Comments Template on CEIOPS-CP 61 Consultation Paper on the Draft L2 Advice on intra-group transactions and risk concentration		Deadline 11.09.2009 4 p.m. CET
Name of Company:	European Insurance CFO Forum	
Disclosure of comments:	CEIOPS 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:	No. The CFO Forum comments are not confidential.

Please follow the following instructions for filling in the template:

- ⇨ Do **not** change the numbering in the column "reference".
- ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph, keep the row empty.
- ⇨ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below.
  - o 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.
  - o If your comment refers to sub bullets/subparagraphs, please indicate this in the comment itself.

Please send the completed template, in Word Format, to secretariat@ceiops.eu. Our IT tool does not allow processing of any other formats.

The numbering of the paragraphs refers to Consultation Paper No. 61 (CEIOPS-CP-61/09).

Reference	Comment	
General Comment	**Reference to Financial Conglomerate Directive (FCD) is not appropriate.** This directive is currently in draft and is not being drafted with specific consideration to insurance groups.	

	The CFO Forum recommends that the FCD should be aligned with Solvency II (and Capital Requirements Directive (CRD)) as much as possible. The proposed fundamental review of the FCD in 2012 would be the best opportunity to do this. In light of the proposed review of the FCD, the CFO Forum further recommends that: • The current features of the FCD that cover additional risks that might influence banks, investment firms and insurance companies that are part of a financial conglomerate should be retained. Any amendment to the current FCD should not change the Solvency II legislation (or the CRD). • The FCD should be consistent with the supervision of insurance (and banking) groups and therefore take account of progress made in group supervision as laid down in Solvency II (and CRD). As a result of above, any reference made to "group" in this CP should only be read as "insurance group". **Reporting requirements should be efficient. Extraneous information should not be provided to supervisors.** Supervision of risk concentrations and intra-group transactions can significantly affect the financial position of a group or solo entity. The CFO Forum appreciates that in order to facilitate the supervision, a sound level of detail and amount of information must be reported to the supervisory authorities. However, the CFO Forum would also like to emphasise that where possible, information already available to supervisors should be used. Further, only information that will be analysed should be provided. **The concept of proportionality should be applied appropriately for reporting requirements.** Intra-group transactions and risk concentrations should only be reported if they are material for the group. This is particularly relevant in the area of ex-ante reporting of transactions. Comments in 3.54 are also relevant here.	

	Comments Template on CEIOPS-CP 61 Consultation Paper on the Draft L2 Advice on intra-group transactions and risk concentration	Deadline 11.09.2009 4 p.m. CET
	Various issues in this paper are only discussed generically. • Some comments and advice contained in this paper are generic. They are either not specific to insurance groups or in some cases relevant to any complex or large insurance solo entity. This may lead to problems at the implementation stage. • The paper has some good high level principles, but the CFO Forum would welcome more specific discussions on how risk concentrations and intra-group transactions would be assessed and supervised in practice. • Our specific comments against each paragraph indicate the areas where additional explanation is required.	
1.		
1.1.		
1.2.		
1.3.		
1.4.		
2.		
2.1.		
2.2.		
2.3.		
2.4.		
2.5.		
3.		
3.1.	Comments in 3.41 are also relevant here.	
3.2.	**Differences between the level 1 text and the IGD are highlighted however the treatment of**	

	these is not considered in the level 2 implementation measures. Differences between the level 1 text and the IGD, including the concept of "significant" and "very significant" are highlighted. However the subsequent interpretation and treatment of these is not considered within the consultation paper. We recommend that further clarity around these differences is included in level 2. Further, in the fifth bullet, we recommend that the consultation paper should make a suggestion for thresholds that ensures all supervisors take a consistent approach.	
3.3.		
3.4.		
3.5.	Comments in 3.41 are also relevant here.	
3.6.		
3.7.		
3.8.		
3.9.		
3.10.		
3.11.		
3.12.		
3.13.		
3.14.		
3.15.		
3.16.		
3.17.		
3.18.	Comments in 3.41 are also relevant here.	

3.19.	Comments in 3.41 are also relevant here.	
3.20.	**The definition of risk concentration requires expansion and clarification.** The CFO Forum agrees with the explanation on risk concentration in principle. However, the CFO Forum notes that: • Risk concentration should be considered as part of the overall risk assessment and should be appropriately reflected in the capital requirements. For insurance group risks, the effect of risk concentration should be part of the determination of diversification benefits (risk concentration is in effect, a negative diversification effect). • The paper uses "interest rate and spread fluctuations" as examples of concentrated risk. The majority of insurance business includes discounting and hence involves interest rate risk. This is not specific for insurance groups, but rather an issue that relates to insurance business in general. It is the CFO Forum's view that for insurance groups, risk concentration should refer solely to the additional concentration that may arise as a result of combining various insurance undertakings within a group.	
3.21.		
3.22.		
3.23.		
3.24.		
3.25.		
3.26.	**Scope of reporting of risk concentration and intra-group transactions should be limited to ORSA and RTS.** Qualitative reporting of risk concentrations and intra-group transactions should be limited in scope. They could be carried out through the Own Risk and Solvency Assessment (ORSA) or the Report to Supervisors (RTS).	
3.27.		

3.28.	**The CFO Forum does not support proposals that enable supervisors to influence commercial decisions.** Ex-ante reporting of intra-group transaction proposals is subject to too much intervention by supervisors. The CFO Forum does not support proposals that would enable the supervisor to influence commercial decisions. In addition, the level 2 requirements should not go beyond those of level 1. For example, there should be no requirement for pre-notification of certain types of intra-group transaction. This would make reporting requirements too onerous. Comments in 3.54 are also relevant here.	
3.29.	**Governance system under Solvency II should be sufficient to require ex-ante reporting of intra-group transactions only under exceptional circumstances.** Comments in 3.28 are also relevant here.	
3.30.	**Reconciling reporting difficulties to commercial requirements.** Ex-ante reporting of intra-group transactions (IGT) may generate an additional reporting burden and if implemented poorly, could also hinder the speed of executions of IGT. Additionally, reference to national frameworks should not necessarily imply deviation from harmonisation across Member States. Comments in 3.28 are also relevant here.	
3.31.	**Thresholds on reporting of risk concentration and intra-group transactions should be based on SCR (not own funds or MCR).** The CFO Forum agrees that it is important to set appropriate thresholds. If thresholds are set too low, reporting may become onerous and in turn become difficult for supervisors to analyse. Thresholds should be set such that they are useful for supervisors and do not create an excessive burden for the reporting undertakings.	

	The CFO Forum recommends that the thresholds on the reporting of risk concentration and IGT should be based on SCR (not "own funds" or "MCR" as suggested in the CP).	
3.32.		
3.33.		
3.34.		
3.35.		
3.36.	**Methods to monitor transactions below the given thresholds are required.** Transactions could be divided into smaller amounts to avoid reporting. The CFO Forum understands that this is not expected under sound management principles, but sees this as a risk that should nevertheless be addressed. The CFO Forum requires clarification as to how CEIOPS intends to monitor this risk.	
3.37.		
3.38.	Comments in the general section and 3.54 are also relevant here.	
3.39.		
3.40.	**Reporting requirements for risk concentration and intra-group transactions should apply at group level.** The CFO Forum agrees that the criteria for reporting on risk concentration and intra-group transactions should be developed as part of the supervisory coordination arrangements to achieve convergence between the college of supervisors and the level 3 guidance. The CFO Forum recommends that this principle should apply to the insurance group in total and hence there should not be additional reporting requirements at the solo level. Comments in the general section and 3.30 are also relevant here.	

3.41.	**Financial Conglomerates Directive (FCD) is in draft and is not tailored to insurance groups.** Reference is made to the Financial Conglomerates Directive (FCD) as an important guideline for supervision of groups, however, this directive is currently in draft and is not being drafted with consideration to financial groups whose primary activity is insurance. Further, the scope of the FCD is significantly broader than the scope of Solvency II. It is inappropriate to provide detailed commentary on CP61 as it relies on the FCD, which itself is currently in draft and hence subject to change. The CFO Forum recognises the need for harmonisation between Solvency II and the FCD and recommends that CEIOPS should revisit the proposals in CP61 in view of the specific features of the insurance industry and the final requirements of the FCD.	
3.42.		
3.43.	**Clarification of the scope of IGT on the group capital requirement is requested.** The CFO Forum requests clarification on the consequences resulting from the inclusion of the items stated in this paragraph as part of the IGT reporting scope (e.g. impact on group capital requirement).	
3.44.		
3.45.		
3.46.	**The principle of proportionality should apply here.** The CFO Forum recommends that the materiality of the IGT should also be taken into account so that only material IGT that are identified not to be carried out at arms-length are reported. A definition of "at arms-length" is also required.	
3.47.		
3.48.	Comments in 3.41 are also relevant here.	
3.49.		
3.50.	**CEIOPS should clarify the definition of "interrelationships between risk categories".**	

	The reporting of risk concentrations should leverage information contained in the group risk report that is provided to the supervisor. Comments in 3.20 are also relevant here.	
3.51.		
3.52.		
3.53.	**Frequency of reporting dependent on risk profile is not practical.** The CFO Forum does not believe that it is practical to link the reporting frequency to the risk profile of the group. Reporting should follow regular timescales or rather suggest specific conditions under which groups have to report additional to the annually performed report. In general we reject an obligation to report more than once a year. Comments in 3.20 are also relevant here.	
3.54.	**The CFO Forum rejects a general obligation to perform ex-ante reporting. The specific occasion under which a different form of approval is applicable should be clearly defined.** Intra-Group Transactions (IGT) are legitimate area of interest for regulators. Based on a combination of the nature of the transaction and its materiality to the group and to the member of the group involved an IGT might be subject to ex-ante approval or mere reporting. Transactions subject to mere reporting are subject to regulatory review i.e. compliance with laws and regulation or arms length pricing. These might include reinsurance or pooling arrangements, service contracts, leases and other routine transactions. Ex-ante approval might be required for liquidations or mergers, including the ultimate or an intermediate parent company. These reviews should also have a time limit within which the regulator must make a decision. If approval of an IGT is denied the company should have the right to appeal that decision within the regulatory organization and ultimately to an appropriate judicial body.”	

	Comments in the general section, 3.28, 3.29 and 3.30 are also relevant here.	
3.55.	Comments in 3.31 are also relevant here.	
3.56.		
3.57.		