

Comments Template on CEIOPS-CP 68 Consultation Paper on the Draft L2 Advice on Treatment of ring fenced funds		Deadline 11.12.2009 12.00 CET
Name of Company:	AMICE	
Disclosure comments:	of 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. 68 (CEIOPS-CP-68/09).</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"> • CEIOPS defines two Alternatives (Alternative A and Alternative B) which correspond to CEIOPS different views on how Ring-Fenced Funds should be identified. The paper also includes some tests; Clarification is needed on whether these tests are intended to act as an overarching assessment of whether an arrangement is a RFF, or are going to be applied strictly on the basis of either definition Alternative A or B. • AMICE Members believe that a clear distinction needs to be made between <u>Funds</u> where own funds are not available both on a winding up situation and on a going concern situation and those <u>Funds</u> where own funds are only not available on a going concern situation. A more favorable treatment should be given to the second type of Arrangements. • Diversification benefits should not deducted from the total amount of own funds: Own funds can only be decreased due to potential lack of transferability. Therefore we suggest that no artificial decrease is made to the Own Funds to counter-act diversification effects captured in the SCR. Any reduction to diversification effects should be recognised within the SCR, not the own funds. • We consider it is essential maintaining due regard to the principle of proportionality which is at the core of the solvency II process. This is particularly important for undertakings with a large number of ring-fenced funds. • We would be more in favour of the Alternative B for the definition and treatment of ring-fenced funds. This definition appears consistent with the way the business is managed, and consistent with the definition of ring-fenced funds used in Article 304 of the Level 1 text. Irrespective of our preference for Alternative B, it is essential supervisors develop, as part of the Level 3 guidance, a list of arrangements that may fall under the "ring-fenced fund" definition. • AMICE also proposes to include an impact assessment on this topic to be tested in the QIS 5 exercise. 	
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3.13.	AMICE members welcome CEIOPS aim to provide a principle-based treatment for ring-fenced funds.	

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3.14.		
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3.18.	We agree with the CEA that a reference should be made to article 94(2) (<i>Basic own-fund items shall be classified in Tier 2 where they substantially possess the characteristic set out in point (b) of Article 93(1)</i>) and article 93(1) (<i>in the case of winding-up, the total amount of the item is available to absorb losses and the repayment of the item is refused to its holder until all other obligations, including insurance and reinsurance obligations towards policy holders and beneficiaries of insurance and reinsurance contracts, have been met (subordination).</i>	
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3.40.	<p>CEIOPS defines that in Type 2 RFF, Own funds available to meet losses within the ring-fenced fund (and not available to meet losses outside the fund) should be separately identified. The total amount of own funds from the undertaking should be reduced by the restricted own funds that are not being used for meeting the SCR from the ring-fenced fund. AMICE members strongly support this view.</p> <p>We understand that restricted own funds could not be used to cover the undertaking´s SCR to the limit of notional SCR for the ring-fenced fund(s). No limitation of diversification benefit is suggested, as the problem of transferability is analysed at the own fund level.</p>	
3.41.		
3.42.	<p>CEIOPS defines as one of the features for the identification of ring-fenced funds, the barrier to transferability of the own funds in going concern and in winding-up situation. If the own funds hold in the RFF are transferable in a winding-up situation, the fund cannot be considered as ring fenced.</p>	
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3.66.	As already mentioned in paragraph 3.66, we agree with the CEA that the calculation of individual risk charges at ring-fenced level should not yield to different stresses where there are bidirectional scenarios (i.e interest rate, currency and lapse risk).	
3.67.	CEIOPS allows some adjustments to be made for undertakings with a large number of ring-fenced funds which contain restricted own funds. More guidance on such adjustments and concrete examples on the application of the principle of proportionality should be provided in CEIOPS paper (i.e there should be some allowance for not computing the SCR for each fund)	
3.68.	Some CEIOPS members consider that a ring-fenced fund is any arrangement where there is a barrier to the <i>sharing of profits/losses arising from different parts of the undertaking's business</i> . This definition is too large and could include a large part of insurance industry business and conduct to inconsistencies on the global architecture of the SCR assessment. Ring fenced funds should not be confused with "profit sharing segments", which are groups of contracts which benefit from a specific clause of profit sharing and/or have their own profit sharing reserves. AMICE is against this approach.	
3.69.	CEIOPS writes in Condition 2 that the insurer must invest the contract holder's funds within the Ring Fenced Funds as a result of contractual obligations and/or regulatory requirements. The Ring Fenced Fund definition applies only if the Ring Fenced Fund is legally or contractually separated from the remainder of the entity. Practical consequences should be tested in QIS 5. In particular, definition criteria should be written not only based on life insurance contracts but also where collateralization agreements (e.g. funds withheld) fit into this definition.	
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3.72.	For the calculation of total eligible own funds where Ring Fenced Fund leads to restricted own funds, CEIOPS' advice proposes to exclude from the calculation (1) the surplus in any RFF over the notional SCR for that fund, where such surplus cannot be used to cover risks in the rest of the firm and (2) any diversification benefits between the RFF and other funds. As already mentioned in paragraph 3.66, we agree with the CEA that the calculation of individual risk	

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	charges at ring-fenced level should not yield to different stresses where there are bidirectional scenarios (i.e interest rate, currency and lapse risk).	
3.73.	We agree with the CEA that the amounts of own funds should not be restricted based on diversification benefits. Own funds can only be decreased due to potential lack of transferability.	
3.74.	CEIOPS proposes to limit diversification benefits where ring-fenced funds could generate restricted own funds. This approach is very conservative, and contradictory with an economic approach. Restricted items should be analysed on a case by case basis and can potentially be reduced from the total amount of eligible own funds if they are not transferable. Furthermore, this would be in contradiction to the treatment suggested in the CP 60 on the assessment of group solvency.	
Annex A		
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