<table>
<tr><td colspan="2">Comments Template on CEIOPS-CP 79
Consultation Paper on the Draft L2 Advice on Simplifications for Captives</td><td>Deadline
11.12.2009
12.00 CET</td></tr>
<tr><td>Name of Company:</td><td colspan="2">AGERE (Association des Gestionnaires de Réassurances)
AON
DIMA (Dublin International Insurance & Management Association)
ECIROA (European Captive Insurance & Reinsurance Owners' Association)
FERMA (Federation of European Risk Management Associations)
MARSH</td></tr>
<tr><td>Disclosure of comments:</td><td>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:</td><td>Public</td></tr>
<tr><td></td><td colspan="2">Please follow the following instructions for filling in the template:
⇨ <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.
o 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.
o If your comment refers to sub bullets/subparagraphs, please indicate this in the comment itself.
Please send the completed template, <u>in Word Format</u>, to <u>secretariat@ceiops.eu</u>. Our IT tool does not allow processing of any other formats.</td></tr>
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The numbering of the paragraphs refers to Consultation Paper No. 79 (CEIOPS-CP-79/09).

Reference	Comment	
General Comment	When considering the following comments, it is important to recognise the particular nature of captive companies which differ from commercial insurance and reinsurance undertakings in that:- 1. They write a restricted number of lines of insurance business (e.g. property damage & liability) and normally issue a small number of policies (e.g. global programmes with only one policy per insurance class) 2. They insure or reinsure a restricted number of risk units (e.g. sites, premises, vehicles) 3. They have a restricted number of insureds / clients 4. The purpose of the captive is to add flexibility to the tools available to the group risk manager in managing and mitigating the risk of the parent group in a cost efficient manner. 5. Until all the captive simplifications are addressed in detail, and in particular the Cat risk and concentration risk, it is difficult to see, what if any effect these simplifications may have on the overall simplification for a captive. The associations and captive management companies listed above, which represent a majority of the captive market stakeholders in Europe, consider that the proposed simplifications for captives as detailed in CP79 considerably limit the field of application for simplifications for captives to such an extent that the intention to allow a special status for captives is completely missed. This is primarily because the suggested Criteria for captives significantly limit the number of companies to which it can be applied. All the captive owners represented would prefer to follow the general Solvency II specifications. The above mentioned associations want to stress that:- 1. There is already a captive definition in the Solvency II framework directive which was agreed following consultation with relevant stakeholders who have knowledge and experience of captives. It is not necessary to further define captives (and to significantly reduce the number of companies which qualify for the captive simplifications) by introducing these criteria.	

	2. A very limited number of captives would fall under these revised definitions. The title of the CP is 'Advice on Simplifications for Captives'. If the criteria are applied, there will be very few companies that will qualify for simplifications so they will be applying to a very small number of undertakings. The remainder of captives will no longer be classified as captives so the simplifications will not apply to them. It is therefore not worthwhile to continue with the introduction of simplifications for only a very small number of companies. 3. This limitation on the definition of captives is contrary to the general approach of the process whereby Level 2 can not change the definitions and principles agreed in Level 1. Level 2 rules can not offend the Level 1 framework of Solvency II. 4. Without specific measures for captives, the proportionality principle can apply to these undertakings. 5. We would like to come to a common understanding of how the proportionality principle can be applied. 6. This may lead to the consideration of using internal models based upon the proportionality principle.	
1.		
1.1.		
1.2.		
1.3.		
2.		
3.		
3.1.		
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3.3.	This comment is making a connection between capital and costs but does not mention risk. The	

	reference to 'necessary resources (like human resources or IT Resources)' does not take account of the utilisation of professional and regulated Insurance Managers which is the normal business model for the majority of captives. We make the point that it is strange that only simplifications requiring a higher capital charge are acceptable. It is clear that the 99.5% confidence level cannot be reduced by a simplification, but the nature of the business of captives could in certain situations be better assessed by a different formula and give the same level of confidence with a lower capital charge. If this principle cannot be accepted, we do not understand how an internal model achieving a lower capital requirement can be acceptable.	
3.4.		
3.5.		
3.6.	The definitions in 3.6 and 3.8 are much too narrow for captives. All the limitations must be eliminated and we should get back to the definition used in the Solvency II framework directive. There is no need for further limitations as the overall objective of 99.5% confidence level will be similarly applicable with the proposed simplifications.	
3.7.		
3.8.	All these limitations should be taken out as captives are not exempted from Solvency II and there is no need for any limitations.	
3.9.		
3.10.	This should be taken out (see 3.6)	
3.11.		
3.12.	This should be taken out (see 3.6)	
3.13.	This should be taken out (see 3.6)	
3.14.		

3.15.		
3.16.		
3.17.	The formula should be calibrated to recognise that captives have a lower combined ratio than 100% (as assumed in the standard formula). It is important to recognise that the expenses structure and the business model of a captive typically give a lower combined ratio than for a commercial insurer. The effect of this lower combined ratio is a confidence level higher than the 99.5% requested. By using a uniform assumption of a 100% combined ratio companies with a lower ratio will produce a higher confidence level than requested and companies with a higher ratio will produce a lower confidence level. This should be recognised. It should be noted that having a captive vehicle to write group risks enable the risk management function within a group to closely monitor risk management issues and react more effectively and timely to deteriorating loss ratios. This explains why groups try to keep the risks with a good loss ratio. The allowance should be made to compensate for the operational and risk management efficiency associated with having a captive vehicle which assists the risk management functions in mitigating and being proactive on risks.	
3.18.		
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3.23.	Captives typically limit their risk by underwriting insurance policies subject to an annual aggregate limit. This limits their exposure for a particular class of business They also put in place a reinsurance protection program. These aggregate limits should be taken into consideration in the calculation of premium and reserve risk.	

	What is the logic behind disallowing the simplification if one captive policy does not have an aggregate limit? There may be legal or operational reasons why a policy does not have an aggregate limit. Dependent upon the materiality compared to the rest of the business activities of the captive there is not necessarily a reduction in Policyholder protection.	
3.24.	Please refer to our comment on CP 71 submitted by the same Associations	
3.25.	Please refer to our comment on CP 71 submitted by the same Associations	
3.26.	Captives commonly engage in cash-pooling with their Parent company and the 'look through' facility for captives is welcomed	
3.27.	The rating of the cash pooling entity/credit institution should not be imposed as a minimum. How many banks do we still have with an AA rating? For cash pooling entities the number would even be more limited.	
3.28.	It is fundamental for captives to have a specific treatment of concentration risks, as: ➢ the size of captives does simply not allow the same spread of risk ➢ one of the purposes of a captive structure consists in keeping cash within the group Generally it is accepted by captive owners that intragroup loans are kept at a very short term maturity. Cash can generally be recovered by the captive within a few days, if not intraday. This positive element should be taken into account when defining the solvency margin requirements.	
3.29.		

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3.30.		
3.31.		
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3.34.	The allowance of a 'look through' to the parent credit rating in the event that, counterparty is a related captive is welcomed.	
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Annex A		
A.1.		
A.2.		
A.3.		
A.4.		
A.5.		
A.6.		
A.7.		