



## **AIG EUROPE LIMITED**

**The Balance of Competences Review  
AIG Europe Limited's response to HM Treasury's  
call for evidence on:**

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**Single Market:  
Financial Services and the  
Free Movement of Capital**

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## **Background: AIG Europe Limited**

AIG Europe is a wholly owned subsidiary of AIG Property Casualty, which in turn is a subsidiary of AIG Inc. with headquarters in New York City. AIG Property Casualty is a world leading property-casualty and general insurance organisation serving more than 70 million clients in 160 countries around the world. The European Headquarters of AIG Europe Limited is in London, with branches in 25 of the 28 EU member states, as well as operations in Norway and Switzerland. The UK represents around half the business, in terms of both turnover (gross written premium) and profit.

The AIG Group is now a simpler, more focused company than it was prior to 2008. However, it remains one of the largest insurers in the world by market capitalisation. With one of the industry's most extensive ranges of products and services, deep claims expertise and excellent financial strength, AIG Property Casualty enables its commercial and personal insurance clients to manage risk with confidence.

AIG Europe welcomes the review of the balance of competences between the UK and the EU in relation to the Single Market. We are grateful for the opportunity to contribute to the national and wider European debate about modernising, reforming and improving certain aspects of the EU, and are hopeful that the outcome will be greater confidence that the UK's membership of the EU is in the UK national interest.

## **The single market**

AIG Europe Limited has availed itself of freedom of establishment and services under The Third Non-Life Directive. In 2012, owing in part to the UK financial services regulator's appeal as a robust world class authority, AIG Europe Limited reorganised its business into a UK core entity from which we have passported into 26 EEA member states and Switzerland as branches. The rights of freedom of establishment and freedom of services are fundamental to this new legal structure in the EU and play a major role in promoting capital efficiency (on an EU-wide insurer rather than a number of smaller pools of "trapped" capital in every member state) and thus competitiveness. This is an area where, in our view, membership of the EU has strongly advanced the UK national interest (AIG Inc. choosing to locate its European Headquarters in the UK, for example, with the resulting impact on UK jobs and tax revenues).

The recently published UK Insurance Growth Action Plan highlights that the location of AIG Europe's Headquarters, among others, in the UK is highly valued by HM Treasury and the Government. The success in attracting more insurance capital and insurance jobs in the UK contributes to its status as the world's leading centre for insurance. The new legal structure of AIG Europe, which was made possible by the single market provisions, has enabled the business to focus on a single prudential regulator and benefit from the consequent efficiency

savings, diversification benefits, etc. The UK's continued membership of the EU, and an improved functioning of the internal market are critical to this new structure, and we would be concerned if questions over the UK's EU membership or the smooth functioning of the single market were to threaten this. There remain, however discrepancies on how the legislation giving rise to these rights is applied across the EEA, which create unnecessary red tape and distraction from doing business, as discussed below.

As noted earlier, we support improved harmonisation within the common market in order to deliver significant consumer protection benefits and to simplify the regulatory landscape for market participants. The European Commission is on record as stating that "there are diverging attitudes to the application of *general good* rules in insurance intermediation." And that "...in these respects the Single Market for insurance intermediaries has not yet been completed<sup>1</sup>". This is aligned with the experience of AIG Europe when we conducted our business reorganisation exercise in 2012. In several cases when we attempted to find out from the competent authority what the *general good* rules are in a particular member state, we were merely furnished with references to all rules that could conceivably be justified on the basis of protecting the *general good*. The sheer volume of rules would make it very challenging even for experts to navigate, and could ultimately impede the proper functioning of the internal market.

With this in mind, we believe the internal market would stand to benefit from a thorough analysis aimed at determining which rules are genuinely based on national specificities and should therefore stand, and which could potentially have the effect of being mainly protectionist in their nature (and may therefore not be compatible with the objectives of the single market). Member states and the European Commission should consider carrying out a stock take exercise of these principles to determine which are still justifiably relevant for the market place. AIG Europe Limited believes this would add value to both consumers and business alike by encouraging more cross-border insurance operations.

Another example, relating to differing views of European legislation is the way freedom of services is treated by different EU member states and their regulators. The UK prudential regulator's view is that once the head office of an EEA entity had freedom of services permissions in place, these could be used by any of its branches, provided that:

- (a) the branch was authorised to write that class of business in its own EEA State (under Freedom of Establishment); and
- (b) the head office's freedom of services permissions in the country in which we wanted to write the business covered that class.

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<sup>1</sup> See European Commission document on *the Review of the Insurance Mediation Directive (IMD)*, Commission Staff Working Paper, page 6, second paragraph.

So, if, for example AIG Europe Limited wanted to use its Freedom of Services permissions from its branches there should be no requirement for the PRA to make any further notifications to other European regulators in relation to our intention.

However, in our experience, some European regulators have queried whether we had the right to perform freedom of services business into or from that EEA State without a further notification of intention to actually use those permissions having been made. We understand that in such circumstances the PRA would stand behind us and that in continuing to utilise the head office's FOS permissions out of the branches, we would not be acting in breach of any rules provided that (a) and (b) above were satisfied. But we are concerned that some European regulators are of the view that a further notification would be necessary. We believe it is in the interest of the single market that the different EEA regulators find a common position in relation to this and other passporting issues.

### **EU rules on financial services**

As a company with a significant footprint throughout the EEA, AIG Europe Limited applauds efforts by the EU to achieve greater harmonisation within the single market. This includes significant work to ensure consistency in areas such as Solvency II, and the proposed recast Insurance Mediation Directive (IMD2). An area of concern for us in relation to EU rules (including Solvency II) is how far national regulators/member states should be able to stipulate additional requirements on top of EU legislation, whether by so-called super-equivalent national provisions, or by "over-implementation" by the local regulator. Like many of our industry colleagues, we have been encouraged by HM Treasury's stated commitment (in the UK Insurance Growth Action Plan<sup>2</sup>) that implementation of Solvency II in the UK will be fully consistent with the Directive and not go beyond it. We agree with HM Treasury's objective of implementation via a direct copy-out approach, where possible, avoiding gold plating.

The consultation also seeks feedback on whether the use of Regulations or Directives and maximum or minimum harmonisation presents obstacles to national objectives. We regard Directives as the appropriate medium for setting out the broad legal framework and fundamental principles on a subject matter and believe that Regulations should be employed solely as a means of adding further particulars and clarity where necessary. Great care should therefore be taken to ensure that any Regulations issued under a Directive have the necessary legal basis, and are fully consistent with the letter and spirit of the enabling Directive. We would be concerned if, in some instances, Regulations are being used as a means of introducing new and fundamental requirements which may not have otherwise withstood the scrutiny to which Directive texts are subjected.

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<sup>2</sup> See *Insurance Growth Action Plan* published by HM Treasury on 4 December 2013, paragraph 4.5,

AIG Europe Limited believes it is in the national interest of all individual member states and in the interest of EU negotiation teams to ensure that only measures that have a robust legal hook in the enabling Directives are put in place via secondary legislation. In our view, national objectives would be best met by early engagement from UK negotiating teams both with the industry and with relevant EU institutions. The level of influence which the UK has in such matters is in part also dependent on the tone and rhetoric of the national debate on UK membership of the EU. Our advisors and several of the key stakeholders with whom we have engaged in Brussels have expressed concern that elements of this debate have the potential to leave the UK more isolated in EU discussions.

Whether or not a particular Directive should be minimum or maximum harmonising would depend on the subject matter and the situation on the ground in different member states. In areas where the internal market conditions/practice are not at all uniform, it might be necessary to embark on the journey of harmonisation by first introducing measures that are minimum harmonising, allowing these to bed down, and then if desirable ultimately to move to maximum harmonising measures.

### **European Supervisory Authorities**

As a general insurer, our business activities mainly fall within the remit of the European Insurance and Occupational Pensions Authority (EIOPA). Although still in their relative infancy, the European Supervisory Authorities have already made a significant impact on the regulatory landscape. The main priorities in EIOPA's 2014 Work Programme are driven by supervisory and regulatory convergence, enhancement of financial stability as well as promoting a leading role for itself in terms of consumer protection. We would applaud efforts by EIOPA aimed at, e.g. co-ordinating the work of Colleges of Supervisors as a positive step in the direction of regulatory convergence, and in avoiding duplication of regulatory efforts by both firms and regulators.

While we applaud EIOPA's efforts to promote regulatory convergence across the EU, we share the concern of others in the industry about the broad interpretation of EIOPA's role in relation to consumer affairs. We have recently seen extensive use of the consumer protection powers under the EIOPA Regulation to issue guidelines. In some instances these guidelines merely replicate large sections of national guidelines already in force in the member states (e.g. EIOPA regulations in relation to Complaints Handling contain numerous requirements already in force under national rules in the UK). AIG Europe therefore believes the industry and regulators would benefit from further clarity in the relative roles of national and European regulators, and improved co-ordination between the two.

### **Development of the EU Banking Union**

Although the UK is not part of the Euro zone, we believe it is in the national interest and in the interest of the Single Market for the UK to remain engaged in discourse and as involved as possible in policy discussions. In connection with the banking theme, we value the contribution of the UK Government in relation to the proposed Financial Transaction Tax (FTT) which although planned for implementation in 11 Euro zone member states only, would also have a significant impact on insurance/investment activities in those member states not participating. We support the legal challenge to the FTT launched by the UK Government in 2013 based on the potential extra-territorial aspects of the proposed tax.

AIG Europe Limited

London, 17 January 2014