

THE BARNERT REPORTS™

 Global Edition

Vol. IV No. 3

8 June 2006

Barnert Publishing Corporation

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United States

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IASB Sets Tentative Direction for Insurance Contracts Phase II

Over the last few months, the International Accounting Standards Board (IASB) has addressed insurance at almost every meeting. In the course of those meetings, the IASB has made tentative decisions which will influence the shape of the Insurance Contracts Phase II discussions paper which is set to be released in September. The IASB's Insurance Working Group, an advisory panel established two years ago will meet 29-30 June to review the tentative conclusions of the IASB. This may be the last meeting of the Working Group, although members of the Group would like it to be maintained throughout the rest of the process.

The tentative decisions made by the IASB include:

Risk and Profit Margins - The Board has decided that the measurement of insurance liabilities should incorporate a margin that represents an unbiased estimate of the compensation that market participants would demand not only for bearing risk (risk margin), but also for providing other services (profit margin). The Board said that the objective of a risk margin is not to provide a shock absorber for the unexpected, nor is it to enhance an insurer's solvency. Instead the Board said the objective is to convey decision-useful information to users about the uncertainty associated with future cash flows. It is their belief that a risk margin will satisfy that objective best if it is consistent with an unbiased estimate of the compensation that market participants would demand for bearing the risk in question. The Board has noted that it does not intend to prescribe specific techniques for developing risk margins.

THE BARNERT REPORTS™ is published by Barnert Publishing Corporation, 40 Exchange Place, Suite 1707, New York, NY 10005.

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Measurement - One of the most critical issues for the insurance industry is the approach to be taken on measurement. The Board has tentatively concluded that insurers should measure life and non-life insurance liabilities using one of two current value approaches, labelled for discussion purposes as current entry and exit value.

- o The current entry approach places more emphasis on calibrating the margin to the observed price for the transaction with the policyholder, and prohibits the recognition of net gains at inception (“a Business to Customer model”).
- o The current exit approach places more emphasis on the need to estimate the margin another entity would require if it took over the insurer's contractual rights and obligations (“a Business to Business model”). The Board has said it is too early to determine whether the current exit value is synonymous with fair value.

At the April IASB meeting, six Board members indicated a preference for the current entry approach, while seven Board members supported the current exit approach and one Board member abstained. (Under the revised International Accounting Standards Committee Foundation constitution, nine votes are required to adopt an exposure draft or a standard - but only a majority to adopt a discussion paper.) The Group of North American Insurance Enterprises, the large Japanese life insurers, and the European CFO Forum have all opposed an exit value approach in their accounting principles.

Credit Characteristics - The current exit approach would reflect the credit characteristics of the liability explicitly, whereas the current entry approach might reflect them implicitly, or perhaps not at all. At the May meeting, the IASB expressed its view that the current exit value of a liability is the price for a transfer that neither improves nor impairs the credit characteristics of the liability. Therefore,

- o The initial measurement of an insurance liability should reflect its credit characteristics. If the credit characteristics affect the measurement materially, the insurer should disclose the effect.
- o The subsequent measurement of an insurance liability should reflect changes in the effect of its credit characteristics (i.e., changes in the probability of default or changes in the price for possible default). An insurer should disclose changes in the effect of its credit characteristics. The staff will investigate how that effect should be quantified, given that a change in credit characteristics may be correlated with other factors, such as changes in interest rates.
- o The current exit value of an insurance liability guaranteed by third parties or ranking ahead of virtually all other liabilities is generally unaffected by changes in the entity's creditworthiness.

The International Association of Insurance Supervisors and the insurance industry uniformly oppose the use of own credit worthiness in the measurement of liabilities.

Unbundling - The Board agreed that it should not require insurers to unbundle deposit and service components of insurance contracts for the purpose of recognition and measurement.

Unit of Account - The Board has agreed that the insurers should measure their rights and obligations under insurance contracts on a portfolio basis, rather contract by contract.

Discount Rates - The Board has decided that the objective of discount rates is to adjust estimated future cash flows for the time value of money. The discount rate should be consistent with observable market prices for cash flows whose characteristics match those of the insurance liability in terms of timing, currency and liquidity.

Reinsurance - The Board tentatively decided the measurement attribute for reinsurance assumed and assets should be current exit value. For risks associated with the underlying insurance contract, a risk adjustment typically increases the measurement of the reinsurance asset, and is equal in amount to the risk adjustment for the corresponding portion of the underlying insurance contract. The carrying amount of reinsurance assets should be reduced by the expected (probability-weighted) present value of losses from default or disputes, with a further

reduction for the margin that market participants would require to compensate them for bearing the risk that defaults or disputes exceed expected value.

Policyholder Participation - The Board has said that in assessing whether an insurer has a constructive obligation to pay a dividend to a policyholder, the Board will rely on the definition being developed in the conceptual framework and IAS 37 projects.

Policyholder Behaviour/Renewals - The Board has tentatively agreed that where an insurer recognizes rights and obligations arising under an insurance contract, it should also recognize as an asset the portion of the customer relationship with the policyholder that relates to future payments that the policyholder must make to retain a right to guaranteed insurability. A right to guaranteed insurability permits continued coverage without reconfirmation of the policyholder's risk profile, at a price that is contractually constrained.

Acquisitions Costs - The Board has tentatively agreed that an insurer should recognise acquisition costs as an expense when it incurs them. The Board further agreed that the insurer should present the recognized portion of the customer relationship ("DAC") as part of the related liability and not as a separate asset.

Unit Linked Contracts - The Board agreed unanimously that the liabilities arising from a unit-linked contract, in a closed environment, would equal the carrying amount of the corresponding assets. This was contingent on the contract being set up so that all asset cash flows go ultimately to policyholders. But on a refining vote, just five members voted in favour of booking the liabilities net of any treasury shares specifically supporting the liability. Opponents believe that the treasury shares should be treated just like any other company holding of treasury shares and therefore not considered an asset. The same number also voted to present the gross value. Staff agreed to bring back a reworked paper for further discussion in June following an inconclusive vote.

IAIS Second Liabilities Paper Sent to the IASB

The International Association of Insurance Supervisors (IAIS) has published its second set of observations as further input to Phase II of the International Accounting Standards Board's (IASB) Insurance Contracts Project. The document published 1 June follows on from the IAIS's initial observations of May 2005. The paper entitled "Issues Arising as a Result of the IASB's Insurance Contracts Project - Phase II: Second Set of IAIS Observations" sets out a number of principles, or key observations, on measurement themes common to both general purpose financial reporting and regulatory reporting that the IASB is addressing in its consideration of Phase II.

These include various features of insurance liability measurement, risk margins and aspects of life insurance accounting. The IAIS letter states that:

- o Future cash flows relating to full settlement with the claimant/beneficiary should be the basis for measuring insurance liabilities.
- o An approach which uses observable inputs from deep and liquid markets to the fullest extent possible is appropriate in insurance liability valuation.
- o Similar obligations with similar risk profiles should result in similar liabilities.
- o Probabilities which reflect likely policyholder behaviour are needed to achieve meaningful results.

ALESSANDRO IUPPA

"The IAIS will continue to provide input to the IASB throughout Phase II."

o Including adjustments for credit standing in the measurement of insurance liabilities would be misleading for users of general purpose financial statements.

Alessandro Iuppa, Chairman of the IAIS Executive Committee and Maine Superintendent of Insurance, commented in the release, "There is widespread support for an effort to achieve a single set of accounts

that can be used for both general purpose financial reporting and regulatory reporting. With this aim in mind, the

IAIS will continue to provide input to the IASB throughout Phase II and work closely with the IASB on the many remaining significant issues."

Tom Karp, Chair of the IAIS Technical Committee, added that "Many of the issues and challenges that the IASB faces in Phase II of its Insurance Contracts Project are also faced by the IAIS in its ambitious project to formulate a common structure and common standards for solvency assessment of insurers. The IAIS is therefore well placed to provide meaningful, practical input."

In its cover letter to the IASB, the IAIS stresses that "many significant issues and questions still remain." Six US insurance trade associations and the Austrian Insurance Association (VVO) have issued a letter to the IAIS Technical Committee asking that the paper be delayed until further research on the proposed methods could be completed. The letter said, "We are deeply concerned that the risk margins concept, as described in the Second Liabilities Paper, is an untested and undefined procedure that neither companies nor supervisors know how to apply." The letter also expressed concerns with the IAIS's position in support of an exit value approach, discounting for non-life liabilities, and fair value measurement.

IAIS COVER LETTER

"Many significant issues and questions still remain."

The paper, available on the IAIS website at www.iaisweb.org, was prepared by the IAIS Insurance Contracts Subcommittee under the Chairmanship of Rob Esson of the National Association of Insurance Commissioners in the US. The IAIS and International Actuarial Association have been asked to present an education session to the IASB at its June meeting. The NAIC has also placed the IAIS paper on the agenda of the International Solvency Initiatives Working Group meeting on 10 June.

IASCF Chairman Resigns

Tommaso Padoa-Schioppa resigned as chairman of the Trustees of the International Accounting Standards Committee Foundation (IASCF) at the end of May to assume the position of Finance Minister in the new Italian Government. The IASCF is the private sector independent body responsible for the development and promulgation of a single set of high quality international accounting standards. The governance of the Foundation rests with 22 Trustees, who comprise leaders from the international business and policymaking communities around the world. The Trustees oversee the Foundation and the International Accounting Standards Board (IASB). The IASC Foundation is seeking a new Chairman of the Trustees to replace Padoa-Schioppa who took over as chairman in January 2006. In launching the search, the Trustees have indicated their desire to find a person with a profile that includes public service, as well as a strong relationship with the business community.

TOMMASO PADOA-SCHIOPPA

"In my role as Finance Minister, I will remain a staunch supporter of the activity of the organisation."

To ensure continuity and to permit the necessary time for the search process, the Trustees have appointed Philip Laskawy, a retired Chairman of Ernst & Young International, as Chairman of the Trustees for the interim period. Laskawy, a long-serving Trustee, is in the last year of his second and final term.

In announcing his resignation from the Trustees, Padoa-Schioppa stated, "I remain deeply committed to the IASC Foundation, because of the important role that International Financial Reporting Standards can play in the world's integrating economies. It is therefore with great regret that I have to cut short my time as Chairman. In my role as Finance Minister, I will remain a staunch supporter of the activity of the organisation. I view the progress that the IASB has made in such a short period of time as extraordinary, and its work on convergence must continue, if the world is to benefit fully from the globalising economy."

The Trustees are meeting in Berlin on 28-29 June. Although the agenda has not been released, one issue they are expected to address in a continuation of the discussion from their last meeting on the ability of IFRIC to respond

to the demand for guidance. (See IFRIC Faces Growing Demands for Interpretations in 24 April 2006 Global Edition.)

The IASCF has released its 2005 annual report which is available at www.iasb.org. 

FASB Invites Comments on Risk Transfer in Insurance Contracts

The US Financial Accounting Standards Board (FASB) is seeking constituent comment on the potential bifurcation of insurance and reinsurance contracts into insurance components and financing components in an Invitation to Comment (ITC) issued 26 May. The ITC reflects the Board's concern about a possible lack of transparency in the financial statements of both policyholders and (re)insurance companies relating to the depiction of insurance risk associated with contracts that include terms or features that significantly limit the actual amount of risk transferred. The ITC, which identifies eleven specific issues for comment, is available on the FASB website www.fasb.org. Responses are due by 24 August 2006.

The FASB placed the risk transfer issue on its agenda in April 2005 and in December asked staff to prepare an invitation to comment. FASB staff has described the ITC as a neutral document since the Board has had no deliberations nor has made any decisions on bifurcation.

The FASB said in its release that it wishes to gather information about whether bifurcation would improve financial reporting by providing users of financial statements with better information about the economic substance of insurance arrangements. Jeffrey Cropsey, FASB Project Manager, said, "Bifurcation could have a significant impact on the way some insurance contracts are accounted for and we want to ensure that all parties have an opportunity to carefully consider the issues and express their points of view."

Bifurcation would divide some or all of such contracts into two main components for financial reporting purposes. Components of such contracts that transfer significant insurance risk would be accounted for under existing insurance accounting guidance and generally provide an income statement benefit (recovery) in the period of an insured loss. Financing components that are accounted for as deposits would be recorded as an asset by the policyholder. Any recovery from an insured event would reduce the deposit and not have a significant income statement benefit.

One of the key questions for the insurance industry is how the FASB action ties into the IASB Phase II Insurance Contracts project. At its May meeting, the IASB discussed the impact of the FASB's work on insurance risk transfer and decided that it "is unlikely to require changes to the IASB's tentative decision that phase II should not require insurers to unbundle deposit and service components of insurance contracts for the purpose of recognition and measurement."


JEFFREY CROPSEY

"Bifurcation could have a significant impact."

Until the Board has the benefit of input from the FASB's work on risk transfer and on financial guarantee contracts, the IASB said it will not consider:

- o whether unbundling (bifurcation) is appropriate if some or all premiums are presented as revenue;
- o the definition of an insurance contract;
- o whether the accounting model being developed for insurance contracts in general is also appropriate for financial guarantee contracts that meet the definition of an insurance contract; and
- o policyholder accounting.

FASB in turn has said that when the Phase II initial discussion document is ready for exposure, the FASB will issue a wrap-around ITC asking for comments on the document. At that time FASB will become more involved in Phase II decisions including bifurcation.

The FASB is not the only organisation looking at the issue of risk transfer. The National Association of Insurance Commissioners (NAIC) is continuing to examine finite reinsurance. The Property and Casualty Reinsurance Subgroup of the Accounting Practices and Procedures Task Force will look at insurance industry proposed amendments to its disclosure requirements on finite reinsurance at its 10 June 2006 meeting. The International Association of Insurance Commissioners (IAIS) is also updating its 2005 Guidance Paper on Finite Reinsurance which is hopes to have adopted at the October 2006 annual meeting. 

US and Japanese Life Insurers Propose Accounting Standard

The Group of North American Insurance Enterprises (GNAIE) and the executive officers of the four largest life insurance companies in Japan have sent to the International Accounting Standards Board (IASB) a new document entitled, “An International Accounting Standard for Life Insurance,” The combination of U.S. and Japanese life insurance companies represents more than 50 percent of the world's life insurance markets. The principles are an extension of a document submitted to the IASB last year.

Richard J. Carbone, chairman of GNAIE, said, “The joint effort by U.S. insurers and the Japanese life insurance industry has a common objective: the creation of international accounting standards that create more efficient global capital markets and also reflect the business model and unique features of insurance contracts.” Carbone is chief financial officer of Prudential Financial, Inc.

Koji Hanaoka, managing director, Sumitomo Life Insurance Company, said that “The set of principles and guidance for an international accounting standard for life insurance developed by this partnership of nations is a valuable contribution to achieving the ultimate goal of international convergence to a set of high quality accounting standards for insurers worldwide.”

KOJI HANAOKA

“The set of principles is a valuable contribution.”

The 16 Principles are:

- o Principle 1: The Net Insurance Liability (or Liability”) should be based on the present value of all future cash flows associated with the portfolio of insurance contracts being valued.
- o Principle 2: The Net Insurance Liability at all times must be sufficient to provide for payment of all expected future obligations with adequate provision for risk and uncertainty.
- o Principle 3: Profit should be recognized in line with the release from risk.
- o Principle 4: On initial issue there should be no accounting gain or loss.
- o Principle 5: A policyholder intangible (or Deferred Acquisition Cost) asset should be established when a policy (or block of policies) is issued and amortized over time into earnings in line with the policy's profit profile.
- o Principle 6: Insurance liabilities should reflect the inherent risk and uncertainty of future cash flows.
- o Principle 7: Assumptions underlying the measurement of insurance liabilities and intangible assets should be periodically reviewed and changed, if appropriate.
- o Principle 8: Liabilities should reflect the value of all financial options and guarantees.
- o Principle 9: Measurement should be based on a portfolio of exposures.
- o Principle 10: Policyholder behaviour should be reflected in the measurement of all liabilities.
- o Principle 11: Renewal options or provisions that obligate the insurer to continue to provide coverages should be recognized to the extent they are included in the contract or required by law or regulation.
- o Principle 12: The credit standing of an entity should not be considered in the valuation of insurance liabilities.
- o Principle 13: Entities should have the ability to measure assets and liabilities on a consistent basis to reflect the way companies manage risk.

- o Principle 14: Liabilities supported by a separate account, a unit-linked fund or a similar dedicated portfolio should reflect the expected returns on that portfolio.
- o Principle 15: Liabilities for participating contracts must include provision for the expected payout of policyholder dividends, additional benefits provided or any other result of the participating mechanism.
- o Principle 16: Insurance policies with flexible premiums should only be unbundled in the event that the separation would result in material differences in the overall value of the contract and either a) The deposit and insurance components of the contract are separately priced and separately managed by the insurer; or b) Separate measurement of a deposit component is necessary to recognize rights and obligations of the insurer and the policyholder.

The paper focuses on the measurement of life insurance, annuities and certain types of health insurance for general purpose reporting; it does not include solvency regulation.


Almost all life insurance and annuity contracts that qualify as insurance are included under these principles, as well as long term care insurance, disability insurance and other types of non-cancellable or guaranteed renewable health insurance contracts issued by either a life or non-life company.

The member companies of GNAIE are: ACE Ltd.; AIG, Inc.; The Allstate Corporation; GE Insurance Solutions; General Reinsurance; Genworth Financial, Inc; The Hartford; Metropolitan Life Insurance Company; New York Life Insurance Company; Prudential Financial, Inc.; and XL Capital, Ltd. The executive officers of the Japanese life insurance companies are: Takao Arai, executive vice president, Nippon Life Insurance Company; Kazuma Ishii, managing executive officer, Dai-Ichi Life Insurance Company; Hiroaki Tonooka, managing director, Meiji Yasuda Life Insurance Company; and Koji Hanaoka, managing director, Sumitomo Life Insurance Company.

RICHARD CARBONE

“The insurance industry has a common objective: the creation of international accounting standards that reflect the business model and unique features of insurance contracts.”

www.insuranceaccounting.org

GNAIE has launched its newly redesigned web site to serve as a central source of news, research and analysis on the development of accounting and financial reporting standards for insurance companies. “An important part of the GNAIE mission is to communicate effectively with insurers worldwide as well as the U.S. and international accounting standards community. The new web site is a crucial component of that communications endeavour,” said Carbone. The site can be reached through www.insuranceaccounting.org or www.gnaie.net. 

EC Hold Public Sessions on Insurance and Governance

The Internal Markets Division of the European Commission has asked for public comment on the new European structure for insurance financial regulations, known as Solvency II, on corporate governance, and on the future direction of the Internal Markets policy. The hearing on Solvency II will be held on 21 June 2006 at Albert Borschette Conference Centre, 36, rue Froissart, Brussels. Registration information can be found at http://ec.europa.eu/internal_market/insurance/solvency2/hearing. The Commission has also asked for interested parties to comment on a questionnaire on the same site.

Speakers and panellists from the Commission, the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), the insurance industry and other stakeholders will provide background as to how Solvency II may affect the European insurance market. Internal Markets Commissioner Charlie McGreevy and IAIS Chairman Alessandro Iuppa will both speak, as well as heads of all the CEIOPS Solvency II working groups. Interested parties can register to intervene at the hearing on the website.

The European Commission will also to host this year's "Transatlantic Corporate Governance Dialogue" conference, which was established by the American Law Institute and the European Corporate Governance

Institute to provide a platform for the discussion of corporate governance issues at the forefront of policymaking in both the EU and the USA. The conference will take place on 27 June 2006 in Brussels. The theme of the conference will be "Controlling shareholders and corporate governance: Better monitors or more self-dealing?" Internal Market and Services Commissioner Charlie McCreevy and Securities and Exchange Commissioner Cynthia A. Glassman will both deliver keynote speeches. The programme and registration form are available at: <http://www.tcgd.org/2006/programme.php>

Finally, the Commission has launched a public consultation on how the Internal Market should respond to new and future challenges. Interested parties are invited to give their views by 15 June 2006. The consultation document and a template for replies are available at http://europa.eu.int/comm/internal_market/strategy/index_en.htm

CHARLIE MCCREEVY

"We should never allow ourselves to take it for granted."

In the call for consultation Internal Market and Services Commissioner Charlie McCreevy said, "The Internal Market is at the heart of the European Union. It has brought great benefits to citizens and to businesses. We should never allow ourselves to take it for granted. And

we need to make sure that it is equipped to meet new and future challenges. That is why I am currently undertaking a review of Internal Market policy."

The consultation provides an initial assessment of the Internal Market as it is today, discusses possible ideas for future policy direction and puts a series of open questions on these ideas to which everyone is invited to reply.

The consultation paper identifies a number of key challenges - making a reality of the internal market, filling gaps and making it work; responding to globalisation and rapid technological change; and ensuring the support of citizens and businesses. The Commission will also hold a public hearing on 12 September 2006 to discuss key aspects of Internal Market policy in greater depth.

CEIOPS Launches Second Quantitative Impact Study

The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) has announced the requirements of a second round of impact studies (QIS2) which will analyse the effect on insurance undertakings of the possible restatement of the value of both assets and liabilities under the Solvency II framework, as well as some possible options for setting the capital requirement (Minimum Capital Requirement and Solvency Capital Requirement).

The European Commission requested that CEIOPS examine the ramifications of Solvency II through a series of quantitative impact studies (QIS). The results will provide a key input for the Impact Assessment report of the European Commission for its proposal for the Solvency II Framework Directive according to CEIOPS.

The goals of QIS2 are to provide information on:

- o the practicability of the calculations involved;
- o the possible impact on the balance sheets and the amount of capital that might be needed if one of the approaches set out in the QIS2 specification were to be adopted as the Solvency II standard; and
- o the suitability of the possible approaches to the calculation of the Solvency Capital Requirement.

The European Commission has requested to receive the results from QIS2 by October 2006. CEIOPS has asked participants to complete the spreadsheet and the additional information request by 31 July 2006. The specifications and spreadsheets for QIS2 can be found on the CEIOPS website at <http://www.ceiops.org/content/view/118/124>.

QIS1 Results

CEIOPS conducted its first QIS at the end of last year and released the report on the results in March. QIS1 focused on the level of prudence in the current technical provisions, benchmarking them against some predefined confidence levels and the practicability of the calculations involved. One hundred and fifty life insurance companies, 190 non-life insurance companies and 4 reinsurance undertakings submitted QIS1 reports to their national supervisors. The covered market share for the participating countries was on average about 44% for life and 43% for non-life.

The foremost general conclusion CEIOPS made from QIS1 was that solvency requirements based on the best estimate plus risk margin tend to be less than the provisions on the current bases and that the risk margins tend to be small for most undertakings and classes of business. However, for non-linked life, the future bonuses seem to have a much larger impact on the required provisions than the risk margin in most countries, and for non-life the effect of discounting is relatively large for some classes of business.

For non-life insurance the best estimates and the 75th and 90th percentiles were generally lower than the current bases, though some countries reported an increase in the provisions if these were undiscounted. The effect of discounting seemed substantial according to CEIOPS. Most country reports gave an estimated reduction in requirements of between ten and fifteen percentage points if discounting were used. These findings show, according to CEIOPS, that the Solvency II proposals will have significant implications, although the total effect can only be assessed after the QIS2 exercise, which includes also the effect of the solvency capital requirements, valuation of assets and definition of available capital.

CEIOPS

“Solvency requirements based on the best estimate plus risk margin tend to be less than the provisions on the current bases.”

CEIOPS

“Three problems were mentioned in nearly all country reports: a lack of time, of resources and of experience.”

The impact study also provided insight into the methodology used for the calculations.

According to the report, three problems were mentioned in nearly all country reports: a lack of time, of resources and of experience. A fourth prominent problem was a lack of sufficient data and the appropriate choice of actuarial assumptions. There were also difficulties for a lot of undertakings in deriving risk margins,

accounting for financial risks and treating reinsurance. Roughly half of the national supervisors indicated that it was more difficult for smaller undertakings, but the other half stated that the problems were encountered irrespective of the size of the undertaking. In general, life undertakings would need to make substantial investments and non-life need smaller investments to implement the Solvency II approaches.

CEIOPS also said that although the majority of participants raised no objections regarding the proposed valuation principles, most criticism seems to have focused on the use of percentiles. Those criticisms included: an explicit confidence level was arbitrary and therefore the results were unreliable; difficulties in choosing an underlying distribution made it imprecise; and insurers sometimes make very rough assumptions for their calculations.

CEIOPS Releases Protocol on Insurance Intermediaries


The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) has prepared a Protocol concerning the co-operation between Supervisory Authorities of the European Union Member States in the context of the Insurance Mediation Directive. The Co-operation Protocol sets out practical rules and arrangements for the co-operation between supervisors with regard to the regular exchange of information and the notification procedures foreseen in the Directive. After a public consultation period of three months, the Protocol was adopted by CEIOPS on 26 April 2006.

The Intermediaries Directive sets up a legal framework which insurance intermediaries may conduct their activities throughout the EU. The deadline for transposing the Directive into national legislation was 15 January 2006, but not all Member States have complied. The Commission has referred Germany, Greece, France, Malta, Spain and Portugal to the European Court of Justice for failure to enact the directive on time.

The Protocol is based on the current “Siena Protocol” which lays down cooperation provisions with regard to non-life and life insurance directives. The Protocol focuses in particular on the registration process of insurance intermediaries, the data that should be included in the public register of insurance intermediaries in their Home Member State and the document to be used for the notification procedure for cross-border activities. The document also contains general provisions relating to the cooperation between competent authorities in order to ensure the application of the Directive.

The Protocol contains four parts.

- o Part I sets out the general aims and principles for the cooperation between Competent Authorities regarding mainly the registration procedure, the supervision of professional requirements and professional secrecy.
- o Part II covers the registration and notification procedures, including the minimum information to be contained in the public registers and to be given in a notification for cross-border mediation services.
- o Part III provides details on the procedures of exchange of information and on going supervision of intermediaries.
- o Part IV covers some general matters regarding out-of-court settlements of complaints.

The annexes contain standardised forms for cross-border notification, a list of Competent Authorities for making and receiving notifications and a list of national bodies for out-of-court settlement of complaints. 

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