

**Comments Template on Consultation Paper on the
Proposal for Guidelines on
Forward Looking assessment of the undertaking's own risks
(based on the ORSA principles)**

**Deadline
19 June 2013
12:00 CET**

Name of Company:	ASSOCIATION OF BERMUDA INSURERS AND REINSURERS (ABIR)	
Disclosure of comments:	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"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-13-009@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to this Consultation Paper, the numbering of cells refers to the Technical Annexes II and III.</p>		
Reference	Comment	Resolution
General Comment	The Association of Bermuda Insurers and Reinsurers (ABIR) is grateful for the opportunity to provide comments on the Consultation Paper. ABIR is a professional trade association representing Bermuda's Class 4 insurers and reinsurers. Our 21 members write a significant amount of insurance and reinsurance from both subsidiary corporations in Europe and from cross border export sales from Europe to our Bermuda underwriting headquarters. Eighteen	

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of our 21 member companies have European subsidiary corporations.

EIOPA in its cover note (EIOPA CP-13/015) requested that comments present a clear rationale and description of alternatives for EIOPA's consideration. ABIR has responded to this request with our comments below.

**Introduction General
Comment**

- 1 ABIR fully understands why EIOPA considers that European firms and groups need now to undertake active preparations for the Solvency II regime. It is unlikely to come into force until 2016, but its success requires an active preparation process and for that process to be managed in a reasonably consistent way across Europe.
- 2 On the other hand care needs to be taken in the application of any interim regime to ensure that it is not unduly burdensome. It should take account of the fact that the level 1 text is not fully settled. The level 2 rules and much of the level 3 and 3.5 material is yet to be settled and published.
3. In particular the full details of the equivalence and interim equivalence regimes is yet to be settled. That said, so far as Bermuda is concerned, the preparatory work of EIOPA strongly suggests that Bermuda will be recognised as equivalent.
4. The Solvency II regime may ultimately have some degree of extra-territorial effect, depending on which non European regimes are recognised as equivalent. It is wholly inappropriate for that extra-territoriality to be applied on an interim basis, especially in jurisdictions such as Bermuda which are likely to achieve recognition as equivalent. Only European firms should be subjected, directly or indirectly, to requirements at this stage which require any degree of adaptation to the Solvency II regime.
5. The preparations which European firms and groups may be required to make for Solvency II require them to provide information concerning non European operations. At this interim

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stage it is disproportionate to do anything other than accept information by reference to relevant non EEA rules and in such format as non EEA firms are able to generate from their existing systems. This should be clearly recognised in the EIOPA guidelines. Otherwise non EEA firms may be subject to a patchwork of different requirements depending on how each national supervisor chooses to apply EIOPA's interim guidelines.

ABIR is of the opinion that EIOPA should be consistent in its approach across all of the Guidelines and allow groups to use the local group statutory requirements in order to avoid a burdensome approach. We understand why EIOPA may be hesitant to preempt the decision of the Commission relative to equivalence but believe there is an opportunity to recognize and acknowledge those jurisdictions that have already been approved by the Commission for equivalent assessment and in this regard, have already undertaken a detailed assessment by EIOPA. However, since EIOPA considered the option of the assumption of equivalence for third countries we would propose that those countries already approved by the Commission for assessment of equivalence and already undertaken an EIOPA assessment be granted "conditional equivalence" for the purposes of the guidelines given they are preparatory in nature and not for the full application of Solvency II.

We would respectfully request at a minimum that General Guidelines be issued relative to a proposed approach that recognizes and acknowledges third country group supervisors and in particular those third country group supervisors that have already been approved by the Commission for equivalence assessment. Without a common approach, national competent authorities will be left to decide how they will apply the guidelines relative to third country groups and the inconsistencies will prove both burdensome and inefficient.

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Section I. General Comments		
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Section II. General Comments		
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Section III. General Comments		
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Section IV. General Comments		
1.47	We note that Bermuda Groups are already required to file an extensive group ORSA covering the entire group and this guideline contemplates the inclusion of all entities within the group both within the EEA and outside the EEA. Guidance on acceptability of a Bermuda Group ORSA given its status relative to equivalence would be appreciated.	
1.48	Reference is made to the “entity responsible for fulfilling the governance requirements” and for Bermuda groups that entity is the designated insurer under Bermuda law. Subsection b of this guideline refers to a supervisor consulting with the “group supervisor” regarding translation. In this regard, in the absence of an overarching statement relating to third country group supervisors and for the	

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	avoidance of doubt does this include group supervisors who are outside the EEA?	
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Compliance and Reporting Rules General Comments		
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Question 1		
Question 2		
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