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EBA, EIOPA and ESMA's consultation paper on their proposed response to the European Commission's Call for Advice on the Fundamental Review of the Financial Conglomerates Directive (JC/CP/2012/01).

We welcome the opportunity to comment on this consultation. We believe that the financial crisis makes a reassessment of the Financial Conglomerates Directive timely and welcome.

By way of background, Hermes is a leading asset manager in the City of London. As part of our Equity Ownership Service (Hermes EOS), we also respond to consultations on behalf of many clients from across Europe and around the world, including PNO Media (Netherlands), Canada's Public Sector Pension Investment Board, VicSuper of Australia, Lothian Pension Fund, British Coal Staff Superannuation Scheme, Mineworkers Pension Scheme and The BBC Pension Trust (only those clients which have expressly given their support to this response are listed here). In all, EOS advises long-term institutional investors with regard to assets worth a total of €106 billion.

On behalf of these clients, which as long-term investors across markets have a significant interest in systemic stability and economic security, and also as long-term owners of financial institutions wish to see those businesses succeed and flourish over the long run, we have been actively engaged in public policy debates in relation to the structure and culture of the financial system. We are also recognised for our active contribution to discussions about governance both within the financial sector and more broadly. We are thus pleased to have the opportunity to extend this work on behalf of our clients by responding to this consultation.

As there are no specific questions raised in the consultation, we highlight our comments on individual paragraphs in order through the document.

Paragraph 4.1.4 – widening the scope

We firmly agree that within a financial conglomerate all activities that pose a relevant risk need to be taken into account for supervisory purposes, irrespective of whether those activities are carried out through regulated or unregulated entities.

Paragraph 4.1.4.1 – inclusion of IORPs within the Directive

We do not support the inclusion of IORPs within the Directive, and therefore support Option 2. We are not aware of a situation where an IORP has had a significant systemic impact, and it is hard to conceive of a situation where this would be the case given the limited scale of IORPs, their lack of scope for leverage and their clear fiduciary duties to beneficiaries. The existence of detailed regulation for IORPs, both on the individual market level and under the IORP Directive also means that the risks associated with these forms of organisation are already well overseen. Adding a further layer of regulation on top of these would add confusion and complexity and as the consultation notes, applying the IORP Directive instead means that there would be more flexibility to deal with the large number and huge variety of IORPs in Europe, for which a single approach would not be appropriate.

Paragraph 4.1.4.3 – inclusion of SPVs and SPEs

We firmly agree with the inclusion of special purpose vehicles and entities. As the consultation makes clear, the financial crisis revealed the importance of ensuring that these bodies are considered within the envelope of their parent entity. We agree that it does not need to be a requirement that the regulatory group must be aligned with the group as determined for accounting purposes.

Paragraph 4.1.7.2 – policy tools for mixed activity holding companies

We agree with the three proposed tools for regulators to deal with and approach financial conglomerates which have mixed activity characteristics. The required creation of an intermediate financial holding company, and the use of a designated point of entry to the entity (whether regulated or unregulated) seem to us to be the appropriate regulatory approaches.

Paragraph 4.2.3 – ultimate responsible entity

We firmly agree with the importance of defining an ultimate responsible entity as the focus for regulatory attention. We believe that the definition proposed is appropriate and that the characteristics laid out in 4.2.3.2 seem coherent and relevant bases for identifying such an entity. We further agree with the proposal that the ultimate responsible entity should bear responsibility for reporting significant risk concentrations and significant intra-group transactions; it is the only entity with the appropriate oversight in order to deliver the right reporting in these respects.

We would welcome the application of stretching corporate governance standards to the ultimate responsible entities of financial conglomerates, and believe that the EBA Guidelines provide an appropriate basis for this. We would highlight our recent input to the EBA consultation on governance (CP/2013/03), regarding the importance of regulators looking not simply at the roles and experience of individual members of boards but looking at the skills across the board as a whole. It is important that moves to raise standards do not unnecessarily narrow the pool of available candidates and encourage groupthink because all directors are drawn from a single background.

An ultimate responsible entity with high quality and effective governance will be best placed to oversee and manage the risks which it faces, in its own interests and also in the interests of the system as a whole.