



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

COMMENTS
OF
THE PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA
ON
EU-U.S. DIALOGUE PROJECT FIRST PHASE REPORT

The Property Casualty Insurers Association of America (PCI) greatly appreciates the opportunity to comment on the Report. PCI represents more than 1000 insurers that provide 40% of the U.S. property and casualty insurance market and include U.S. companies with global operations and the U.S. subsidiaries of global insurers. We previously provided comments orally and in writing at the October 12, 2012 hearing and incorporate them by reference into this submission.

Private, Competitive and Well-Regulated Insurance Markets Are Vital to the Welfare of the Public.

Private, competitive and well-regulated insurance plays many critical and socially beneficial roles. First, it is a compensation mechanism that spares individuals, businesses and government losses that they would otherwise sustain, sometimes with devastating impacts. Second, it is an investment mechanism that provides capital to support critical infrastructure and economic growth, by providing the financing for roads, bridges, libraries and hospitals. Third, it is a source of pricing, advice and information for policyholders on the risks they face and how to reduce them. Finally, as responsible and engaged corporate citizens, insurers support research and advocacy that has resulted in longer lives, safer motor vehicles, stronger buildings and more humane workplaces. It is hard to imagine a more fundamental social "good" than insurance.

The Private Insurance Industry and Its Regulatory/Supervisory System Have a Strong Record of Success.

The conclusion regarding the performance of insurance during the financial crisis is by now well documented: the insurance business model and its regulation/supervision did not fail, but in fact performed very well. More recent information about the performance of the industry and its regulation/supervision is also very encouraging.

In October, 2012, IAIS issued the Global Insurance Market Report (GIMAR) which concluded that the insurance system is very strong, in spite of the financial crisis, recession and 2011's record catastrophe losses. As the report states at page 5: "...the data attest...to the industry's resilience in the face of adverse developments...at the end of 2011 they appear to be better capitalized than at the beginning of the GIMAR reporting period in 2007." And on page 6, it states that: "the insurance sector appears to have weathered the challenges of 2011 well."

PCI recently released data with similarly positive findings with regard to the U.S. property and casualty insurance market.

The EU/U.S. Insurance Markets Are Two of the Largest in the World and Their Systems Are Engaged in Implementing Significant Changes.

Data show that Europe and the U.S. are among the largest insurance markets in the world and there is extensive trade between them. Countless individuals, businesses, nonprofit groups and governments benefit from the availability of insurance and the competitive products that are enabled as a result of the trans-Atlantic commerce in insurance and reinsurance. It is therefore not in the public interest to erect new barriers to this commerce so critical to the welfare of both sides of the Atlantic.

The context of our Dialogue includes the evolution of insurance regulation/supervision in both the U.S. and Europe. Understanding how current systems work, how proposed changes may operate and what impacts the changes may have on insurers are good subjects for on-going dialogue. Because Solvency II is not fully implemented, the NAIC's model law changes have yet to be enacted in many states, and additional changes may be proposed, on-going dialogue is certainly warranted.

The EU-U.S. Dialogue Report Is an Important Product for Increasing Understanding and Ought to Support a Determination of Equivalence.

Our initial review of the Report indicates that it is comprehensively researched and well written. We expected some comparable aspects of the two systems to be recognized, but were impressed at how many were identified, including not just general objectives such as protecting consumers, but much more specific elements, as well as many common regulatory/supervisory functionalities.

In fact, we believe the Report demonstrates sufficient congruence that the systems should be deemed equivalent generally and with respect to group capital, group supervision and reinsurance. An expedited equivalence/harmonization/mutual recognition decision would serve to eliminate the unnecessary uncertainty that a prolonged equivalence process creates, or worse yet, the damage that a non-equivalence finding would impose on the insurers and consumers in both markets.

In this connection, we reject the notion that equivalence should not be granted the U.S. based on this report and except according to the exact process followed for every other third country. The fact is that the U.S and EU already have comprehensive and effective regulatory systems and they are the largest insurance markets with a huge amount of current trade. The U.S. and EU have already engaged in extensive dialogue even preceding this report and in view of this report, so additional time consuming analyses are unnecessary.

There Are Some Technical Corrections that Would Improve the Report.

- Page 28, third paragraph -- The second sentence is a duplicate of the last sentence of the preceding paragraph -- one of them should be deleted.
- Page 34, fourth paragraph – The meaning of "The treatment of the Group SCR then equates to that of the individual SCR" is unclear. Does this mean that the capital charge for interests in these entities should be the same at the group level as it would be for an individual insurer?
- Page 36, Key Commonalities and Differences -- It is unclear whether this discussion deals with existing EU reporting and disclosure requirements or those that will exist once Solvency II is implemented. We assume the latter, but in that case the discussion of EU requirements should be in the future tense ("In the EU, there will be public disclosure", rather than "In the EU, there is public disclosure").
- Page 48, third paragraph -- This comparison of the EU and US ORSA requirements is a little confusing. It is not clear what the reference to the EU ORSA being "performed against a set

standard" language means. Later on (p. 55, 1st paragraph), the paper states that the EU requirement "prescribes the qualitative and quantitative assessments that have to (be) performed", and perhaps similar language should be used in p. 48.

- Page 48, footnote 20 -- This explanation is confusing. It appears that what the footnote is trying to say (as p. 53 does) is that the Solvency II MCR uses a "corridor" between 25% and 45% of the SCR, that the midpoint (35%) corresponds to the relationship between the RBC mandatory control level and company action level, and therefore (since the Solvency II SCR is assumed to be higher than the RBC company action level) the MCR should be higher than the RBC MCL, but the footnote doesn't really say that. The language in page 53 is also confusing. Paragraph 2 says the MCR is set somewhere between 25% and 45% of the SCR, and the last paragraph says it is set at an 85% value at risk level over a one-year time horizon. Which is correct?
- Page 50, last paragraph, last line -- This should read "Solvency II capital requirements are intended to provide incentives for sound risk management practices", rather than "Solvency II capital requirements therefore provide incentives for sound risk management practices".
- Page 64, first full paragraph -- The middle of the first line should read "the EU reserving basis requires discounting", rather than "the EU reserving basis allows discounting".
- Page 89 --The acronym "SFCR" should be defined the first time it is used. It is good that Appendix I defines acronyms and abbreviations, but they should also be defined in the text the first time they are used.

The Next Steps for the Dialogue Should Focus on the Implementation of the Proposed Changes in Both Systems and Whether A Critical Regulatory Gap Emerges.

One clear finding of the report is that both systems have as the ultimate objective consumer protection. And, in the name of increasing consumer protection, both systems are undergoing extensive re-evaluation and significant change. It would therefore be ironic, if not tragic, were the equivalence/dialogue process to result in creating barriers to trans-Atlantic trade that do not now exist, thereby actually harming consumers in terms of less insurance product choice, less insurance innovation and higher than necessary insurance prices.

We recognize that neither system is perfect and that there are interests that would like to use the equivalence process to force change in the other's system. We urge those interests to be patient, because they run the risk of creating serious friction in the EU-U.S. interaction that would do far greater harm to markets than the real or perceived grievances they seek to remedy through leveraging the equivalence process. Instead, they should allow equivalence to be declared and the dialogue process to continue to work. As trust builds and convergence occurs naturally, these matters can be addressed in the future without confrontation and collateral damage.

Finally, we believe the dialogue process should continue so as to prevent the emergence of new gaps or new misunderstandings. We also believe that other international developments such as supervisory colleges and implementation of the ICPs will help improve supervisory cooperation, coordination and communication and thereby serve as a useful adjunct to the understanding provided by this dialogue.

Conclusion

Like any neutral research on a controversial topic, the EU-U.S. Dialogue Project Report can be used for good or ill—in this case, to unite us or divide us. We believe that it should be used to unite us. In so doing, we will be heeding the voices, and serving the needs, of the tens of millions of people and businesses who rely on the benefits provided by the trans-Atlantic insurance system. And through this

dialogue, understanding and resulting mutual recognition, the EU and U.S. will be empowering our insurers to effectively compete internationally and thereby to improve the welfare of millions more of the world's people.

Respectfully submitted,

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