Balance of Competences Review
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Dear Sir/Madam,

RSA Insurance Group response to HM Treasury's Call for Evidence on the Single Market in Financial Services and the Free Movement of Capital (Balance of Competences Review)

I am pleased to enclose RSA's response to the Call for Evidence.

RSA is one of the world's leading multinational insurance groups. We have major operations in the UK, Scandinavia, Canada, Ireland, Asia and the Middle East, Latin America and Central and Eastern Europe and have the capability to write business in around 140 countries. Focusing on general insurance, RSA employs 8,000 people in the UK - part of a global workforce of 23,000.

Given our footprint, being part of the EU is crucial to us as a business. We see it as the gateway to trading with the rest of the world. RSA mainly operates under the freedom of establishment principle, which allows us establish branches in other Member States and manage the implementation of global insurance programmes for multinational customers.

However, it is important that the right regulatory balance is achieved. New legislation shouldn't stifle innovation and competitiveness, instead it should help firms grow and compete on a global stage. In order for this to happen, RSA sees the need for more comprehensive impact assessments, which measure the full and actual impact on businesses and consumers.

In the same vein, European Supervisory Authorities should have a 'contribution to economic growth' role included in their mandate. Insurers contribute significantly to the wider EU growth agenda and it is vital that regulators have more regard for this, or they risk stifling innovation.

In the case of general insurance, one of main barriers to cross-border retail services is the real lack of consumer demand (e.g. consumers tend to buy their motor, home and pet insurance from local providers who they know). When developing cross-border trade and overcoming the barriers to its success, the importance of fact-based policy development cannot be underestimated. The Commission should only aim to enhance the Single Market where there is a proven demand and/or need for it.

Only by detailed understanding of these issues can we meaningfully further advance the Single Market in our industry; however, we believe that this should be a priority objective for EU and UK policy-making. So that this happens, and the UK is able to influence and shape the developing legislation with a credible voice, the UK Government needs to continue to engage at all stages of the policy-making process. It is important that the UK doesn't isolate itself from its fellow Member States - from conveying business concerns on key issues and dossiers to trade negotiations; and the PRA and FCA having the UK's supervisory voice heard in the ESAs.

RSA is committed to the EU and values the Single Market, which is vital to our business. I hope our evidence makes this clear and it is helpful to your policy development. I would be delighted to discuss our response with you as the review proceeds.

Yours sincerely,

Derek Walsh

General Counsel and Group Company Secretary

BALANCE OF COMPETENCES REVIEW: HM TRASURY CALL FOR EVIDENCE ON THE SINGLE MARKET IN FINANCIAL SERVICES AND THE FREE MOVEMENT OF CAPITAL

INTRODUCTION

RSA Insurance Group welcomes the opportunity to provide evidence to the Treasury's Call for Evidence on the Financial Services Single Market.

Both the freedom of establishment and freedom of services principles enable us, as a European and global insurer, to effectively operate and write business in a number of European countries. Being part of the EU is crucial for RSA. It provides us with the gateway to trading with the rest of the world.

The case for the Single Market is a robust and powerful one. Having 500 million consumers on our doorstep is beneficial for companies like RSA and having us trading here is good for consumer choice and competition. However, with 90% of global growth happening outside the EU, we do believe that the Single Market needs to become more competitive and be open to business from outside its borders.

RSA wants to see advancing the Internal Market in financial services as a priority objective for EU and UK policy. However, when developing cross-border trade and overcoming the barriers to its success, the importance of fact-based policy development cannot be underestimated. Issues to take into account from an insurance perspective include language, culture, regulatory environments, access to actuarial data and claims management. Only by detailed understanding of these issues can we meaningfully further advance the Single Market in our industry.

ABOUT RSA

With a 300-year heritage, RSA Insurance Group is one of the world's leading multinational insurance groups. RSA operates solely in the non-life insurance market across 32 countries and we provide products and services in over 150 countries world-wide. Across Europe, RSA has businesses currently selling personal lines insurance (e.g. motor, home and pet insurance) and commercial insurance (e.g. marine, renewable technology, construction and engineering) in the UK, Ireland, Sweden, Denmark, Italy, Latvia, Lithuania, Poland and Estonia. We also have branches in Germany, France, Spain, Netherlands and Belgium, from which we provide large scale commercial insurance.

APPROACH TO HARMONISATION

Question 1: How have EU rules on financial services affected you or your organisation? Are they proportionate in their focus and application? Do they respect the principle of subsidiarity? Do they go too far or not enough?

The importance of the Single Market

The Single Market of around 500 million consumers provides a strong opportunity and market for UK businesses. An open and competitive Single Market will support the ability of firms to grow and support a wider choice for consumers of goods and services.

The UK as an international financial services centre has benefited from the Single Market in many ways:

- The UK's pre-eminence as a global financial centre rests to a significant extent upon its participation in the EU and access to the Single Market;

- The rest of the EU is the UK's largest export destination:
    - Nearly 38% of the UK's trade surplus in financial services arose from trade with other EU Member States in 2011,compared with 25% arising from the US; and
    - Over 40% of euro foreign exchange trading takes place in the UK.

Advancing the Single Market in financial services would benefit the UK:

- Our long-term economic success depends on the UK's ability to deal with the challenges we face in competitiveness, global trade and advancing the Single Market. RSA endorses advancing the Internal Market in financial services as a priority objective of UK policy; and

- Advancing European competitiveness should underpin further development of the Single Market. The current reliance on legislation and regulation as the primary means of developing the Single Market should be challenged.

How Single Market rules have affected RSA

Both the freedom of establishment and freedom of services principles enable us, as a European and global insurer, to operate and write business in a number of European countries.

RSA mainly operates under the freedom of establishment principle, which allows us to establish branches across the EU. Through our branch structure, we are able to share our UK based assets (expertise, capacity, skills) with our multinational clients who are established in other Member States where we have a branch, while still providing a local service. Through the branch structure, we write large scale, multinational companies (MNCs) through RSA Insurance plc. We are able to take on bigger and more volatile business risk than we would if we were operating through small, separate legal entities, which do not have the same financial strength, capacity, skills and facilities as RSA Insurance plc. The benefit to the MNC is that our MNCs have access to the extensive skills base and expertise that we have in the UK but they also have local handling through the branch. The benefit to RSA is that it allows us to use efficiencies of scale: both corporate governance and financial reporting requirements are reduced (albeit there is some supervisory reporting), we do not need to hold capital in each of our branches and the capital requirement overall reflects the diversification of the risks. Also the costs associated with re-insurance are lower. However, it should be noted that RSA does incur added costs to ensure compliance with different legal and regulatory frameworks across the Member States.

Conversely, under the freedom of services principle, although we are able to offer insurance on a cross border basis, because of the existence of a large number of variations in regulatory, legal and taxation requirements in different EU Member States, it is difficult to ensure that the customer is fully compliant across jurisdictions, if the policy is issued in one country and used in another. In addition, in property insurance, for example, we would not be able to guarantee that the customer has access to any national insurance pools, for example a pool for terrorism, if their policy is issued from a different country. There are also many variations on, for example, compulsory liability insurance – 400 in Spain, 120 in France and only four in the UK, which make it incredibly complicated to operate under freedom of services.

Unsurprisingly, the call for say a French customer buying a UK insurance policy is very unlikely, which means that we very rarely choose to operate under freedom of services, perhaps only in some small policy cases. We would like to see the same open mindedness given to the freedom of establishment principle, as to the

freedom of services principle, under which we operate most of our cross border business, for the reasons outlined above.

Proportionality and subsidiarity: current drafting practices

Increasingly, we are finding that new legislation under consideration in our sector, does not respect the principles of proportionality and subsidiarity. The current review of the Insurance Mediation Directive (IMD2) can be used as an example here, where there is a danger that measures designed to help consumers choose more complex, savings and investment products will be disproportionately applied to simple, non-life products.

In our view, the European Commission, when drafting the proposals, did not take into account the key differences between complex life insurance products or investments and savings products, and simpler non-life products such as home or motor insurance which would have a detrimental impact on their access to insurance by prohibiting services outright or making their provision overly burdensome for intermediaries. This means that the new rules would have a disproportionate impact on the non-life market:

- The requirement for an insurance undertaking, when selling insurance directly, to inform the customer whether any variable remuneration is paid to employees for distributing and managing the insurance product in question will increase client confusion. In our experience, most customers wouldn't be thinking about remuneration arising in a direct sale so it creates an additional thought which wouldn't otherwise be there. Where variable remuneration does exist, it is incidental to the sale and in most instances cannot be directly related to any one transaction which means that the requirement to inform the customer is meaningless.

Furthermore, we would also question whether the principle of subsidiarity has been fully taken into account:

- The prescriptive nature of the amendments on professional qualifications apply equally to the sale of non-life products by direct insurers on a non-advised basis. The European Parliament's proposal, to have in place a mechanism to control, assess and certify the knowledge and skills of employees through independent bodies, would be extremely costly and time consuming. Furthermore, the setting out of the number of hours required during a set period is prescriptive. No cost-benefit assessment has been conducted for either proposal and we believe that the rules with regards to professional qualifications are much better determined by Member States, who can more appropriately tailor this to what is required based on the complexity of products and distribution channels in their jurisdiction.

We would argue that not respecting the principles of proportionality and subsidiarity undermines the Single Market: disproportionate legislation hinders competition and doesn't allow companies to operate effectively across borders as the rules which they face are overly burdensome constituting a de-facto barrier to entry and competition.

Question 2: How might the UK benefit from more or less EU action? Should more legislation be made at the national or EU level? Should there be more non-legislative action, for example competition enquiries?

It is important that regulation is developed at an EU level when there is a need for consistency across the EU. For example, we welcomed the adoption of the Solvency II Directive, which helps to deliver a consistent way of calculating capital. This allows for sensible comparisons to be made between firms which also helps competition in the sector.

It is important that when a piece of legislation aims to achieve consistency across the EU, national regulators do not over-implement. In our view, UK supervisors have the potential to do so (ie use national discretions to apply additional layers of capital) against the spirit of the original EU legislation.

In our view, national regulators are better placed to deal with consumer-facing legislation as they have a much better understanding of their own consumers' buying habits and firms' distribution methods, which vary considerably across Europe. To ensure consistency in approach, the EU does have a role to play in terms of setting high level standards. The problem arises when more prescriptive rules are added in as part of the legislative process, as the European Parliament has done with professional qualifications (as above).

Question 3: How have EU rules helped or made it harder to achieve objectives such as financial stability, growth, competitiveness and consumer protection?

As noted above, RSA is very supportive of the Single Market and the opportunities this has brought for the company in terms of its objective to provide a level playing field for market participants, particularly in financial services. As such, we believe that private businesses can play an important role in ensuring that the UK continues to reap the benefits of EU membership as well as the role businesses play in securing economic growth.

Competitiveness

However, the EU should have more regard for the impact that regulatory proposals have on the competitive position of EU insurers. Overly prescriptive legislation can put them at a disadvantage to their global counterparts, also risking regulatory arbitrage. It can also take away the competitive elements relating to customer service, policy cover and claims management.

Additionally, global trade patterns have changed in recent years with the strengthening of economies in South America, the Middle East, Africa and Asia, these trade patterns will continue to change, reducing dependency on the established financial services markets in EU Member States due to improved capability and in some instances, greater access to capital. The strength of the Single Market is vital to its attractiveness to international trade. Measures which stifle competition within the Single Market also serve to reduce the attractiveness of the market internationally. It is not clear if the EU is always mindful of these considerations when making policy and if it seeks to learn from the growth of financial service hubs outside of the internal market.

In our view, the EU also needs to take into account competition when drafting legislation to address an issue in another sector. For example, the Data Protection Regulation aims to fix problems associated with the social media sector; however the catch-all principle of the Regulation means that it can have a negative impact on insurers – for example, the draft Regulation could prevent insurers pricing risk appropriately. This would have a fundamental impact on how insurers operate and write business. This demonstrates the Commission's often piecemeal approach, which doesn't take in to account the full set of consequences. We would encourage the Directorates General to take a more coordinated approach to policy-making or shared responsibility for a piece of legislation which has a major impact on more than one sector.

Financial stability

The financial crisis demonstrated that consumers were at risk, particularly in the banking sector, to loss through a firm failure. Much work has been done and is continuing to address this risk. The Commission has successfully legislated to enhance financial stability in the insurance sector through reaching agreement on the Solvency II Directive. Other financial sector reforms include a framework for crisis management, as well as measures to strengthen the regulation of financial markets and infrastructures.

Prudential requirements are well suited to determination at an EU level. However, there are practical challenges for policymakers to ensure these cover a broad range of potential outcomes – including financial stability and competitiveness – and are not overly complex or burdensome. For example, on Solvency II, the disclosure requirements are onerous and the proposed accelerated reporting for the European Central Bank and hence the Group, could significantly increase the implementation cost for little real economic benefit.

Consumers

It is right that customers are protected and that the EU is advancing this agenda. However, in doing so, the Commission must be mindful of the levels of protection which are already in place across the Member States. Proposed legislation, which seeks to enhance consumer protection, shouldn't water it down in markets where it is at a high level, such as the UK. Neither should the legislation be allowed to stifle the market. The Commission therefore needs to carefully consider which type of legislative instrument is the most appropriate when proposing new consumer protection legislation.

The Commission should only aim to enhance the Single Market where there is a proven demand and/or need for it. Cross-border competition is dependent on consumer demand to buy a product from a provider in another Member State and provider appetite to sell one. It is our belief that there is limited appetite for either activity at this stage (i.e. consumers tend to buy from local providers who they know, while providers may be unwilling or unable to incur the costs and overcome the challenges of selling in other Member States). Also see our answer to question 6.

While RSA recognises the need to ensure transparency and protection for consumers, regulations and legislation in general should distinguish clearly between the products and services which they cover. Otherwise there is a danger that rules are not applied proportionately. This results in often unnecessary increased costs and bureaucracy for businesses and consumers (as explained in the IMD2 example above). In our view, consumer protection issues arising out of conduct risk can be addressed at a Member State level. Our concern is that the EU is increasingly active in this area when it is not strictly necessary for it to do so.

Question 4: Is the volume and detail of EU rule-making in financial services pitched at the right level? Has the use of Regulations or Directives and maximum or minimum harmonisation presented obstacles to national objectives in any cases?

Assessing EU regulation should not be about volume, but about getting quality regulation in the areas where EU action is necessary to support growth and competitiveness. RSA welcomes the use of Regulations where the need for an EU single rule book has been demonstrated. Where it has not, in our view, a Regulation can have a detrimental impact on a mature market such as the UK, which has in place more advanced consumer protection measures.

For example, we are concerned that the prescriptive rules in the proposed Data Protection Regulation will impact on the ability of insurers to share information to prevent fraud and other financial crime. Detecting fraud protects consumers and reducing and deterring insurance fraud is a priority for the insurance industry. It is important that efforts to combat fraud (which are in the overriding interests of society) are supported and explicitly recognised in the development and application of the law, rather than being restricted. At the moment, insurers are able to share sensitive data under UK law, which is possible under the 1995 EU Directive, which only sets down minimum harmonising standards. As the proposed new rules are in the form of a Regulation, the UK is in danger of losing this exemption. This is an example of where a proposed maximum harmonisation approach presents an obstacle to a national objective, namely fraud prevention.

RSA believes that it is important that the volume of EU rules does not exceed the capacity of policy-makers and stakeholders to ensure quality in rule making. Good quality legislation should be well-thought through so that new rules do not have unintended consequences on other sectors/services. The financial crisis has led to a G20-driven overhaul of financial regulation. While this agenda has been largely led by the banking and securities market, it significantly impacts the insurance sector. We can see this in the activity led by the IAIS on systemically important insurers and the European Commission and UK Treasury consultations on crisis resolutions. It is imperative that the UK supports the correct conclusion at G20 level that core insurance and reinsurance activities do not pose systemic risks and thus general insurers are not systemically-important. It is also imperative that the different supervisory and regulatory levels work together and do not compete to regulate first – this is more likely to lead to knee-jerk regulation which doesn't address the real issues.

The extensive and ongoing period of European regulatory reform does carry with it heavy costs. We calculate that there are at present at least 40 separate pieces of legislation under review for the financial services sector, with complex and potentially unknown interactions. A thorough evaluation of the regulatory reform post-crisis is urgently required before any new initiatives are put in place, including an accumulated impact assessment. Current legislations should also be allowed to embed properly, in advance of any reviews being launched.

There should also be a concerted effort to ensure consistent regulatory enforcement across the 28 Member States – making the existing regulatory framework work better.

Question 5: How has the EU's approach to Third Country access affected the ability of UK firms and markets to trade internationally?

Continued access to European markets is of paramount importance to RSA. The EU, as one entity, has a stronger voice and more power through its alliances than the UK acting alone, especially in trade negotiations with the US and China.

The EU must remain open to global opportunities and growth:

- Given that 90% of global growth now takes place outside the EU, the need for the Single Market to be competitive as well as open has become all the more important;

- The Single Market must remain open to business from non-EU countries (many of which are growing quickly) and should avoid extra-territorial legal approaches which damage relations with trading partners; and

- The EU should ensure the continued competitiveness of international markets when seeking to influence the development of global standards for financial regulation. For example, the UK is the global market leader in marine insurance with a 21% market share in 2011. In such large risk insurance the insurance of ships (damage and liability), aircraft (damage and liability) and goods in transit, the EU has a part to play but the insurance market for these risks is international and by definition entails cross-border trade in insurance:

    - MAT risks associated with EU Member States constitute part of a larger, global whole and arrangements for their insurance do not differ substantially from those for the insurance of non-EU risks. MAT risks are often insured using the same policy forms whatever the risks' national origin. There is no evidence of problems with the supply of MAT insurance products: indeed, the markets are frequently characterised by over-capacity and an excess of insurers willing to provide cover.

- Similar considerations apply to the insurance of large non-marine risks (property and liability).

- Very large non-marine risks are often placed internationally on a subscription basis, by insurers based in more than one EU Member State. Again, this necessarily entails cross-border trading.

- Insurers will also want to ensure they are able to establish a network to service the insurance contracts in accordance with their business needs and reputational objectives. The appropriate servicing of the contract before and throughout its duration, and the ability to manage claims arising from the contract (including providing additional assistance to policyholders) will have an impact on the decision to offer cross-border insurance of high-volume risks, e.g. motor policies.

- Some EU non-life insurers do carry on mass risk business on a cross-border basis. Rather than trying to sell the same contracts as they provide in their home state, they may work with insurance intermediaries in the host Member State to offer insurance contracts that are in line with the expectations of local customers. Often the contracts will be subject to the law of the host Member State, which is usually the Member State where the risk is situated and the policyholder has his habitual residence. Not only does this comply with Rome I, Art. 7, it is generally in line with customer expectations.

Question 6: Do you think that more or less EU-level regulation in the area of retail financial services would bring benefits to consumers?

Insurance remains largely fragmented along national lines. RSA believes that the EU may not be the right authority to bring in more legislation in the area of retail financial services. As we note in response to one of earlier questions, it remains unclear whether there is any evidence to suggest consumer demand for a cross-border insurance market, to overcome and warrant the inevitable business costs associated with the supply of cross-border insurance products. Therefore, there is as yet limited evidence that consumers, businesses or insurers would benefit substantially; and no certainty that consumers would willingly take up cross-border products even if particular obstacles were removed and insurers were offering cross-border insurance provision on a broad scale. Studies have found that consumers in some Member States prefer national insurers as they are more trusted than foreign insurers that may not have previously had a presence in the market.

The European Commission has set up an expert working group to consider legislation in the area of insurance contract law. According to the Commission, the lack of harmonised contract law is one of the main barriers to the opening up of the market. While RSA welcomes any proposals which would allow us to further align and streamline our internal regulatory and legal processes across our European operations, in this case, we recognise the challenge of creating something workable across 28 different legal systems and insurance markets, when there is no proven and clear consumer demand. The Commission must take the following market and cultural conditions into account:

- The main factors affecting insurers' decisions to offer insurance cross-border include 'know your customer'; understanding the true risk proposed for cover; language; culture (including expectations of the local policyholder); the form and prevalence of fraud (particularly in the case of motor insurance); and the tax and supervisory environments.

- There are also certain factors, which are taken into account by consumers when they are considering their preferred service providers, including knowledge and expertise; reputation; and service levels of the insurance provider. Also how much the consumer understands the product; the scope of cover, the price payable for cover; and the excess applicable to their contract. Language barriers, different cultures and different sales rules may also prevent customers accessing cross-border insurance services.

- When considering national differences impacting the availability of private insurance contracts on a cross-border basis, the scope for product development and design by insurers should be safeguarded in the interest of maintaining a competitive and innovative insurance industry, in the interest of both customers (be they consumers or businesses) and insurers. Product design must remain within the remit of the commercial freedom of insurers.

- From the insurer's perspective, the most important considerations are the practical aspects of the contract, such as claims handling and language of customers, and the differences in compensation awards resulting from differences in national tort law and court rulings. These are the main factors that lead insurers such as RSA to offer services cross-border via branches rather than on the basis of freedom of services provision (as explained in our response to question 1).

- Another cross-border services barrier in terms of claims management can be the costs of setting up a sufficient network of third parties, capable of assisting an insurer in providing its services in a manner and to a standard acceptable to that local market's policyholders and reflecting the insurer's reputation, and business model and objectives.
    - Taking property insurance as an example, an insurer will want to offer a full service to a customer and therefore it will need to build up relationships with a network of builders, plumbers, locksmiths, roofers, electricians, etc. This takes time and investment. This need for a local presence to succeed in operating a successful claims handling process for cross-border contracts was echoed in the 2010 Retail Market Study, prepared for the Commission, where it was found that a lack of local presence for claims handling was treated sceptically by consumers.

- Diverging liability laws, legal practices and corporate governance systems, different approaches towards risk management between Member States, and differences in compulsory insurance measures are inherent Member State differences that impact and influence insurance product design.

- Insured sums: the amount of cover offered by insurers is largely based on the economics of the jurisdiction where the risk is located. For instance, a 5,000,000 EUR liability claim in one country may be worth just 100,000 EUR in another, as awards tend to be greater in Western European countries than, say, Eastern European countries, due to cultural differences in the willingness to litigate and the economic reality of the market. In light of this, it would be very difficult for, for example, a Lithuanian-based insurer – that is experienced with Lithuanian-sized claims amounts – to adjust its financial capacity to accommodate, say, UK-sized litigation costs.

The European Commission's main driver to move to an integrated market for retail insurance is to bring benefits to consumers – yet the need to legislate in the specific case of EU insurance contract law remains unproven. It is important that the outcome of any proposals maintains competition in the industry.

INSTITUTIONAL INTEGRATION

Question 7: What has been the impact of the shift towards regulation and supervision at the EU level, for instance with the creation of the ESAs? Should the balance of supervisory powers and responsibilities be different?

The balance of control and influence in financial regulatory policy and supervision is changing and doing so quickly. Overall, RSA believes that the ESAs have met expectations so far, but it is too early for a full assessment to be made – as such, the Commission should take no action now. This is an important point to note across all EU policy-making – legislation should be allowed to have time to embed before any reviews are launched. Otherwise it's impossible to tell whether a piece of legislation is fit for purpose or not.

RSA believes that ESAs should have a 'contribution to economic growth' role included in their mandate. Insurers contribute significantly to the wider EU growth agenda and it is vital that regulators have more regard for this, or they risk stifling innovation. This is true at both national and EU levels.

The lack of clarity on the consumer role under Article 9 has resulted in ESAs adopting a broad interpretation. There has been a lot of resource devoted to producing additional and potentially unnecessary guidelines. We would question whether this detracts the ESAs from much needed work elsewhere. For example, EIOPA's stock-take of financial education / literacy initiatives by national authorities failed to much show benefit. In our view, day to day understanding of consumers and their behaviours is addressed by national supervisors, who are better placed to understand and adapt regulation to specific consumer needs and expectations. National supervisors are then able to ensure that the solutions are multi-pronged in their approach and there is coordination between different Government departments and regulators. For example on financial literacy in the UK, the FCA, Money Advice Service and the Department for Education might work together to consider the appropriate way in which basic budgeting can be included in the national curriculum. This type of approach is more difficult to accomplish at the EU level.

RSA is also concerned by the ever-increasing workloads for the ESAs (EIOPA in particular) and the problem that they lack sufficient resources to cope with demand. In addition, due to delays in finalising Solvency II / Omnibus II, EIOPA struggled with drafting of the technical standards. Our concern was that EIOPA's Solvency II interim measures would be too detailed (and reporting too onerous); and would anticipate legislation that was yet to be developed.

ESAs must be mindful not to lean towards extremes in the development of common supervisory culture. It is more important that the supervisory culture is appropriate. Furthermore, ESA direct supervision should be the exception not the norm. Daily supervision is best served by national competent authorities who are closer to the firm they are overseeing.

Finally, cooperation between the regulators is key. ESAs and the ESRB must ensure regular dialogue, to avoid duplication of tasks and unnecessary burdens for regulators and industry. Maintaining a single pathway for providing data, via the national regulator, is crucial to collate and monitor the various requests.

Question 11: What may be the impact of future challenges and opportunities for the UK, for example related to non-membership of the Euro area or development of the banking union?

The impact of the Banking Union on insurance subsidiaries within banking groups or for insurance groups with banking subsidiaries is unclear. There is also a potential spill-over of supervisory approaches from the banking sector to insurers, implying that EIOPA might be potentially downgraded to the projected EBA role of ensuring legal consistency across the EU.

It will be important that the structural changes which will take place as a consequence of the Banking Union do not undermine the Single Market and that a level playing field between Member States which take part in the Mechanism, and those which do not, is kept. The Government must remain fully engaged with its EU partners, participating constructively in the debate.

EU POLICY MAKING PROCESS

Question 8: Does the UK have an appropriate level of influence on EU legislation in financial services? How different would rules be if the UK was solely responsible for them?

The UK's continuing influence in the EU financial regulatory reform programme is vital and we very much support this:

- Most new regulatory rules derive from Brussels and there is a need for the UK (both the Government and industry, the latter also working effectively through the right EU representative bodies) to continue to remain fully engaged at all stages of the EU policymaking process to ensure the right regulatory outcomes.

- The UK Government must help ensure that the insurance sector is seen as a key driver of European economic recovery; EU firms retain their global competitive advantage; and that the regulatory burden being imposed on the insurance industry does not become too excessive and disproportionate.

- More widely, the industry welcomes the UK Government's engagement on a range of dossiers in Europe impacting on our sector, such as the Data Protection Regulation; IMD2; and Solvency II. There is clearly a compelling need for it to stay involved at the highest levels and to be prepared to expend political capital in Brussels on delivering the right outcomes; and for senior Government Ministers to raise industry concerns at the highest level with other EU Governments and institutions.

We support the CBI's proposal for the UK Government to have in place a detailed EU engagement strategy. This should include an ambitious target for UK presence in EU institutions in the medium-term - slowing the negative trend of a six-year long decline of UK nationals on the staff of the European Commission by the end of 2015, and beginning to reverse this decline by 2017 – as well as comprehensive plans for how Government intends to engage with the increasingly powerful European Parliament to best support UK interests.

Question 9: How effective and accountable is the EU policy making process on financial services legislation, for example, how effective are EU consultations and impact assessments? Are you satisfied that democratic due process is properly respected?

The need for regulation which is proportionate, consistent, does not impose excessive costs; and won't stifle inward and outward overseas investment is paramount regardless of whether at the UK or EU level. After a decade of flux and uncertainty, certainty and stability of prudential regulation (and accounting) are critical to restore confidence and encourage long term investment.

Linked to the above is the point that all regulation must deliver benefit that outweighs the cost of implementation and ongoing compliance. This requires thorough cost benefit cases to be undertaken involving real industry analysis. It is important that the full cost to industry is understood, e.g. the cost and timeline to make major system changes when changes to documentation are required. Ultimately an increase in the cost of compliance feeds through to the price customers pay. In our view the European Commission does not perform enough cost benefit analyses ahead of proposing new legislation. RSA believes that ahead of proposing new legislation, the European Commission should measure the impact of regulations and it should take a risk-based and proportionate approach when developing new proposals. If EU businesses are to compete in the global marketplace, they need a level playing field.

In cases where the Commission holds a working group to determine whether a certain project may be viable, it would be important for the working group to have a real mix of representatives, including those from industry. Too often, these working groups are composed from academia and the conclusions feel pre-determined.

Many European Parliamentarians and their officials do not fully understand the insurance industry or the products sold and they lack the resources to have a full team of experts and advisers. Their scrutiny of legislation can therefore be a product of political positioning.

We are increasingly concerned by the fact that EU policy – including the fundamental aims and objectives of the legislation - can change significantly after the consultation period/the publication of the piece of legislation by the European Commission. We accept that this is an inevitable part of the democratic, legislative process, however, if there is a material change in policy, then we believe that this should trigger a further consultation, or an impact assessment, of the new approach. An example of this is IMD2. The Commission added material proposals after the consultation, which fundamentally changed the basis of the original consultation: a proposal to ban non advised sales was added in, which would have a huge impact on our business and on how insurance is conducted throughout Europe. A change of such magnitude should not be possible without a new impact analysis and public consultation.