Position Paper

FERMA
Federation of European
Risk Management Associations

Av. Louis Gribaumont 1, B4
1150 Brussels. Belgium
T: +32 (0)2 761 94 32
F: +32 (0)2 771 87 20
E: info@ferma.eu
www.ferma.eu

FERMA comments on the 2013 Ernst & Young study on co(re)insurance practices
-
The future review of the block exemption regulation

Background

In 2011, the European Commission (Commission) ordered a study to provide an European wide overview of the co(re)insurance practices of pools and ad-hoc agreements on the subscription market.

The objective was to gain a better understanding of the rationale and the functioning of existing pools and subscription markets throughout the EU.

This has to be seen in the broader context of the Insurance Block Exemption Regulation (BER), where the mentioned regulation grants an exemption from the EU competition rules to co(re)insurance pools, and the conduct in 2007 of the Business Insurance Sector Inquiry (BISI).

The study will be used in the future review of the Block Exemption Regulation - BER- renewed on March 24, 2010 and which will expire on March 31, 2017. Following the publication of study on 11 February 2013, the Commission organised a workshop on 12 March 2013 where Ernst & Young presented the findings of the study.

FERMA is welcoming this new opportunity to comment and restate its confidence in co(re)insurance practices that have proved their high value and beneficial cooperation between insurers and the risk management community.

Position Paper

Federation of European Risk Management Associations
Av. Louis Gribaumont 1, B4
1150 Brussels. Belgium
T: +32 (0)2 761 94 32
F: +32 (0)2 771 87 20
E: info@ferma.eu
www.ferma.eu

The status of pools and the necessity test

1) ***The exemption to the application of EU competition rules is providing more benefits for the market than issues.***

Some pools on national levels are really needed where the traditional insurance market is not interested or can't solve temporary market problem on its own, especially with unusual risks (terrorism, natural catastrophes…) and specific areas of activities (shipping, nuclear, aviation sector…).

This practice is the only way to find huge financial capacities that the industry needs in the business insurance sector.

These pools are considered so necessary because there is no viable alternative in the Member State for coverage of large and new risks. Pool members on their own would not be able to provide the necessary capacity for the (re)insurance of these risks.

2) ***However it is of utmost importance to take into account the evolution of insurance markets.***

Absence of insurance capacity in the commercial insurance market today can change rather rapidly over time. Being created in a period of capacity shortfall, pools must not restrain the commercial insurance market from growing into that risk.

If they are kept in place with a monopoly position, they could be used as barriers for potential new entrants and large corporate insurance buyers have to buy several time capacities that they could buy once if the market was free or if there was European pools instead of national pools.

The necessity test has to be a permanent assessment test and not a test carried out only once, at the formation of the pool.

Therefore, the status of pools has to be checked regularly against market reality so the insurance market remains dynamic and competitive.

Federation of European Risk Management Associations

Av. Louis Gribaumont 1, B4
1150 Brussels. Belgium
T: +32 (0)2 761 94 32
F: +32 (0)2 771 87 20
E: info@ferma.eu
www.ferma.eu

No restriction to the operation of the subscription market

FERMA understands the fact that the EC is looking for clarifications about subscription placements and the rationale behind the premium alignment practice that may occur.

In the conclusions of the 2007 business insurance sector inquiry (BISI), the Commission expressed concerns about ad hoc agreements regarding the practice of the premium alignment, stating that "*the mechanisms behind this general market practice are not clear*."

Following the BISI, FERMA noted that the BIPAR, the European Federation of Insurance Intermediaries, issued in April 2008 high level principles for placement of a risk with multiple insurers ("the BIPAR principles"), guiding members to fully comply with competition rules regarding the subscription market.
As mentioned in the 2013 Ernst & Young study, The Lloyd's market and insurance companies responded positively, with the BIPAR principles being endorsed by the European Insurance Association (Insurance Europe).

The subscription market plays a critical role in covering industrial risks. Therefore FERMA is concerned that any restriction to the operation of the subscription market would reduce market capacity (or make access to market capacity more difficult) to the disadvantage of insurance buyers. These concerns are also shared by the insurance market itself.

FERMA would like to share with the European Commission the following views:

- ***The first phase of subscription process (i.e. the selection of the lead insurer) is a highly competitive process*** where every potential underwriter willing to become the leader of an ad hoc insurance agreement should submit the most interesting and competitive quotation.

- ***Once the lead insurer is selected, this practice is time-efficient***, avoiding heavy and complex individual negotiation with every possible co-insurers.

- ***When it comes to handling claims and resolving disputes, this practice is bringing legal certainty*** for the parties, making sure that terms and price are clear and consistent among all participants.

- ***Because of this recognised efficiency, the subscription market attracts a great diversity of insurance companies which is in the corporate client's best interest***. The subscription process allows non-specialized insurers to provide capacity to cover a risk relying on the leader's expertise in that specific area of risk. Consequently, a whole range of large risks can find coverage thanks to the subscription market.

FERMA
Federation of European
Risk Management Associations

Av. Louis Gribaumont 1, B4
1150 Brussels. Belgium
T: +32 (0)2 761 94 32
F: +32 (0)2 771 87 20
E: info@ferma.eu
www.ferma.eu

Co(re)insurance is an unmatched option for increased insurance capacity

Co(re)insurance practices are part of the basic functioning of the insurance market in Europe (both the London and the Continental European markets). They are the only way to find the huge financial capacities needed in the business insurance sector and no individual market players could meet these needs on their own.

As it has been working properly so far and proved its benefits, it should not be hindered. Rather, it should be permitted and allowed to continue.

FERMA acknowledges that ad hoc co(re)insurance arrangements fall outside the scope of the BER. This is understandable as these structures are not pools and do not in any other way restrict competition between insurers. The absence of an exemption, therefore, leaves open the continuation and justification of this practice.

Finally, it's also a competitiveness issue: coinsurance business in Europe is attractive and competitive because of a world-recognised EU expertise.

It is important to preserve these capabilities and ensure the EU competitiveness with other coinsurance markets outside the European Union.

FERMA would be pleased to discuss further the views expressed in this paper with the relevant European institutions and would be glad to collaborate to any future initiative at EU level.