

# AIDA Europe Conference 22 October 2009

*Working Party on Supervisory laws and European  
cross-boarder issues after implementation of the  
reinsurance directive*

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**SCOR**

# CEIOPS Database on Third Country Treatment

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## CEIPOS brings clarification

„22. September 2009

CEIOPS published today a **database on the regulatory and supervisory treatment of third country reinsurance undertakings and existing equivalence practices.**

The database is based on the responses of CEIOPS Members and Observers to a detailed questionnaire - a report in respect of which was published in January 2009.”

**<http://www.ceiops.eu/media/files/supervisory-disclosure/CEIOPS-public-database-treatment-3rd-country-reinsurers.xls>**



AIDA Europe Conference Zurich – Working Party: Supervisory laws and European cross-boarder issues after the implementation of the reinsurance directive

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# Freedom of Services for Reinsurance Business

CEIOPS Questionnaire:

“1(a) Are third country reinsurers able to write reinsurance business on a freedom to provide services basis from their home state?”

NO	YES		
Austria	Belgium	Italy	Romania
Cyprus	Bulgaria	Latvia	Slovenia
Czech Republic	Denmark	Lithuania	Spain
Greece	Finland	Luxembourg	UK
Malta	France	Netherlands	
Slovakia	Germany	Norway	
Sweden	Hungary	Poland	
	Iceland	Portugal	
No answer to question 1(a): Estonia; Liechtenstein (EEA)			

# Proposer to Initiate Reinsurance Business

CEIOPS Questionnaire:

“5(a) Do you accept that reinsurance cessions can be made to third country reinsurers where these are arranged at the proposer’s own initiative and the contract is concluded and serviced in the jurisdiction of the third country?”

YES			
Austria	Belgium	Italy	Romania
Cyprus	Bulgaria	Latvia	Slovenia
Czech Republic	Denmark	Lithuania	Spain
Greece	Finland	Luxembourg	UK
Malta	France	Netherlands	
Slovakia	Germany	Norway	
Sweden	Hungary	Poland	
	Iceland	Portugal	
No			
Romania			
No answer to question 5(a): Estonia; Liechtenstein (EEA)			

# Agreement with Third Countries

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- Reinsurance Directive lays the foundation for agreements between the EU Council and third countries to ensure market access
- Prerequisite is equivalence of prudential regulation of third countries.

Article 50

## **Agreements with third countries**

1. The Commission may submit proposals to the Council for the negotiation of agreements with one or more third countries regarding the means of exercising supervision over:

...

2. The agreements referred to in paragraph 1 shall in particular seek to ensure under conditions of equivalence of prudential regulation, effective market access for reinsurance undertakings in the territory of each contracting party and provide for mutual recognition of supervisory rules and practices on reinsurance.

...

3. Without prejudice to Articles 300(1) and (2) of the Treaty, the Commission shall with the assistance of the European Insurance and Occupational Pensions Committee examine the outcome of the negotiations referred to in paragraph 1 of this Article and the resulting situation.

# Convergence Criteria

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- CEIOPS has already established prudential convergence criteria, by which equivalence of a third country supervisory systems may be judged against the EU benchmarks.

1. Principle – Supervisory Authority
2. Principle – Authorisation Requirements
3. Principle – Business Change Assessment
4. Principle – Supervisory Cooperation and Exchange of information
5. Principle – Supervisory and Enforcement Powers
6. Principle – Financial Supervision and Solvency Requirements

<http://www.ceiops.eu/media/files/publications/standardsandmore/recommendations/CEIOPS-ConCo-17-08-Equivalence-Assessment-Criteria.pdf>



# Remedy the Gap

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- Exploration of scope of country specific restrictions and possibility for exemptions/alternative approach?
- Practical considerations:
  - Reinsurance: Global markets, centralized underwriting/servicing.
  - Conclusion and servicing of reinsurance contract outside of the EU cedant's jurisdiction, centralized services at home state level
  - Application of principles of "*Korrespondenzversicherung*"?

# Remedy the Gap

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- Last resort..... legislative initiatives:
  - Availability of interpretative/alternative approach in case of Austria, Cyprus, Czech Republic, Greece, Malta, Slovakia, Sweden?
  - Failing flexibility – merits of legislative approach. Convergence criteria applied by other member states e.g. Germany –§121iVAG
  - Merits of Article 50 of the Directive – EU Commission initiated agreements with third countries to allow for market access.