Insurance Europe key messages on the French Presidency 'group supervision compromise' ahead of the Council WG meeting on 18 March

Messages to convey

Supervision of groups managed on a unified basis and groups characterized by the existence of a dominant influence.

- Clarifies distribution of power between NSAs
- The list of factors based on which the management on a unified basis of a group can be determined is expanded, and the EC will be empowered to add criteria at a later stage if needed.
- The identification of a group based on the reason that it is managed on a unified basis needs to be clearly explained and justified by the group NSA
- Introduction of a provision allow the group supervisor to challenge the identification of the parent company of a horizontal group
- Recital 61 is modified in order to reflect that changes to the powers of identification of groups do not question the identification of groups under the current Directive, absent a change in their particulars.

Industry views

- The industry welcomes the clarification of recital 61 reflecting that changes to the powers of identification of groups do not question the identification of groups under the current Directive, absent a change in their particulars.
- The industry deems a further expansion of the factors based on which the management on a unified basis of a group can be determined unnecessary.

Furthermore, the industry highlights that

- The widening of NSAs' mandate to establish new groups in Article 212 should not be introduced, but be aligned with financial reporting legislation. Having different group structures for different legislation (eg financial reporting, banking regulation, financial conglomerates) can create at the very least difficult governance issues.
- These proposals could be interpreted as requiring independent companies and groups of companies that co-operate to be included in group supervision, on the basis of such co-operation. Such co-operations can be fully in line with other legislations, such as competition law. In particular for mutuals it is quite common to have different kinds of co-operation. If the proposal is intended to have such an impact, it would be very extensive and far-reaching, while achieving very little benefits in practise. Furthermore, the proposals give supervisors too much discretion.
- In addition, if a supervisor deems two or more companies to be a group (or the case where an existing group also should include one more company), these companies need time to adjust. Changing group scope may imply very extensive changes: eg to group calculations and reporting. This should be catered for in the Directive.

Calculation of the floor to the group SCR and of the 'group MCR' (Article 230)

- EC proposal is maintained, but the % to calculate the notional MCR for holding companies is reduced from 35% to 25% to address concerns about the double counting of equity risk.
- it is suggested to replace the term 'minimum consolidated group solvency capital requirement" with 'group minimum capital requirement'

Industry views

- While the industry takes note of the decrease of 35% to 25%, it should be noted that this change does only address the industry concerns on double counting to a limited extent.

- In addition, the wording of the new paragraphs 2 and 3 of Article 230 in the proposal would imply that the previous minimum should continue to exist, in addition to the new one. To address this, the second subparagraph of paragraph 2 could be adjusted as follows:

> *2. The Solvency Capital Requirement at group level based on consolidated data (consolidated group Solvency Capital Requirement) shall be calculated on the basis of either the standard formula or an approved internal model, in a manner consistent with the general principles contained in Title I, Chapter VI, Section 4, Subsections 1 and 2 and Title I, Chapter VI, Section 4, Subsections 1 and 3, respectively.*
>
> *For the purpose of the calculation referred to in paragraph 3, point (b), of this Article, ~~the consolidated group Solvency Capital Requirement shall have as a minimum~~ the sum of the following item shall be used:*
>
> *(a) the Minimum Capital Requirement as referred to in Article 129 of the participating insurance or reinsurance undertaking;*
>
> *(b) the proportional share of the Minimum Capital Requirement of the related insurance and reinsurance undertakings;*
>
> This would be sufficient to address the trigger inversion issue while still ensuring that the minimum reflects the full scope of undertakings in the group.

Introduction of a simplified calculation for insurance and reinsurance immaterial undertakings consolidated under method 1

Industry views

- The industry highlights that regarding the proposed thresholds for applying a simplified calculation, the proposed percentage (between 0.2 and 0.5% on an aggregated basis) seems very low and makes the proposed solution not very meaningful. The proposed thresholds never have been a topic of discussion in the previous publications and even if the term "consolidated accounts" is interpreted as the sum of the group balance sheet (sum of assets), these thresholds are far below those already used and agreed with national authorities. If groups must enlarge their Solvency II calculation scope due to the introduction of these far too low thresholds, it will take a significant amount of time and resources to implement those companies with no added value. **The proposed thresholds should be reconsidered: eg a total sum of book values of 1% of total assets (consolidated accounts) would be reasonable.** The threshold for each individual related undertaking should be adjusted appropriately. Referring to the new Article 229a, the materiality thresholds are defined by 0,2% of the group`s consolidated accounts per entity and by 0,5% of the consolidated accounts in total. To have a common understanding of the proposed thresholds, the term "consolidated accounts" must be clarified.

New article on the combination of methods (Article 233a)

- It is suggested to amend recital 64 of the Commission's proposal to confirm that for reasons of international level-playing field, and in relation to third-country insurance or reinsurance companies, priority should be given to consideration of equivalence of the third-country when deciding whether method 2 may be used.
- It is suggested to amend Recital 72 to further explain the rationale behind the new Article 233a, i.e. the balancing between the objective of technical robustness (which justifies taking into account currency risk) and the need to preserve international level playing field (which explains the deviation from EIOPA's proposal).

Industry views

- The industry welcomes the acknowledgement of the need to preserve an international level playing field,
- At the same time it is highlighted that proposed introduction of additional capital requirements for currency risk for participations for entities included in group solvency via Method 2 (ie the deduction and aggregation method) would be detrimental to the principle of protecting all policyholders of the group, to the level playing field principle and contrary to the principle of equivalence.

- Recital 72 notes that participating (re)insurance undertakings should be allowed to take into account diversification between that currency risks and other risks underlying the calculation of the consolidated group SCR, however this does not seem to be reflected in the proposed amendments to the directive.