PAN EUROPEAN INSURANCE FORUM
PEIF

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Cc: Jan Ceyssens, Member of Cabinet; Olivier Guersent, Director General DG FISMA

Pan-European Insurance Forum's views on the European Supervisory Authorities (ESAs) Review

Munich, 1 December 2017

Dear Commissioner,

I am writing to you in my capacity as Chairman of the Pan-European Insurance Forum (PEIF), a forum for the CEOs of major European insurers to exchange and present views on policy and regulatory issues amongst themselves and with others.

Earlier this year, the Commission launched a consultation on the review of the ESAs to which many industry stakeholders responded. Following the publication of the Commission's final proposal, PEIF companies have agreed on the following key messages for co-legislators and the Commission.

PEIF welcomes the Commission's work and key elements of the ESA proposal including the ongoing separation of the ESAs, (specifically, the EBA and EIOPA) and the ongoing oversight of both prudential and conduct regulation by EIOPA (i.e. no twin peaks model). In addition, PEIF welcomes the following elements of the Commission's proposal:

- Introduction of the option for companies to escalate inconsistent application of Solvency II between supervisors to EIOPA. While PEIF supports in principle, further convergence with respect to Solvency II application in Europe, it is skeptical about the specific expansion of powers by EIOPA with respect to Internal Model approvals (see below).
- No expansion of the role of ESMA regarding accounting and audit standards.
- Strengthening of stakeholder groups through the right to escalate measures by EIOPA exceeding their competence directly to Commission (albeit under conditions that are too limited – see below).
- Application of the Better Regulation principles to the functioning of the ESAs, including the expectation that new Guidelines and Recommendations should be accompanied by a cost benefit analysis.
- Better capacity of EIOPA to address cases where a breach of Union law occurs.

However, PEIF also wishes to highlight its concerns over certain elements of the proposal that we do not believe will bring additional value to the quality of the supervision in Europe and could even undermine the principles of subsidiarity and Better Regulation.

Governance
The proposed new governance set-up of EIOPA does not include necessary checks-and-balances for the new Executive Board, which is granted specific and far-reaching powers relating to dispute settlements, information requests, decisions on the design of stress-testing exercises and publication of individual company-specific information.

It is foreseen that the Executive Board would be made up of four voting and full-time members including a casting vote for the Chairman. This means that the Chairman would need only one vote from another member to take a decision. PEIF believes that this could lead to the individual concentration of power that would undermine properly informed and commonly agreed decision making. One solution could be to align the size of the Executive Board with the proposal for ESMA (6 members). The representative of the Commission that sits on the Executive Board should also be given the right to ask for a second deliberation.

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PEIF welcomes recognition of the need for mechanisms to be in place to prevent the ESAs from going beyond their mandate. The current proposals, however, are limited to guidelines and should be extended so that the Commission can also act on other own initiative actions from the ESAs – for example when such actions could impact capital requirements which have been agreed through the European democratic process. The proposed strengthening of the Stakeholder Groups in helping the Commission decide where action is needed is also welcome. However, changes to the voting are not required and it should be made clear that the Commission should be able to intervene on its own initiative. Members of the Stakeholder Groups should also be appointed by the Commission as the current system (appointment by EIOPA) could conflict.

Internal models
PEIF believes that the Commission's proposal could significantly complicate the Internal Model approval process and challenge the national supervisor's role in this area, despite them having legal responsibility for supervision. The proposed new authority for EIOPA to issue own initiative opinions on Internal Model applications could result in these opinions becoming de facto binding despite only being addressed on a comply-or-explain principle.

Following on from this, the new rule that leaves the sole decision on dispute settlements arrangements to the Executive Board rather than the Board of Supervisors should not apply to Internal Models.

It should be clarified that EIOPA's opinions are limited to cases where a financial institution submits its application for validation of an internal model otherwise this could lead to the continuous re-opening of previously granted applications (the proposed Art 231a of the Solvency II Directive is unclear). Against this background, PEIF is concerned about the risk that the proposal would unduly constrain the use of internal models without sufficient consideration of the benefits internal models provide in terms of risk management by firms and day-to-day supervision by authorities. The same holds true for stress-testing exercises which should remain in the hands of the Board of Supervisors since they constitute a supervisory tool. The new duty of EIOPA to report on annual basis on issues regarding internal models to the European Commission, Parliament and Council should not undermine the quality of decision making.

Based on the above, PEIF recommends that the granting of any new powers to EIOPA in the field of internal model is postponed until the 2021 Solvency II review is complete and fact-based conclusions can be drawn on the use of internal models.

Funding
PEIF is skeptical about the proposed changes regarding funding. The allocation of funding (until now: 40% EU budget / 60% from local supervisors typically recharged to industry) is foreseen to change to "maximal 40 %" EU budget plus annual contributions from financial institutions, where the individual charge should be calculated depending "on the size of the financial institution in order to reflect their importance in the market". PEIF does not support the idea of direct funding by the industry for the reasons outlined in the Consultation Paper.

PEIF believes strong mechanisms should be developed that integrate the Better Regulation principles and a general concern for the impact on Europe's economy into EIOPA's Work Programme and financing structure. This should include a budgetary indexation mechanism based on the average budgetary evolution in the EU, increased control powers by the EU Parliament – including a role in validating EIOPA's Work Programme – and mandatory consultation with the Stakeholder groups.

Beyond this, it is important that the new proposed powers of EIOPA do not result in a greater supervisory burden, duplication of responsibilities at national and supra-national level and increased regulatory costs, unless there is a clear description and allocation of responsibility in line with lean funding mechanisms, in order to avoid inefficiencies.

We would welcome the opportunity to discuss this topic in further detail with you.

Best regards,

Oliver Bäte
Chairman of the Pan-European Insurance Forum

About the Pan-European Insurance Forum (PEIF)

PEIF is an informal forum for the CEOs of major European insurers (Aegon, Allianz, AVIVA, AXA, Generali, MAPFRE, Munich Re, RSA, Swiss Re, UNIQA, and Zurich) to exchange and present views on policy and regulatory issues amongst themselves and with others. PEIF companies represent around two-thirds of the STOXX® Europe Insurance.

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