Balance of Competences Review

Summary of Insurance Industry Roundtable

Date: 11 December 2013 Host: Aviva

RESPONSIBILITIES OF NATIONAL AND REGIONAL POLICY-MAKERS

- **Q*uality* of regulation is more important than its *origin*:** the priority is that the detail of regulation is fit-for-purpose. Several participants believed it mattered less whether the legislator was regional or national, so long as the output was appropriate and proportionate.

- **UK implementation remains key stage in the process:** once EU legislation is agreed, UK authorities still have a key role to play through implementation, and putting into practice the political agreement secured in Brussels. The UK approach is often perceived to be either "gold-plating" (i.e. if the UK Government layers additional requirements on top of EU legislation) or rather a case of "over-implementation" (i.e. UK use of national discretions to apply additional layers of capital), both of which can challenge the competitiveness of UK industry in relation to its European counterparts.

- **EIOPA yet to demonstrate how they will exercise their function. Potential remains for overlap or inconsistency with national regulators:** oversight of EIOPA was questioned as it is not directly linked to a political entity, and the extent to which EIOPA will take consultation responses into account remains unknown. The jagged lines of responsibility could cause confusion for companies e.g. would EIOPA take a company to task for not complying with EU law correctly if the company is correctly complying with the national regulator's interpretation of that law?

EUROPEAN INSURANCE REGULATION

- **UK insurers have benefited from single market rules:** through establishing in or selling into other European markets. Where EU activity facilitates exports of a developed product across markets this was to be welcomed.

- **Prudential rules like Solvency II will introduce a level-playing field, but slow negotiations have demonstrated the limits of harmonisation:** Solvency II negotiations took many years, but this did allow it to capture important lessons from the financial crisis. The negotiations pushed the goal of harmonisation to its limit, trying to find workable solutions which would fit such a diverse breadth of existing products across a wide range of Member States, and highlighted the challenges in achieving a completely level playing field.

- **The objectives of retail legislation are often unclear and retail harmonisation presents equally challenging issues:** is European retail legislation aiming for greater harmonisation with the wider goal of expanding the single market? How realistic or likely is this given there are currently very low levels of consumer appetite for cross-border sales? Or is the goal greater levels of consumer protection? And is that for all Member States or just those with more nascent insurance markets? At a European level it was perceived that the objectives and implications of retail legislative initiatives are not always fully considered e.g. inter-linkages between proposals on MIFID II, IMD II and PRIPs. A principle-based approach to EU legislation or EU guidance was suggested as one possible way to overcome the diversity of national regimes. This could help to ensure a consistent level of consumer protection across the EU, but allow national discretion to take into account the specifics of national products. A situation was even envisaged where Member States which already applied an appropriately rigorous level of consumer protection could be given a 'green flag' to continue with their own regime, whereas other countries looking for a model to adopt to raise standards could follow an EU model.

EUROPEAN POLICY-MAKING PROCESS

- **The current volume and speed of developing regulation is unsustainable**: this has particularly been an issue since the financial crisis, and has often been seen to result in insufficient consideration, scrutiny or impact assessment; all of which risk producing poor legislative outcomes. There are concerns that this will become the longer-term way of working e.g. the recent proposal to swap elements from the revision of the Insurance Mediation Directive (IMD II) into MIFID II at the eleventh hour is an example of inadequate consultation.

- **The intended benefit of European activity is not always clear:** an example of this is the current expert group established by the European Commission to examine the potential harmonisation of insurance contract law. Given the extremely low levels of cross-border sales, it is unclear what benefit the efforts and outcome from this group will achieve.

- **EU institutions are willing to engage with stakeholders, but outcomes often affected by lack of expertise:** this is unsurprising given the breadth of different business models, different products and different sales processes across the 28 Member States, yet a very wide knowledge of the industry is essential to ensure the legislation developed is workable across the EU and does not lead to unintended consequences in any market e.g. anecdote suggest some European officials have not been able to identify the difference between general and life insurance.

- **UK representation in the EU institutions needs to increase:** the UK's voice in the European Commission, and support functions of other institutions, is currently smaller that its market share. This is of particular relevance in financial services given the importance and size of the sector in the UK, where there would be great benefit in multiplying the experienced and knowledgeable UK voices present within the institutions, be it through greater use and targeting of Seconded National Experts or supporting UK civil servants through the Commission entrance competitions.

Participants:

ABI (for further insurance views see also ABI submission to BoC review)
Aviva
Aviva
Aviva
CII
City of London
Clifford Chance
International Underwriters Association
HM Treasury
HM Treasury
Legal and General
Lloyds of London
LV
Norton Rose
Swiss Re
Prudential
RSA