

Comments Template on EIOPA-CP 04-11		Deadline 23.09.2011 17.30 CET
EIOPA Draft Report - Equivalence assessment of the Bermudan supervisory system in relation to articles 172, 227 and 260 of the Solvency II Directive		
Name of Company:	Bermuda Insurance Management Association	
Disclosure comments:	of EIOPA 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:	Confidential/Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in the column "reference". ⇒ 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>. ⇒ 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"> ○ 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. ○ If your comment refers to sub bullets/subparagraphs, please indicate this in the comment itself. <p>Please send the completed template, <u>in Word Format</u>, to equivalence@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper No. 03 (EIOPA-CP-04-11).</p>		
Reference	Comment	
General Comment	The Bermuda Insurance Management Association ("BIMA") is pleased to have this opportunity to provide comments on EIOPA's Draft Report on its recent equivalency assessment of the Bermudian supervisory system in relation to articles 172,227, and 260 of the Solvency II Directive.	

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BIMA was established in the late 1970s and its membership is comprised of the Island's licenced insurance managers and self-managed captive insurance companies. As of September 20, BIMA has 50 member firms who manage 95% of Bermuda's captive insurance companies.

BIMA is pleased to note that EIOPA has recognised the segregated nature of the Bermuda insurance market and the differences between the commercial insurance sector and the captive insurance sector. The Bermuda Monetary Authority ("BMA") recognised this segregation in 1995 with the introduction of the class system for the licensing of insurance and reinsurance companies. This system was further refined in 2008.

The Principle of Proportionality – enshrined in the Lisbon Treaty – was a key principle adopted by the BMA in 1995 when the class system was put in place. The level of regulatory oversight was directly linked to the underlying risk profile of the entity being regulated.

EIOPA in its report has noted that the class system is an important specificity for the Bermudian insurance market and encourage EIOPA to continue to be cognisant of this in the months ahead as the final report is prepared for the Commission.

BIMA is very aware of the importance of Solvency II equivalency for Bermuda's commercial insurance and reinsurance sector – specifically those companies with Class 4, 3B and 3A licences. Those companies conduct a significant amount of international business.

However, the majority of Bermuda's captive insurance companies (Classes 1, 2 and 3) do not conduct business in Europe and thus equivalency is not of concern to the majority of that sector. In addition, those few which do have risks insured or reinsured from Europe are purely for policyholders which are either parent companies or related subsidiaries and affiliates. This, also, applies to risks insured by a European captive and reinsured to a Bermuda captive. For European risks reinsured by a European commercial insurer, collateral is in place to protect that insurer in the unlikely event that this is needed. Thus BIMA would encourage EIOPA to remain focused on the segmented nature of the Bermuda insurance market and continue the dialogue and assessment of the commercial sector to enable that sector to obtain Solvency II equivalence.

Notwithstanding BIMA's comments above, we have reviewed EIOPA's entire draft report and note the comments where the regulatory environment for Classes 1,2 and 3 are deemed not to be equivalent or

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partly equivalent. It is not BIMA's intention to comment on each paragraph where such comments are made. Our only specific comments will be referring to paragraphs 14 and 19.

However we do wish to state that we believe that the BMA has applied the principle of proportionality in an appropriate manner for Classes 1,2 and 3 and that the regulatory regime in place for the captive sector is appropriate to the nature of the companies in this sector, the underlying risk profile of the sector and is in accordance with international standards.

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14.	<p>We note the definitions of Classes 1 and 2 presented in the draft report and believe some clarification is required.</p> <p>Class 1 – the draft report states that third party liability risks of the owner can be insured. Under The Insurance Act, a Class 1 insurer can only write related business – no unrelated business can be written</p> <p>Class 2 – the draft report states “single or multi-owner captive insurers deriving up to 20% of their net premiums from unrelated parties.” The majority of class 2 companies are multi-owner or association captives writing business related or connected to the owners or members of the association. Class 2 company may write up to 20% unrelated business and this is usually for joint ventures and so, again, is connected business.</p>	
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19.	<p>The draft report notes that the Bermuda insurance market has a strong focus on captive insurers, which makes up more than half of the insurers supervised by the BMA. We believe it is important to note that the Bermuda market began as a captive insurance market in the 1960s and 1970s and an evolution into the segregated market that it is today commenced in the 1980s. Since the captive insurance concept was first used, Bermuda was the world's number one domicile. Bermuda continues to maintain that number one position today.</p>	
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