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The high level principles governing transitional provisions

The CRO Forum supports the principles of Solvency 2 and its focus on risk management of economic capital. Solvency 2 represents a step change in the prudential regulation of insurance that promotes the best practice standards of risk management advocated by the CRO Forum.

The challenge of implementing a harmonised and risk-based economic approach across the EU should not be underestimated. It is important that the standards being discussed deliver the principles of Solvency 2 and do not delay implementation beyond 2012. The CRO Forum recognises that there needs to be a pragmatic approach moving towards Solvency 2 and it will potentially be necessary to have transitional provisions to ensure a smooth transition. This note sets out the CRO Forum views about the high level principles that should govern acceptable transitional arrangements in the context of the Solvency 2 implementing measures.

The purpose of a transitional provision is to provide a finite period of time for adapting specifically identified market or regulatory practices, or product features accepted under Solvency 1 with Solvency 2 principles and requirements as the longer term target. If appropriate transitional arrangements are put in place, full compliance with Solvency 2 will be achieved in a non-disruptive manner without compromising policyholder protection. The benefits of transition would be therefore avoiding:

- forced en mass changes to specifically identified market or regulatory practices or product features, which could undermine confidence in the insurance sector, policyholder needs;
- significant increase in costs for industry or policyholders to maintain policyholder protection;
- market dislocation due to the need for significant asset re-allocation.

A separate issue that would need to be considered on a case by case basis is the identification of areas where transitional measures would be needed. Evidencing that the above benefits are likely to materialise will be an important part of the process and being able to discuss the specific form of the transitional provisions.

However, we are keen to emphasise that transitional arrangements are primarily not to be put in place as means of accommodating diverging views about the implementation of Solvency 2 but rather as ways of ensuring a smooth transition to the harmonised and risk-based economic approach that Solvency 2 aims to introduce.

The following principles should apply to all transitional provisions:

- The market or regulatory practice or product feature that is to benefit from a transitional should be clearly identified and argumented.
- The transitional provision must only apply to the market or regulatory practice or product feature that is legally in force or applied before the implementation of Solvency 2 and, in case of a third country regulation, remains in place from a local statutory perspective after the implementation of Solvency 2.
- The risks to policyholders and beneficiaries must not increase with the continuation of the treatment of the relevant market or regulatory practice or product feature in place under Solvency 1 or non-EEA regulatory requirements.
- The transitional provision should be consistent with the EU Commission objectives of promoting a level playing field within the EU and maintaining the competitiveness of the EU companies competing in non-EEA markets.
- The transitional should apply for a specific period of time from the implementation date of Solvency 2 appropriate for its purpose. Any possibility to extend this period should be under a defined and transparent process.
- A firm should make transparent and public disclosures of the use of a transitional provision and set out in their ORSA submissions to the supervisor plans to meet the specific Solvency II requirements at the end of the period of the transitional provision.