

Comments Template on CEIOPS-CP 64 Consultation Paper on the Draft L2 Advice on Extension of recovery period - Pillar II dampener		Deadline 11.12.2009 12.00 CET
Name of Company:	AMICE	
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:	Confidential/Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in the column "reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> ○ 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. ○ If your comment refers to sub bullets/subparagraphs, please indicate this in the comment itself. <p>Please send the completed template, <u>in Word Format</u>, to secretariat@ceiops.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper No. 64 (CEIOPS-CP-64/09).</p>		
Reference	Comment	
General Comment	These are AMICE´s views at the current stage of the project. As our work develops, these views may evolve depending in particular on other elements of the framework which are not yet fixed.	

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	<ul style="list-style-type: none"> • We agree with CEIOPS' consideration that defining an "exceptional fall" too narrowly would defeat the aim of the level 1 provision. This definition should therefore not be defined in a way that practically precludes this judgement. • Given that the level 2 measure is to set a <u>maximum</u> extension period (which can always be shortened by a specific decision), we suggest leaning towards the "longer end" of the politically acceptable spectrum and to propose a maximum period of 36 months. • We make several proposals with regard to the external and internal factors to be taken into account. <p>For mutual and cooperative insurers it is crucial take into account the specific situation of an undertaking when assessing whether possible solutions are <u>effectively available</u> (with regard to the availability of external capital) to that undertaking.</p> <ul style="list-style-type: none"> • Any disclosures in the context of extension periods granted require <u>utmost discretion</u> since they could severely deteriorate an undertaking's standing and financial position and thus directly destroy the purpose of an extension granted. The publication of consolidated data and/or averages does not help in cases where only one or very few undertakings are affected. 	
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3.3.	We agree with those that argue that the case of the “exceptional” fall in financial markets should not be defined in a way that practically precludes this judgement. (see also CEIOPS’ own consideration in par 3.5.)	
3.4.	We agree with CEIOPS that the term “financial markets” should not be defined narrowly in this context by requiring that the fall must occur on a global scale. Particularly small and medium-sized insurers are completely embedded in and dependent on their regional environment, not only in terms of business focus, but also with regard to their investments and financing possibilities.	
3.5.	We agree with CEIOPS’ consideration that defining an “exceptional fall” too narrowly would defeat the aim of the level 1 provision. Par. 3.3. should therefore be changed.	
3.6.	We are concerned about the idea that a process should be established “through which [CEIOPS] is consulted before a supervisory authority decides on any application of [the extension of the recovery period]”, even if it is claimed that this could then lead to “rapidly” arriving at a common understanding. More certainty about this process would be desirable already at the present point of time.	
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3.12.	See 3.24	
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3.24.	<p>From today's point of view, we agree with CEIOPS that the discussion about the maximum time frame can be reduced to options 2 and 3. However, given that the level 2 measure is to set a <u>maximum</u> extension period (which can always be shortened by a specific decision), it could be more appropriate not to pre-empt the undoubtedly political discussion on this issue by taking the mathematical average of options 2 and 3, but by leaning towards the longer option (max 36 months).</p> <p>It is clear that the concept of the "exceptional fall" is influenced by the current financial crisis, and the real duration of the current crisis is yet unforeseeable. We suggest therefore that any decision for a maximum period is subject to regular review.</p>	
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3.38.	<p>In the list of <u>external factors</u>, we miss a reference to the availability of a functioning market (i.e. a market that is liquid and has a functioning price formation mechanism).</p> <p>With regard to the “ability ... to provide extra capital at a reasonable price”, we would like to emphasise already here that both, the “objective availability” of capital (addressed in external factor (b)) and the “subjective availability” (addressed indirectly in internal factor (f)) are crucially important for insurers, particularly for those (e.g. mutuals) whose capital raising facilities are restricted.</p> <p>On the <u>internal factors</u>, we would like to comment as follows;</p> <p>(b) We agree that the supervisor has to regard it more alarming or “serious” when the level of own funds fall towards closer to the MCR threshold and that in such a case there is a higher need for the undertaking to improve its solvency position. Supervisors should however (taking into account the other internal factors) not be obliged to require more “urgent” (= merely <u>faster</u>) recovery.</p> <p>(c) We agree that the tier system may restrict an undertaking’s ability to recover quickly. We miss however an indication whether CEIOPS members would see this primarily as an argument for a rather</p>	

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	<p>longer or a rather shorter recovery period.</p> <p>(d) CEIOPS writes (and we agree) that an undertaking might be exposed to particular risks via its assets. As mentioned earlier, a lack of availability of a liquid/functioning market in specific assets would be an internal factor considerably influencing the ability of an undertaking to recover from a serious fall in its SCR.</p> <p>(f) We appreciate that CEIOPS proposes to take into account the specific situation of an undertaking when assessing whether possible solutions are <u>effectively available</u> to that undertaking.</p> <p>Mutual and cooperative insurers have “taken the decision in the past” to follow the mutual/cooperative business and company models which restricts their possibilities to quickly raise capital on the capital markets. It is appropriate that a particularity like this one is taken into account.</p> <p>(h) CEIOPS’ argumentation on this internal factor and in footnote 5 is not convincing. The text of the footnote cannot dissipate the impression that a case of moral hazard could be created.</p> <p>Moreover, we suggest revisiting the phrasing of the second part of subpar h:</p> <p>CEIOPS seems to propose that supervisors DO NOT have to grant an extensions if neither policyholders interest nor insurance market stability would be at stake (hence: only in the case of a danger to the overall financial system).</p> <p>How does this align with the claim in the first part of the same sentence that the rationale of Art 136(3a) <u>does include</u> avoiding negative effects for the insurance market</p>	
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3.43.	See 3.38	
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3.51.	Having to disclose a withdrawal of an initially granted recovery period would be dangerous and could seriously deteriorate an undertaking's financial situation and chance of recovery/survival.	
3.52.	Even if it seems to be the intention that supervisors disclose only consolidated and average data on granted extensions, the protection intended by this aggregation completely fails when there is only a limited number of undertakings (in extremis: only one) affected. Additional measures to uphold confidentiality in such a case are necessary.	
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