and beneficiaries.</p>	
2.3.50.	See comments regarding paragraph 2.3.49.	
2.3.51.	We also believe that exact compliance with this indicator should not be required. While the EU has chosen a "1 in 200 ruin scenario" as its own minimum level of protection, other jurisdictions may have chosen differently for reasons that make sense given the particular circumstances in their insurance markets. We believe that a broader comparison of a jurisdiction's capital requirements with Solvency II is required, rather than merely comparing them with the 1-in-200 standard.	
2.3.52.		

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3.3.7.	We suggest the deletion of the words "each of" in the first sentence.	
3.3.8.	The objective language in the Reinsurance Section 2.3.44-46 is clearer language for a solvency objective than this wording. We believe the language of the objectives should be consistent.	
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4.3.1.	As in paragraph 2.3.1, we agree entirely with the first sentence that "the main question shall be whether the supervisory system of the third country ensures the protection of policyholders and beneficiaries in an equivalent manner to that under Title I." We believe it is premature to include an assessment of "whether the supervisory system also contributes to financial stability and a fair and stable market" until more progress is made in developing standards and benchmarks to measure whether those objectives are being met.	
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4.3.5.		
4.3.6.	As long as the third country's group supervision is broadly equivalent to group supervision under Solvency II, the third country's group supervisor should not be required to have identical powers to the group supervisor under Solvency II.	
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4.3.25.		
4.3.26.	We suggest the deletion of the words "each of" in the first sentence.	
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4.3.31.	We believe that most of the indicators here are common to the IAIS standards and that a positive FSAP report should be an indicator of compliance.	
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4.3.55.	<p>Exact compliance with this indicator should not be required for a finding that the objective in paragraph 4.3.52 is "fully observed". No other jurisdiction requires use of "current exit value" for all insurer assets and liabilities, and even the EU will not do so until Solvency II goes into effect. There is no experience to demonstrate whether compliance with this valuation method is either helpful or harmful to a solvency assessment system.</p> <p>The same comment is true with regard to consistency "with international accounting standards, to the extent possible." Those standards have not yet been developed. A finding with regard to compliance with this objective should be based upon the jurisdiction's overall effectiveness in protecting policyholders and beneficiaries.</p>	
4.3.56.	See comments regarding paragraph 4.3.55.	

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Annex 1		
A1.1.	A process should be considered for granting temporary equivalence status to jurisdictions which meet international standards, such as having an equivalence accounting system as judged by the EU, being a signatory of the IAIS MMOU, and having a successful rating from the IMF on an FSAP. While these criteria do not duplicate the requirements for equivalence recognition, they would demonstrate the existence of an efficient regulatory framework and would provide a transitional period until a complete assessment can be conducted.	
A1.2.	The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not agree to the evaluation, either by the Commission or a group supervisor, it would seem inadvisable to conduct such an evaluation.	
A1.3.		

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A1.4.	The process should clarify that a ruling by a group regulator regarding equivalence of a third country regime should apply universally to the supervision of all entities in the jurisdiction	
A1.5.	The assessment should include recognition of current developments in the third country's supervisory system, including proposed improvements. The assessment should bear in mind that Solvency II is not a fully-implemented system.	
A1.6.	<p>The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.</p> <p>The assessment should be based exclusively on the principles and objectives identified by CEIOPS.</p> <p>The assessment should not require uniformity, particularly at the "indicators" level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.</p>	
A1.7.		
A1.8.	A timeline for the full equivalence review should be developed.	
A1.9.		
A1.10.		
A1.11.	The third country regulator should be consulted before an equivalence assessment is undertaken. If the regulator does not agree to the evaluation, either by the Commission or a group supervisor, it would seem inadvisable to conduct such an evaluation.	
A1.12.	Full use should be made of assessments by international bodies such as the IMF or the IAIS MMOU process to increase the efficiency of the review in light of CEIOPS' resources.	

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A1.13.		
A1.14.	The assessment should not require uniformity, particularly at the "indicators" level. The purpose of the indicators should be to assess whether the principles and objectives to which they pertain are being met. None of the indicators should be viewed as vital to an equivalence finding.	
A1.15.	The equivalence assessment should be based upon outcomes (the relative success of the regulatory regime under assessment in protecting policyholders) rather than whether particular provisions are identical. We appreciate the public statements of key supervisors within CEIOPS that this will be the case.	