

EU-U.S. Dialogue Project: The Way Forward Objectives and Initiatives for the Future

The EU-U.S. Dialogue Project began in January 2012 with the objective of enhancing understanding and cooperation for the benefit of insurance consumers, business opportunity and effective supervision. With the involvement of technical experts in both jurisdictions, the Project produced a draft factual Report on commonalities and differences between the jurisdictions in key areas of supervision. The Report, which was released for public comment in September 2012, has been updated and is being released in conjunction with this document. A detailed project plan will be developed in early 2013 and will be updated periodically as the following common objectives and initiatives are pursued over the next five years. The Steering Committee reaffirms its commitment to the EU-U.S. Dialogue Project and will continue to oversee its progress.

1. Professional secrecy/confidentiality

Objective: Promote the free flow of information between EU and U.S. supervisors under conditions of professional secrecy by removing the barriers to the exchanges of information.

- a. Investigate and pursue the possibility of having a Multilateral Memorandum of Understanding (MMoU) to eventually be entered into by all U.S. states and all EU Member States
 - i. *If needed, establish an overview of EU Member States'/U.S. states' legal and practical framework for professional secrecy*
- b. Explore the ability to make existing U.S. State law and processes regarding professional secrecy/confidentiality more explicit in relation to exchanges of information with non-U.S. supervisory authorities
- c. Encourage the expanded use of MoUs as confidence-building measures and in order to formalize frameworks for information sharing across jurisdictions
- d. Encourage all constituents to join the International Association of Insurance Supervisors (IAIS) MMoU, and support IAIS efforts to expedite the process, recognizing that the necessary IAIS review and approval process may mean considerable delay before the majority of U.S. states and EU Member States can become signatories

2. Group supervision

Objective: Establish a robust regime for group supervision, under which there is:

- 1) a clear designation of tasks, responsibilities and authority¹ amongst supervisors, including a single group/lead supervisor;**
- 2) a holistic approach to determining the solvency and financial condition of the group that is consistent with the way companies manage their business, that avoids double counting of regulatory capital and that monitors risk concentrations, considers all entities belonging to the group and is complementary to solo/legal entity supervision;**
- 3) greater cooperation and coordination amongst supervisory authorities within colleges; and**
- 4) efficient enforcement measures at the group and/or solo level that allow for effective supervision of groups.**
 - a. Share best practices/experiences of cooperation and coordination amongst supervisory authorities (e.g. in form of a regular forum or a workshop), including the clear designation of tasks and responsibilities, which should foster harmonization of group supervision over time
 - b. Promote harmonization of Own Risk and Solvency Assessment (ORSA) reports and establish an ORSA report template which could be used by EU and US groups alike, e.g. a modular approach with a joint section to be equally used by both sides and other, more specific sections with EU/U.S. particularities
 - c. Promote effective college procedures to maximize the benefit to participating supervisors (responsibilities/decision-making, data needs and exchange/reporting, group capital discussions etc.)
 - d. Discuss supervisory expectations with regard to governance (both corporate and internal governance) and achieve a common list of indispensable governance elements to be part of Enterprise Risk Management (ERM)
 - e. Work towards achieving greater comparability between groups in relation to an overall group solvency assessment

¹ The term "authority" incorporates the powers and ability of supervisory authorities to enforce laws.

3. Solvency and capital requirements

Objective: Further develop an approach to valuation which more accurately reflects the risk profile of companies, is sufficiently sensitive to changes in that risk profile and which has capital requirements that are fully risk-based, based on a clear and transparent calibration and that cover similar categories and subcategories of risks to which companies are exposed.

- a. Identify categories and subcategories of risks for prioritization of further work
- b. Establish a transparent calibration including a time horizon on a risk-by-risk basis
 - i. *Establish separate technical workstreams on catastrophe, market and operational risks and discuss the calibration approach including the type and granularity of data to be used in the calibration process with a view to achieving further convergence on these quantifiable risks*
- c. Work towards a consistent approach to solvency, i.e. capital requirements, valuation and technical provisions, viewed on an overall basis
 - i. *Analyse how technical provisions are calculated in both regimes*
- d. Examine the interaction of solvency and capital requirements with other supervisory tools such as financial analysis when looking at b and c above

4. Reinsurance and collateral requirements

Objective: Work to achieve a consistent approach within each jurisdiction and examine the further reduction and possible removal of collateral requirements in both jurisdictions in order to ensure a risk-based determination for all reinsurers in relation to credit for reinsurance.

- a. The EU to provide an analysis of the possibility of concluding a bilateral agreement with the US under Article 50 of the Reinsurance Directive (Directive 2005/68/EC), which is currently applicable in the EU
- b. The EU to analyse how the agreements envisaged under the Reinsurance Directive differ from the articles on Commission decisions on equivalence in the Solvency II Directive (Article 172 of Directive 2009/138/EC)
- c. The U.S. to outline what possibilities exist for revising the current Model laws on credit for reinsurance, including for foreign and domestic reinsurers, and for reviewing the relationship with the accreditation program to the extent that the National Association of Insurance

Commissioners (NAIC) public statements commit to periodically re-examine the issues of uniformity and collateral levels

- d. The U.S. to outline in relation to the eleven states that have passed the NAIC Model laws, what the status of these laws are (i.e. whether they are currently in operation) and how they differ
- e. The Federal Insurance Office to respond to suggestions regarding its authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to entering into Covered Agreements

5. Supervisory reporting, data collection and analysis

Objective: Pursue greater coordination in relation to the monitoring of the solvency and financial condition of solo entities and groups through the analysis of supervisory reporting. The exchange of information is facilitated by the joint exchange of best practices for analysis and an evolution towards a greater consistency of reporting.

- a. EU to further examine and learn from NAIC experience in terms of centralized database and analysis
- b. U.S. to examine and learn from EU experience in terms of group reporting and analysis
- c. Mutual exploration of greater consistency and compatibility in group reporting and analysis
- d. Explore possibilities to exchange data, e.g. regarding investments or reinsurance, to identify common and interlinked risk exposures
- e. In order to facilitate items mentioned in a, b and c: explore platforms for data sharing, common data standards/taxonomies e.g. extended business reporting language (XBRL), data elements and global standards such as common issuer coding (legal entity identifier)

6. Peer reviews

Objective: Ensure the consistent application of prudential requirements and commitment to supervisory best practices through different peer review processes that ensure an independent view of the jurisdiction being examined.

- a. Establish a "Network of Supervisors" for key colleges to facilitate general learning/sharing of experiences in order to promote efficiencies in operational processes, best practices among, and effectiveness of supervisors in, colleges

- b. EU to elaborate and implement a sound process to oversee the tasks carried out by the competent national authorities with regard to supervisory activities (e.g. on- and off-site examinations, supervisory plans), including quality and timeliness of actions taken, to promote effective and efficient supervision
- c. For the U.S., to consider whether to include effective and efficient supervision of colleges in the accreditation program; both, the EU and the U.S. to coordinate the evolution of operational processes and best practices in colleges to promote consistency of group supervision across jurisdictions and avoid duplication

7. Independent third party review and supervisory on-site examinations

Objective: Ensure consistency and effectiveness in the supervision of solo entities and groups.

- a. Investigate the possibility of building common principles to promote greater consistency and effectiveness in risk-based and targeted supervision
- b. EU to examine and learn from U.S. experience regarding tools used in the supervisory process (such as the NAIC Examiners Handbook) and both to continue mutual exchanges going-forward in the development of the supervisory process
- c. On-going EU-U.S. Dialogue to enhance understanding and consistency, in particular once the EU's Supervisory Review Process (SRP) document is available with respect to the frequency, methodology and specific requirements for an on-site monitoring and examination
- d. Promote enhanced cooperation through
 - i. Greater collaboration in the development of supervisory plans, including on-site examinations*
 - ii. Streamlining the supervisory processes to avoid duplication*
- e. Consider opportunities for effective collaboration in the supervision of transatlantic groups, i.e. share information and coordinate examinations
- f. The U.S. to investigate ideas/approaches to require the function of an internal audit
 - i. U.S. will determine which U.S. insurance groups with transatlantic operations already maintain an internal audit function*