

SOLVENCY II – Third Country Issues

**NAIC International Insurance Issues Committee
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- GNAIE is an industry organization of US, Bermudian and Canadian based international insurance companies
- The goals of GNAIE are to assist North American and global standard setters and regulators in cooperation with the global insurance industry and with insurance and other financial services industry trade associations to support high quality insurance accounting and solvency standards

The Group of North American Insurance Enterprises (GNAIE) is an industry organization established to work with standard setters and regulators on insurance accounting and solvency.

GNAIE has a Solvency Committee which examines the proposals for insurance solvency requirements, including the proposals of the European Commission and the IAIS. Our Solvency Committee is working on the impact that Solvency II proposals will have on

- international standards and
- the standards of US state regulation as well as
- international standards proposed by the IAIS.



GNAIE's members include the largest insurers in North America. Many have a significant international and European presence.

- GNAIE members are significant participants in European and world-wide insurance markets, so we care about Solvency II
- US efforts to converge US GAAP with international accounting standards and the emerging use of economic capital management in the insurance industry and by rating agencies increase the influence of European solvency concepts

There is, of course, a direct impact of Solvency II on GNAIE members. Many GNAIE members have significant operations in the EU and in other countries. Several of our members are currently participating in the QIS 3 exercise. For example, a significant amount of AIG's business is written from within the EU. AIG ranks among the top ten insurers in Europe based on its European business. So, the efforts by the EU will have a material direct impact on our members.

Indirectly moreover, the US accounting, capital markets and insurance standard setters and regulators have committed to various efforts towards convergence to international standards for solvency and accounting. The NAIC representing the 50 state insurance commissioners is an active participant in the work project of the IAIS to develop harmonized principles and standards for insurer solvency globally. Solvency II is likely to be viewed as "best practices" in terms of more sophisticated approaches to insurer solvency requirements, and is having a great deal of influence on the deliberations at the international level.

There is also a direct relationship between

- Solvency II,
- the IAIS proposed standards and
- international accounting standards.

In recent remarks, Peter Clark, the IASB's Insurance Contracts Project Director, noted the similarity between the proposals in the recently issued Insurance Contracts Discussion Paper and Solvency II, clearly noting that the similarity was not coincidental.

Therefore, the North American Insurance industry definitely has an interest in what is happening with respect to Solvency II, as we are significantly affected by these proposals both directly and indirectly.

Third country insurance Issues

- Level regulatory playing fields – competitive considerations
- Group structure and supervision
- Regulatory equivalence
- Group capital requirements

One can only conclude from what is known about Solvency II right now that it leaves a number of fundamental questions unanswered when it comes to its dynamics on the international scene. Namely,

Level regulatory playing fields - Care should be taken that Solvency II does not constitute an un-level playing field for non-EU country-insurers (i.e. third country insurers) in several ways. It is crucial that the benefits of Solvency II must also be available to non-EU based companies. If such benefits are not available, then as a consequence competition issues might arise.

Group structure and supervision – Development of Pillar II regulations for local and group supervision, need clear-cut roles and authorities.

Regulatory Equivalence - Equivalence is a key component of Solvency II, yet it is undefined. It is further complicated because third-country groups do not automatically have an insurance group supervisor in their home territory. This may be an impediment to fulfilling the criteria on equivalence assessment, thereby contributing to an un-level regulatory playing field. We strongly recommend that appropriate due consideration is given to the issue of third country regulatory equivalence.

Group Capital requirements - Even if the home-regime of a third country insurer is deemed equivalent, its capital would only be that which is actually held in its EU entities so that the strength of the parent would still be of no benefit for group support. However, an European group with a holding within the EU and operations in a third country would get credit for its holdings in that country, to count as eligible capital on its parent-level. One can only conclude that what is known about Solvency II right now leaves a number of fundamental questions unanswered, when it comes to its dynamics on the international scene.

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- Solvency II may allow European supervisors the option of requiring regulation at the group level
- Regulators could select the jurisdiction based on level of business
- Third country companies could be required by the supervisor to form a European Insurance Holding company

- There are no answers as to how equivalency is to be determined
 - Criteria
 - Legal structure
- There are no answers as to how equivalency will work with a jurisdiction like the US with no group supervision
- GNAIE members are being asked to pay the price of “non-equivalence”, yet some provide the highest levels of European policyholder protection

- Identical insurers writing exactly the same business, assuming same quality of management, should be treated identically from a solvency viewpoint, regardless of domicile
- Solvency II group diversification benefits have been designed with EU groups in mind
- EU groups are lobbying hard for recognition in the EU of realisable diversification benefits attributable to their third country operations
- The ERM initiatives of Rating Agencies rightly do not discriminate on the basis of parent company domicile

- There is an urgent need for US Regulators to examine the impact of the group and third country issues of Solvency II on US companies
- Equivalency for NA insurers can't be relegated to "Phase 2" status
- The current proposals have serious competitive implications and threaten to undermine the protection provided to policyholders by some of the world's biggest and most financially secure insurers
- A wait and see approach is not an option!