

CEIOPS-RP-150-10

30 December 2010

Peer Review about the Exchange of Information and Cooperation Provisions of the General Protocol

Final Report

Table of Contents

0. Executive summary	3
1. Introduction	4
2. Methodology	5
2.1. First stage: Self-assessment	5
2.1.1. Self-Assessment Questionnaires	5
2.1.2. Summary Report	7
2.1.3. Additional Questions.....	7
2.1.4. Action Plans	7
2.1.5. Revised Replies.....	8
2.2. Second Stage: Review by Peers	9
2.2.1. Status and Feedback Reports	9
2.2.2. Field Work.....	9
2.2.3. Evaluation Reports	10
2.2.4. Bilateral Discussion	10
2.2.5. Final Report	10
3. Overview of Findings	11
3.1. Enhanced Application of the General Protocol.....	11
3.2. Issues & Recommendations	14
3.2.A. Recommendations to EIOPA	14
A.1. Amendments to the Protocol provisions	14
A.2. Other recommendations to EIOPA	22
3.2.B. Recommendations to all Members.....	24
3.2.C. National practices observed.....	26
4. Detailed Report of the Review by Peers.....	28
4.1. Part II. Authorisation of Domestic Undertakings	28
4.2. Part III. Cross-border Activities	47
4.3. Part IV. On-going Supervision of Undertakings Engaged in Business	90
4.4. Part V. Branches of Undertakings of Third Countries	149
4.5. Part VI. Exchange of Complementary Information and Statistical Data	152
5. Individual Member's Comments.....	159
Annexes	160

0. Executive summary

The Peer Review exercise conducted by CEIOPS on the exchange of information and cooperation provisions of the General Protocol¹ has led to the enhancement of CEIOPS Members' and Observers' understanding and application of these provisions.

The Peer Review was carried out by the Review Panel² of CEIOPS in collaboration with high-level experts from national supervisory authorities from the EEA (see Annex).

During the period in which the second phase of the Peer Review was conducted - Review by Peers (June 2009 - December 2010) most of the Review Panel's recommendations and explanations to individual Members were taken on board and satisfactorily implemented by the end of the Peer Review exercise.

The evaluation of the results from the Peer Review has generated recommendations to Members to take the necessary measures to enhance their compliance with the General Protocol (hereinafter referred to as 'Protocol'). Many Members committed to take such measures in order to rectify the respective situations by the end of 2010, or at the latest in the beginning of 2011. At the same time the Review Panel urges those Members still with results "partially applied" or "not applied" to make all efforts to improve the situation in a reasonable time frame and to inform the Review Panel about their commitment to do so.

Based on the analysis of the Peer Review results, the Review Panel has estimated that all Members have improved their understanding of the provisions of the Protocol being assessed and/or corrected their initial replies after another check of the actual cases with regard to 91 provisions, and that 15 Members have improved compliance in relation to 33 provisions. The overall progress is visible on the graphs which are included in Section 3.1 'Enhanced application of the General Protocol'. In addition to that, details on the progress of the implementation per provision of the Protocol and per Member are available in Chapter 4 'Detailed Report of the Review by Peers'.

The Peer Review has also revealed issues and gaps with regard to the overall functioning of the General Protocol. Some of these issues have been clarified during the Peer Review (see Recommendations 1, 4, 5, 11, 13 to 19, 22, 28 to 32 and 34 in Section 3.2), whilst others require further analysis (see Recommendations 2, 3, 6, 7, 8, 9, 10, 12, 20, 21, 23 to 27 and 33 in Section 3.2) and should be taken up by the European Insurance and Occupational Pensions Authority (EIOPA) as CEIOPS' successor. In general, the Review Panel cannot overemphasize the importance for all Members to respect the Insurance Directives.

The work of the Review Panel in conducting this first exercise, including using new tools (such as on-site visits to Members as part of the Review by Peers), has been documented and analysed in order to further elaborate the CEIOPS Protocol and Methodology for Peer Review. The CEIOPS Review Panel has learnt that, compared to the functioning of peer reviews at its sister committees CESR and CEBS, there is a fundamental difference in assessing implementation of legislation compared to assessing compliance of (prudential) supervisory practices.

The Review Panel expresses its appreciation of the cooperative spirit shown by Members, specifically those that were subject to on-site visits or conference calls. All Members have provided answers to the questions of the Review Panel and have further contributed by participating in the analysis of their peers. This exercise has shown that the Peer Review has proved to be effective as a tool for supervisory convergence and has gained support from all Members.

CEIOPS' Review Panel encourages all Members and EIOPA as CEIOPS' successor to continue enhancing supervisory cooperation and convergence and to use this report for application and further study.

¹ General Protocol relating to the Collaboration of the Insurance Supervisory Authorities of the Member States of the European Union (Revised Siena Protocol) <https://www.ceiops.eu/publications/protocols/index.html>

² <https://www.ceiops.eu/review-panel/index.html>

1. Introduction

In 2009 CEIOPS Review Panel initiated the first Peer Review exercises aiming at assessing the application by CEIOPS Members and Observers of the provisions on information exchange and supervisory cooperation in the context of the General Protocol, in particular those on authorisation, cross-border activities and on-going supervision.

The Review Panel met 15 times since the creation of the Review Panel in August 2008 (the first 2 meetings were under the Chairmanship of Peter Braumüller, the next 13 meetings under the Chairmanship of Michel Flamée).

The Peer Review exercise seeks to: improve the application of the Protocol; identify and introduce good practices; and clarify existing provisions with the ultimate objective of enhancing convergence in supervisory practices.

The report provides an overview of the process, methodology and outcomes of the Peer Review and builds on the summary report of the self-assessments published in November 2009³.

A detailed description of the methodology used is provided in Chapter 2 'Methodology'.

Next, this report provides an overview of the findings from the Peer Review under Chapter 3 'Overview of Findings'. The findings from the Peer Review are grouped in several categories described according to sections 3.1 'Enhanced Application of the General Protocol', 3.2.A 'Recommendations to EIOPA', 3.2.B 'Recommendations to all Members', and 3.2.C 'National practices observed'.

In Chapter 4 'Detailed Report of the Review by Peers' the analysis from the Peer Review is presented according to each provision in the General Protocol, referring to the respective questions and benchmarks from the self-assessment questionnaire.

Chapter 5 provides an opportunity for additional individual Members' comments, according to the requirements of the CEIOPS Methodology for Peer Review (Art. 47).

The following abbreviations are used in the report below:

Members – CEIOPS Members and Observers

MSCA – Member State Competent Authority

MS – Member State

CA – Competent Authority

³ <https://www.ceiops.eu/review-panel/self-assessments/index.html>

2. Methodology

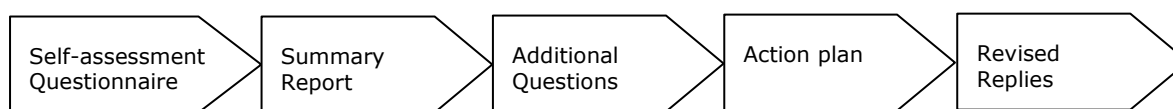
The Peer Review is carried out according to the CEIOPS Methodology for Peer Review and Protocol⁴, published on CEIOPS' website in June 2008. It is conducted in two phases:

Self-assessment – the first stage, in which CEIOPS Members assess their application of the provisions, by answering a number of questions that have been established for each provision against a set of benchmarks.

Review by Peers – the second stage, which involves each Member's assessment being reviewed and, where necessary, challenged by their peers.

2.1. First stage: Self-assessment

The first stage is divided into the following steps:



2.1.1. Self-Assessment Questionnaire

During the first stage of the Peer Review, in application of Articles 7-16 of the CEIOPS Methodology for Peer Review, a self-assessment questionnaire was prepared and sent to the Members on 30 April 2009 for completion by 30 June 2009⁵.

Possible Responses

Members were asked to respond to each question with yes (Y), no (N), not applicable (NA) or no cases (NC):

Y (Yes)	If the requirement is in general complied with for actual cases.
N (No)	If the requirement is in general not complied with for actual cases.
NA (Not applicable)	If the requirement is not relevant for the authority and therefore a case could not occur (e.g. when the Member has no competence in respect of the relevant issue).
NC (No cases)	If there are no actual cases or no experience with the respective requirement.

⁴ http://www.ceiops.eu/media/docman/public_files/publications/protocols/CEIOPS-DOC-28-08-Protocol-Review-Panel.pdf and http://www.ceiops.eu/media/docman/public_files/publications/protocols/CEIOPS-DOC-29-08-Methodology-Peer-Review.pdf

⁵ <https://www.ceiops.eu/review-panel/self-assessments/index.html>

Benchmarks

The result of each response or combination of responses is benchmarked according to 3 possible grades:

- *fully applied*
- *partially applied - a possible result for only a limited number of provisions*
- *not applied*

Other possible outcomes were 'no cases' if a Member, during the reference period of the self-assessment, had no experience with the respective provision of the Protocol, or 'not applicable' if for some reason (for example not being the competent authority) the respective provisions of the Protocol are not applicable to a Member.

Some questions (in blue coloured font in the questionnaire and in this report) were asked for information purposes only. They did not have to be answered and were not benchmarked.

At the beginning of the Review by Peers (see second stage further below) mistakes in the calculation of some benchmark results were noticed. It concerns 7 provisions related to questions 19, 21-22, 28, 31, 90 h-i-j, 104 and 114-116. These mistakes have been corrected before proceeding with the second stage and were taken into account in the analysis.

Actual cases

For the purpose of obtaining accurate information about the actual application of the Protocol, considering that Peer Review aims at compliance and convergence in practice, not just from a legal perspective, the competent authorities were requested to provide responses only on the basis of actual cases occurring during the reference period (see "Reference Period" below), and not on procedures or legislation in place.

Reference Period

The Review by Peers dealt only with cases, which took place during the reference period, which began in March 2008 (i.e. the introduction of the General Protocol) and ended on 30 June 2009 (i.e. the deadline for completing the self-assessment questionnaire). However, after the reference period the Review Panel invited Members to provide details about their improved procedures and any new cases which occurred after the reference period, through a revision of their replies to the self-assessment (see "Revised Replies" below).

Implementing measures

If a supervisory provision or practice was applied, either in full or partially, the Members were also asked to provide information on the national implementing measures, including policies, procedures and other practices (CEIOPS Methodology for Peer Review, Art 22).

Guidelines for Comments

For the purpose of consistency in the approach of providing the responses, the Members were requested to comment on each reply.

Home / Host Competent Authorities

The self-assessment questions were addressed to the Competent Authority of the Home State or the Competent Authority of the Host State, some were addressed to both. In some Member States the competences are split between several authorities, which are not necessarily Members of CEIOPS and not subject to the General Protocol. CEIOPS Members therefore replied with "Not applicable" where relevant.

Data

Where Members were asked to report quantitative figures (number of cases, average timing) for information purposes only, these results were not published, as they were collected only for the analysis by the Review by Peers and for cross-checking the responses.

Publication

All Members & Observers participated in completing the questionnaire. CEIOPS received 30 responses, which are available on CEIOPS website⁶.

Confidentiality

The public version of the responses to the self-assessments was subject to scrutiny by the CEIOPS Secretariat, removing any reference to another Member State, competent authority, or company for confidentiality reasons. Replies and comments considered to be confidential by the respondent were not published but were taken into account for the Review by Peers.

2.1.2. Summary Report

As stated above all individual self-assessments are published on CEIOPS website, together with a summary report presenting the factual results of the application of each provision and explanatory comments on some results where deemed necessary.

2.1.3. Additional Questions

In preparation of the second stage (Review by Peers), the Review Panel analysed the individual self-assessments and identified inconsistencies and areas which needed further clarification. These issues were addressed through the creation of additional Member-specific questionnaires

For some provisions the Review Panel decided to cross-check the replies of Members, by requesting e.g. Home Member State Competent Authorities to provide names of the involved Host Member State Competent Authorities and vice-versa. The replies to these questions are kept internal to the Review Panel and served as basic information for the Review by Peers.

2.1.4. Action Plans

The Review Panel invited Members, where appropriate, to develop an action plan showing the Members' commitment to take the necessary measures to bring their procedures in line with the General Protocol provisions by the end of 2010.

Members provided action plans in their written responses to the individual feedback reports or the evaluation reports (see further below).

⁶ <https://www.ceiops.eu/review-panel/self-assessments/index.html>

2.1.5. Revised Replies

According to Articles 49 and 50 of the CEIOPS Methodology for Peer Review, Members have the right to update their responses to the self-assessments.

CEIOPS Secretariat developed guidance⁷ for the revision of the responses to the self-assessments:

Reference period response	Revised response as of after 30 June 2009	
N	N: if cases occurred but procedures were not improved	Y: if cases occurred and procedures were improved and compliant with General Protocol + add details in COMMENTS column NC: if no cases occurred after the reference period but procedures were improved and compliant with General Protocol + add details in COMMENTS column
NC	NC: if no cases occurred but procedures were improved and compliant with General Protocol + add details in COMMENTS column	Y: if cases occurred and procedures are compliant with General Protocol + add details in COMMENTS column N: if cases occurred and procedures are NOT compliant with General Protocol + add details in COMMENTS column

The Review Panel has received revisions of replies from most Members. These relate to, for example: actions taken to correct previous instances of non-observance; improved understanding of the respective provisions of the General Protocol without a change of the underlying practice; recent cases of the respective General Protocol provisions, where a 'no cases' response had previously been reported.

⁷https://www.ceiops.eu/fileadmin/tx_dam/files/ReviewPanel/CEIOPS-RP-147-10%20Guidance%20Revisions%20Self-Assessments_final_Rev3.pdf

2.2. Second Stage: Review by Peers

The second stage is divided into the following steps:



2.2.1. Status and Feedback Reports

The Review Panel has produced **status reports** for each part of the General Protocol illustrating the observance of the provisions by individual Members. The status reports are based on an in-depth analysis of the results from the first stage (namely, the replies to the self-assessment questionnaire and additional questions, revised replies and action plans).

Tools for Peer Pressure

Based on the status reports, the Review Panel applied the following tools for peer pressure to assess the actual situation of some Members, focusing on areas of inconsistency or lack of information.

Various factors were considered when determining the nature of the peer pressure tools applied, including the need for further clarification/additional information and/or the importance of the insurance market, including the extent of cross-border activities. The tools for peer pressure applied were as follows:

- *on-site visits to Members,*
- *telephone conference, and*
- *evaluation through written procedure.*

The Review Panel conducted on-site visits to 5 Members, had telephone conferences with 5 Members and conducted evaluations through written procedure in respect of 20 Members.

Prior to the field work, **individual feedback reports** were provided to each Member, outlining issues relevant to Members' observance of the Protocol. These individual feedback reports provided guidance and helped the competent authorities to improve the application of the General Protocol.

2.2.2. Field Work

The Review Panel appointed Review Teams, consisting of a team leader and senior reviewers (namely, representatives of the national supervisory authorities with extensive experience in insurance supervision). The Review Teams approached Members using the tools as decided by the Review Panel (as described above) and worked in accordance with the Guidelines for Reviewers. These guidelines –internal operational procedures– describe the working methods for the different tools for peer pressure, the respective responsibilities of the team leader, senior reviewers and the secretariat, and the expected outcomes.

The reviewers' task was to assess the progress of individual Members' application of the General Protocol, taking into consideration the issues and gaps identified in the implementation of the General Protocol provisions. The reviewers also aimed at clarifying cases where Members misinterpreted the General Protocol and to identify provisions of the General Protocol which cause interpretation issues.

During the field work phase the Members had the opportunity to provide clarifications for each issue identified in the feedback reports and to specify which actions had been taken in the meantime to

improve the respective situation, or which actions the Member envisages to take, especially where the results show that provisions are “not applied” or “partially applied”.

If the Member believed that it had achieved an improvement in certain situations after the self-assessment as a result of actions taken, the Review Panel invited the Member to update (revise) its self-assessment and to provide the reasons for each change in the reply to the self-assessment questionnaire.

The reviewers assessed the application of the General Protocol not only on the basis of written information from the Member, but foremost on the basis of close contacts with the Member during the field work. The close communication provided for a two-way information flow where the application of the General Protocol and Members' practices were discussed in depth.

2.2.3. Evaluation Reports

After the completion of the field work for each Member, the reviewers sent an evaluation report to each Member containing their assessment and recommendations on any remaining issues and outliers, aiming to help each Member to follow-up on the recommendations by the reviewers in order to achieve a “fully applied” score.

Each Member was required to submit a written response to the evaluation report to the Review Panel, providing details on actions taken for each separate issue.

2.2.4. Bilateral Discussion

Prior to the publication of the Final Report and according to the CEIOPS Methodology for Peer Review, Members had the opportunity to request a bilateral discussion with the Chair of the Review Panel to allow the Member to fully assess the implications of the recommendations and prepare for appropriate reaction at publication.

No Member has seen the need to use this possibility.

2.2.5. Final Report

The purpose of the final report is to present the results of the Peer Review, highlighting the issues reviewed, the explanations given by the respective Member, the actions taken/foreseen and the effectiveness of these actions. For each provision, the initial results as at the time of the initial self-assessments (June 2009) as well as the final results as revised by Members during the Review by Peers (till 23 December 2010) are presented in tables (see Chapter 4). The final report also includes concrete recommendations for Members, where actions taken/foreseen are not considered by the reviewers to be acceptable, sufficient and appropriate to improve the respective situations.

3. Overview of Findings

3.1. Enhanced Application of the General Protocol

The overall outcome of the Peer Review exercise about the application of the General Protocol brings forward evidence that the Peer Review, as a tool to promote convergence, is a step in the right direction to encourage Members to obtain a better grasp of the provisions of the General Protocol and to actively improve the application of the General Protocol.

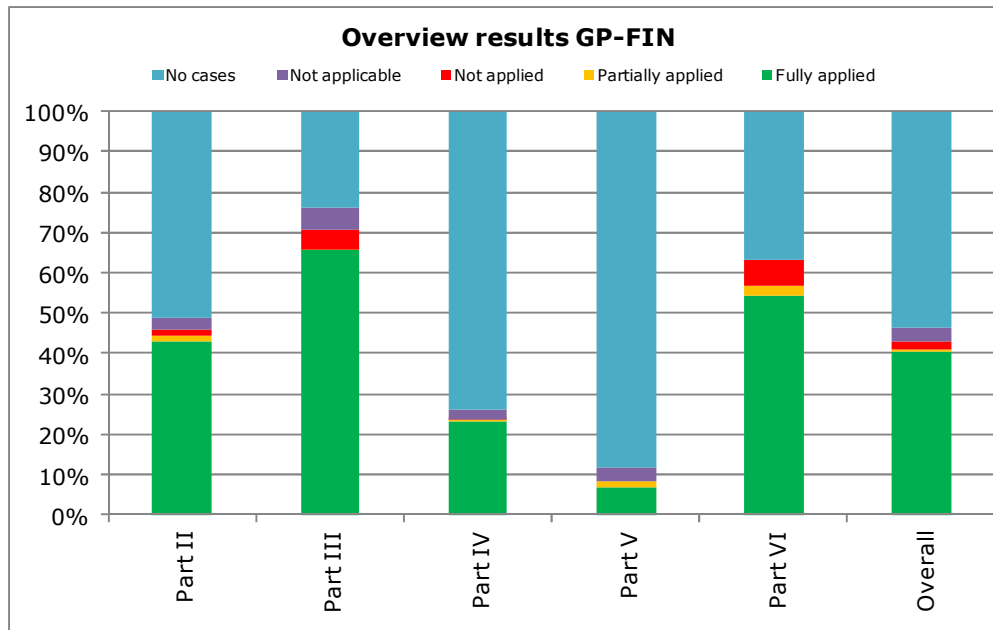
The **comparison between the initial and the revised self-assessments** (as of 23 December 2010) shown below, **as well as the results** from the field work undertaken by the Review Panel, demonstrates the progress Members have made by improving the application of the Protocol or their understanding of the Protocol.

The graphs below illustrate the overall status in the application of the General Protocol by Members. Graph 2 clearly demonstrates the effects of improved understanding of the Protocol provisions and better understanding of the purpose of the self-assessment exercise. Three main changes can be seen in this graph:

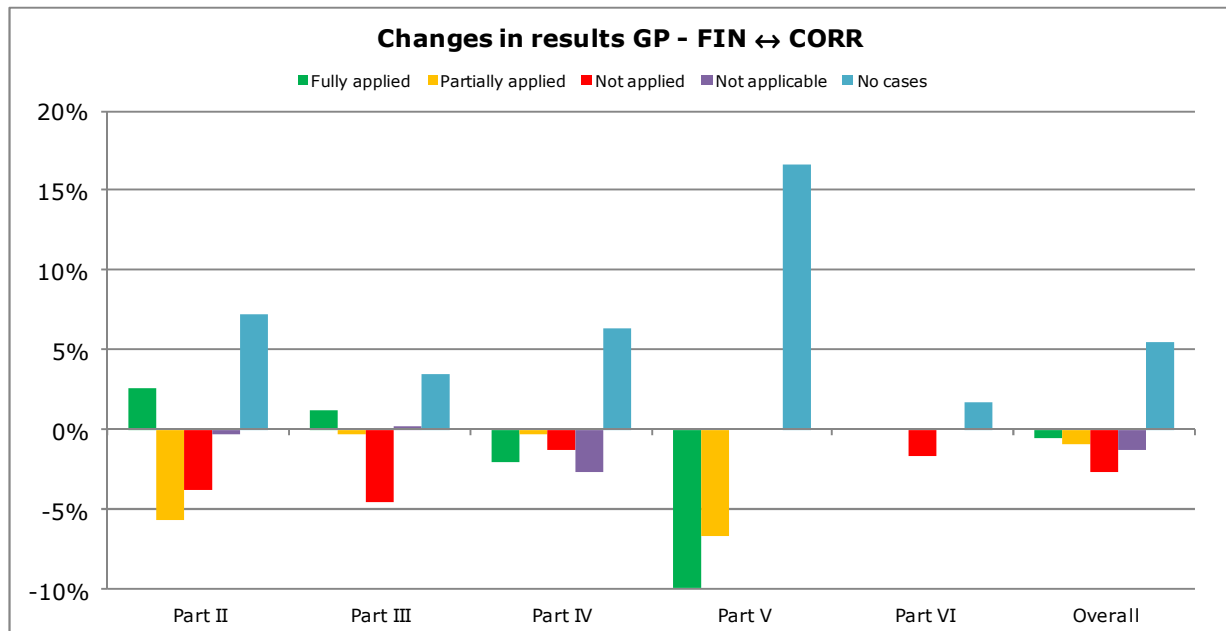
- ◆ Members recognized that the initial self-assessment was conducted often from a pure legal point of view rather than experience with actual cases, leading to changes in answers from "fully applied" to "no cases" (especially in Parts IV and V);
- ◆ Many Members have improved their procedures as a result of the Peer Review. Where these procedures were used in practice, this lead to changes in answers from "partially applied" and "not applied" to "fully applied" (especially in Parts II and III);
- ◆ In addition to that many Members have improved their procedures as a result of the Peer Review but since the enhancement of procedures no new cases have occurred in order for the procedures to be applied, therefore this lead to changes in responses from "partially applied" and "not applied" to "no cases" (especially in Parts II, III and VI).

Detailed tables and graphs are provided in Annex I. For an in-depth overview of the progress made by Members please refer to Chapter 4 'Detailed Report of the Review by Peers'.

Graph 1 – Current status of the overall application of the GP⁸

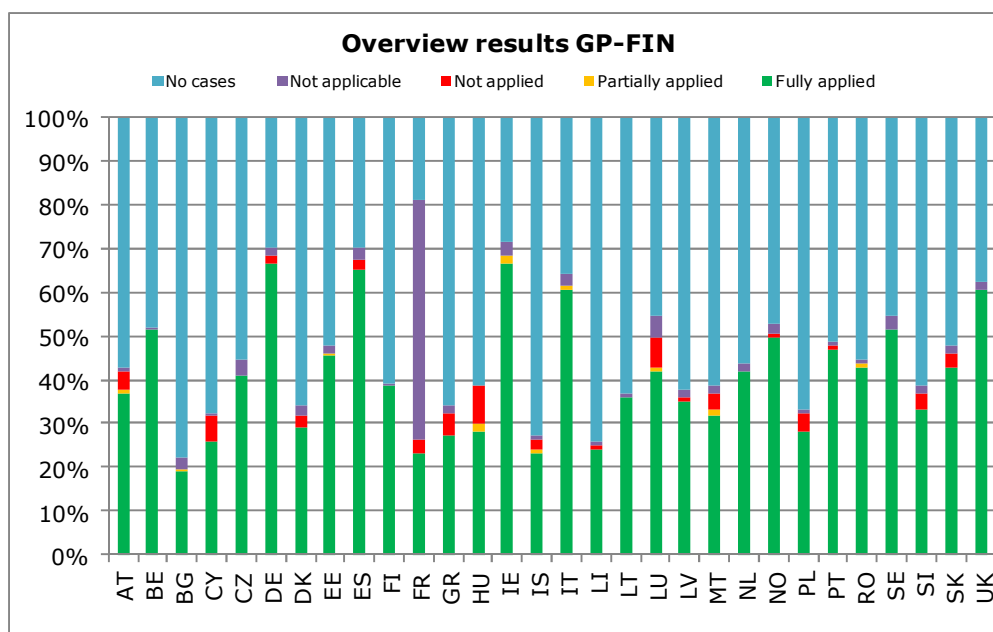
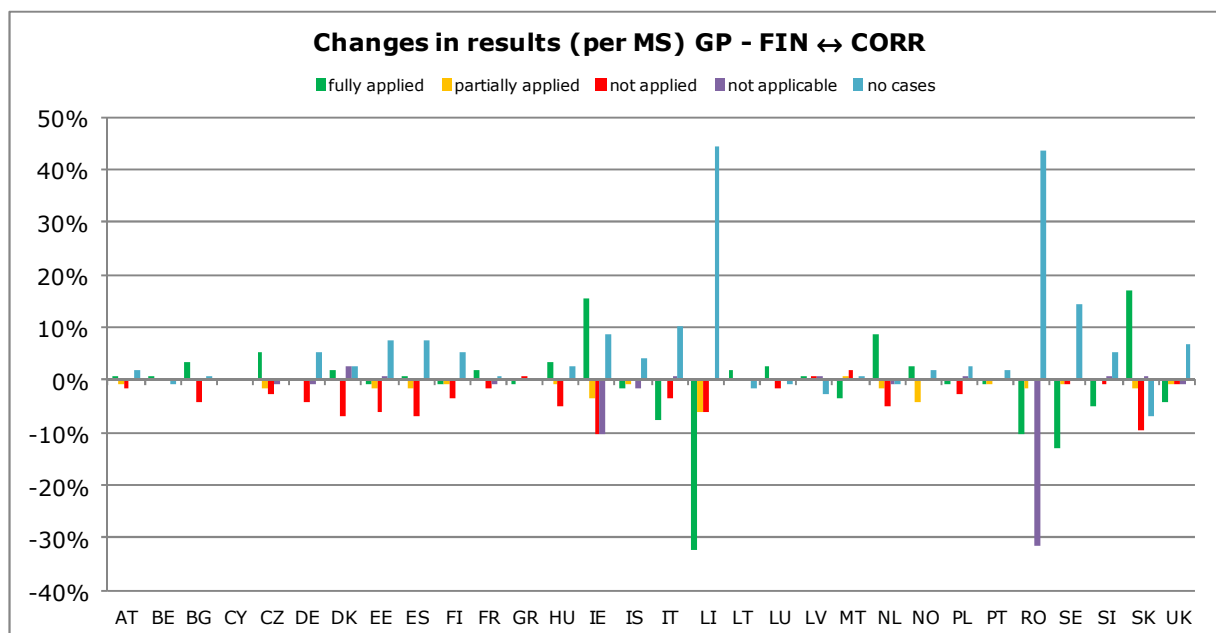


Graph 2 – Changes in overall results since initial self-assessments⁹



⁸ "FIN" stands for final results.

⁹ "CORR" stands for the initial results, but corrected for mistakes in the benchmarks (in the case of 7 provisions).

Graph 3 – Current status of the Members' application of the GP**Graph 4 – Changes in Members' results since initial self-assessments**

3.2. Issues & Recommendations

During its final meeting on December 13th 2010, the Review Panel took notice of the multiple improvements in the application of the General Protocol as a result of the use of the tools for peer pressure during the field work. Not only the individual feedback reports, produced prior to the field work, but also the evaluation reports produced after the field work contained specific requests for actions by Members to adjust their respective practices in line with the General Protocol provisions. The Members were invited to resolve the issues covered by these reports by fully clarifying to the Review Panel the respective cases where the General Protocol seemed not to be applied properly and by taking appropriate actions. These reports provided guidance and helped the Members to improve the application of the General Protocol.

This section gives an overview of the issues which were discussed within the Review Panel and provides, by means of 'recommendations', material for further consideration and analysis.

Currently there is one remaining major issue which demands for specific action by the Members concerned.

Irrespective of the need to comply with the precise provisions of the General Protocol, the Review Panel expects a proactive behaviour of Members as stated in § 3.2 of the Protocol:

"The procedures and information described in the Protocol constitute minimum requirements. Nothing in the Protocol shall be interpreted in such a way as to hinder the exchange of further information and the extended collaboration between Competent Authorities, as concerns the supervision of Undertakings."

Recommendation 1

All Members should be proactive in providing information and cooperating to ensure efficient and effective supervision in respect of cross-border activity. Neither the size of the insurance market nor the type of activity can be invoked as a reason to deviate from this principle. For example in relation to **Part II** (authorisation of undertakings), Members should provide all useful information on the business a new subsidiary intends to develop cross-border in order to help the lead supervisor have a more accurate view of the place of the new subsidiary in the strategy of the group.

3.2.A. Recommendations to EIOPA

A.1. Amendments to the Protocol provisions

This section gives an overview of the changes the Review Panel recommends to EIOPA with regard to the provisions of the Protocol itself. The focus of this Peer Review is on the respective communication requirements set out in the Protocol. The following recommendations aim at enhancing the efficiency of supervisory cooperation without affecting the Directives, as these are normally implemented in national law and are beyond the power of the Supervisory Authorities.

- **in general**

The last revision of the Protocol (revision of the Siena Protocol which led to the General Protocol in March 2008) introduced additional requirements on top of the Directives' requirements. These additional requirements are very detailed and were assessed as such. The Peer Review has shown that there is divergence in the level of implementation and compliance among Members and hence one could question the effectiveness of such detailed requirements.

Recommendation 2

It is recommended that a future revision of the Protocol should consider the level of detail of any additional requirements on top of the respective Directive requirements. It could be more appropriate to make these detailed additional requirements more flexible.

- **concerning Conditions Imposed in the Interests of the General Good**

Several requirements in the Protocol relate to the communication of the conditions imposed in the interest of the general good (hereinafter referred to as 'general good conditions'). During the Peer Review it became clear that not all Members have such general good conditions specific to the insurance field. Other Members have such insurance-specific general good conditions and communicate them in their entirety, whereas others communicate insurance activity specific conditions tailored to the respective notifications they receive from the Home MSCA. The Peer Review has also shown divergent practices in respect of providing or not an English translation (which is not compulsory) and the detail in which such translation, if any, is provided by the Members. Some Members provide a detailed translation of their rules in English; others provide only a brief summary.

The notification procedures in **Part III** of the Protocol specify the obligation for the Host MSCA to send to the Home MSCA the general good conditions which are to be applied to the activity to be carried out in the Host MS. Such communication needs to be done for each and every notification, including when there are changes to previous notifications. Additionally, the text of the Protocol (**III.1.2**) suggests that a hard copy of the general good provisions **and** a link on the website, where these are available, should be sent. The Peer Review has revealed that national practices diverge with respect to providing hard copies and/or web links, as well as in resending general good conditions in case of changes to the notifications.

Recommendation 3

Taking into consideration that the CEIOPS' website already contains a list of website links for the General Good Conditions per Member State, the Review Panel has identified the following items as possible areas for improving efficiency of communication between Members and recommends that these are further explored in a revision of the General Protocol:

- ◆ A shift in responsibility to the passporting undertaking to familiarise itself with the relevant general good requirements through CEIOPS website. The undertaking should be informed by the Home MSCA of the link to the CEIOPS website.
- ◆ Replacing the bilateral communication related to the general good conditions with the obligation for the Home MSCA to consult the centralised database available at CEIOPS.
- ◆ Ensuring that CEIOPS is provided with up-to-date and functional links to the website containing the general good conditions.
- ◆ Including the following basic information in the exchange between CAs and with CEIOPS:
 - ❖ existence or not of any general good conditions;
 - ❖ a comprehensible summary of the general good conditions;
 - ❖ clear indication whether these general good conditions are applicable in their entirety or are insurance-activity specific (the latter probably cannot be centrally organised due to their specific nature and will therefore remain relevant in bilateral exchanges).

The current wording of the Protocol ("*any conditions under which, in the interest of the general good, the website on which information on general good provisions is available*", ...) seems to suggest that **all** general good conditions are to be included in the scope of the communication, whereas it is obvious that these requirements only have to relate to the insurance specific conditions. Although the Protocol already clarifies through footnote 13 in par. **III.1.2** that "*the term 'general good provisions' shall be understood in the meaning of the relevant insurance Directives*" and that "*CA's will not be expected to provide information on general good provisions which extend beyond those directly relating to the area of financial services*" further clarification could be helpful.

Recommendation 4

The Review Panel recommends that the Protocol is more explicit on the scope of the general good conditions by integrating the text of the footnote in the body of the General Protocol. The word "relevant" could also be added in the respective paragraphs of the Protocol (**Part III**).

• **ad Part II. Authorisation of domestic undertakings**

Although Part II of the General Protocol handles the communication requirements in licensing procedures, which according to the Protocol is a bilateral relationship between the licensing authority and the other involved competent authority (which will be in most cases the lead supervisor), the Review Panel considers that the group dimension (e.g. the information flow towards and from other concerned supervisors) is an important element and that therefore in all cases the lead supervisor should be involved. This involvement could be limited only to requesting the licensing authority **to inform** the lead supervisor about the authorisation, or it could be extended to requesting the licensing authority **to request information from** the lead supervisor.

Recommendation 5

The authorisation of subsidiaries and the scope of the authorisation is relevant information for the supervisory college as a whole, therefore the Review Panel recommends that such information is provided to the college of supervisors, e.g. through a recurrent point on the agenda.

With regard to the drafting of the General Protocol itself it was noted during the Review by Peers that some provisions of Part II of the Protocol could be difficult to understand, and/or, depending on the interpretation, difficult to apply by CAs. For example it is not clear from the wording of the Protocol which provisions need to be applied in the case of a subsidiary of an EU group seeking authorisation in a MS. In such case, it is unclear if only **Section 2.1** applies or also **Section 2.2**.

Also in the case of third countries, it is difficult to determine whether only art. **II.2.2.3** applies, or if art. **II.2.2.3** applies **in conjunction with** art. **II.2.2.1**. If only art. II.2.2.3 applies, then only the CA of the third country will be contacted, whereas if also art. II.2.2.1 applies, then also the lead supervisor (in the EEA) and the supervisor of every EEA subsidiary of the parent will be contacted.

Recommendation 6

The Review Panel recommends that the General Protocol should be clarified and should state clearly which provisions (exclusively or jointly) should be applied in which situation. In amending the Protocol consideration should be given to the relevant texts in the respective Directives.

However, any change to the General Protocol should maintain a consistent approach between communication requirements within the EEA and in case of third countries.

Drafting of art. **II.2.2.1** itself could be clarified. It states *"Where the undertaking seeking authorisation is a subsidiary of the parent of an undertaking authorised in another Member State, the CA of the Home State shall ask the CA of the undertaking [authorised in another Member State] and the Lead Supervisor..."*

However, in most cases, the parent will have *various* subsidiaries authorised in *various* Member States, therefore interpreting this provision literally would lead to consulting each CA; such a process would be quite burdensome and rather inefficient. For instance, if there are undertakings in 29 other Member States and if there is a lead supervisor, then it could seem sufficient to deal only with this latter and not with the 29 other CAs *as well*.

Recommendation 7

The Review Panel recommends that the General Protocol should be clarified and should state clearly which Authorities need to be consulted. It should be analysed if consulting the Lead Supervisor would be sufficient in this matter. The respective revision should take into consideration the relevant requirements in the respective Directive.

It appears from the Review by Peers that some Members did not request certain information from the other CA, such as the structure of the group, because they had already sufficient and reliable information through other means, for example through previous authorisations within the same group, being member of the college of supervisors or from the undertaking itself.

It is in the interest and under the responsibility of the licensing authority to obtain the necessary information before granting an authorisation. The Review Panel considers that it is not so important how the information is obtained but it is important that it is made available on time and of good quality. If there are any doubts about this, the information received should be checked with other Authorities.

Recommendation 8

It is suggested that the Protocol should be revised to take into account the need of more flexibility with regard to the procedure to be followed to obtain the necessary information. The provisions should be rephrased in a manner as flexible as the Directives allow.

Recommendation 9

In general, this is one of the areas where EIOPA could play an important role, if centralised databases are established at EIOPA. These databases might include information on the good repute and experience of directors, managers and other persons who effectively run the affairs of a business.

• **ad Part III.1.5 Branch Closure and Part III.2.6. Cessation of Activities**

Both paragraphs in the Protocol concern the communication required in case of the end of business activities be it by closing a branch (**III.1.5**) or by no longer continuing provision of services in another MS (**III.2.6**). In the first case, the Protocol prescribes that the Host MSCA should be informed about the management of the policies underwritten by the branch. There is no such information requirement in the second case.

Recommendation 10

With view of a potential revision of the General Protocol, the Review Panel proposes that the possibility is considered for the Home MSCA to provide additional information (e.g. the number of ongoing insurance contracts, the open claims, the level of reserves, the estimated settlement period), in the case of a closure of branch or cessation of activities.

The Review Panel is of the opinion that any such additional information request should be drafted in a manner as flexible as possible, cfr. **Recommendation 2**.

The requirement as currently drafted in **III.2.6** to inform the Host MSCA as soon as possible if business activities will no longer be continued may be misleading and may lead to the view that insurers *have* to warn the Supervisory Authorities when they do not make regular business in a Member State, to which a notification of freedom to provide services has been sent.

Recommendation 11

The Review Panel recommends a more flexible drafting of the Protocol. For instance paragraph **III.2.6** may be modified as follows: *"The Competent Authority of the Home State shall notify the Competent Authority of the Host State as soon as possible if it is informed that an undertaking has the intention not to continue business activities by way of freedom to provide services"*.

• **ad Part III.3.3 Branch Closure of a Reinsurer**

Unlike the similar provision of art. **III.1.5.1** applicable to the closure of a branch of a direct insurer (see above), the provision of art. **III.3.3** relating to the closure of a branch of a reinsurer is not supported by any provision of Insurance Directives.

Some Review Panel Members question whether the provision of such information (notifying the Competent Authority of the Host State where business activities will no longer be continued due to the proposed closure of the Branch) is appropriate given that reinsurance is a business to business activity.

Recommendation 12

The Review Panel recommends that in a revision of the General Protocol the issue about whether it is appropriate to require the same information in the case of reinsurance and direct insurance is taken into consideration.

• **ad Part III.4. Information on planned business, risks and commitments**

The Protocol foresees specific content for the information to be provided by the Home MSCA to the Host MSCA in case of the establishment of a branch or the commencing of activities by way of freedom to provide services. The Host MSCA may request for additional information, if it is proportionate to the type of business, risk or commitments.

The self-assessment questionnaire asked the Members in their function as Home MSCA about their view on the meaning of 'proportionality', but during the Peer Review it was observed that it is unclear who can assess whether a request for additional information is proportionate.

Recommendation 13

The Review Panel is of the opinion that the General Protocol should clearly state that it is the responsibility of the Host MSCA to check for the proportionality if it asks for additional information. The Home MSCA is not in the position to judge the necessity of the requested additional information in relation to the legislation of the Host State.

• **ad Part III.7 Submission of policy conditions to the Competent Authority of the Host State**

The provisions with regard to the submission of policy conditions prior to the application in instances of compulsory insurance or alternative health insurance raised many issues of interpretation. The results from the Peer Review also pointed out unclear references to the respective Directives and misunderstanding of the questions.

Some Members have provided CEIOPS with a link to their general good conditions and not a specific website on which insurance classes and products concerned are listed, stating that such lists are part of their general good requirements.

From the list available on CEIOPS website it is not clear which Member States request the prior submission of policy conditions and which do not.

It is a fact that the complexity of the provisions is to be sought in the Directives but the divergence in understanding should be solved.

Recommendation 14

The Review Panel recommends that EIOPA establishes a clear format according to which this information must be submitted and recommends a clarification of the General Protocol in this respect.

- **concerning on-site visits**

On-site visits can be initiated by the Home MSCA, when it decides for prudential supervisory reasons to visit a branch situated in another MS (**Part IV.2**), or by the Host MSCA, to investigate compliance with the applicable rules of law (**Part IV.3**).

When the Home MSCA decides to conduct an on-site visit in a branch situated in another MS it should, according to the Protocol, inform the Host MSCA **as soon as possible**. During the Peer Review some instances were identified where the Host MSCA was informed very late and sometimes so late that it could not participate in the visit even if the Host States wished to do so.

On the other hand it was observed that some of the information to be provided, such as the names of the persons participating in the visit, could be provided in a later phase, so that the information point is not unduly delayed.

The same situation exists when the Host MSCA decides to conduct an on-site visit in a branch situated in the Host MS.

Recommendation 15

To facilitate the planning of on-site visits for both the Home and Host MSCA the Review Panel recommends that a phased process is introduced in the Protocol (**IV.2.3 & IV.3.3**): the highest importance is to be attributed to the date of the on-site visit, then the programme, last come the names.

Additionally, concrete guidance could be introduced with regard to an acceptable timeframe for the notion of "as soon as possible". An exception should be allowed for cases of urgency.

For reasons of clarity the provisions should also include that the MSCA's initiating the on-site visit should clearly invite the other MSCA to participate.

According to the current wording of the Protocol, the Host MSCA should only inform the Home MSCA **if it decides** to join the on-site visit organised by the Home MSCA (and vice-versa). There is no obligation to inform if otherwise.

Recommendation 16

The Review Panel recommends that the Protocol is revised to include an obligation for the Host MSCA to inform the Home MSCA of its decision to participate or not to do so in the on-site inspection. A potential drafting suggestion for **IV.2.5** is presented below:

"The Competent Authority of the Host State may take part in the on-site inspection. The Competent Authority of the Host State shall inform the Competent Authority of the Home State as soon as possible whether or not it will participate in the on-site inspection and, if applicable, communicate the name and position of the persons who will participate in the inspection at least one week before the inspection."

A similar redrafting could be considered for the last part of **IV.3.3**.

As to the requirement to report observations, many Members have informed in their self-assessments that they report only **if** they have recommendations. However, the General Protocol refers to 'the observations' in the sense of **all** observations.

Recommendation 17

It should be made clear in the Protocol (**IV.2.6** & **IV.3.5**) that if there is an on-site inspection observations should be sent to the other MSCA, as well as the type of observations to be provided (e.g. the report or a summary of the report from the inspection). It should also be clarified that the observations must be provided and not only when specific recommendations are identified.

- **ad Part IV.4. Procedures in case of non-compliance of Undertakings with the rules of law of the Host Member State**

The provisions in Part.IV.4 are applicable both in case of branches and in case of freedom to provide services. The Review Panel has clarified this interpretation during this peer review exercise to some Members, referring to the broad definition of Host MS.

As part of the procedure, the Host MSCA shall inform the Home MSCA in case an undertaking does not rectify an infringement and shall propose supervisory measures (**IV.4.3**). Although the Host MSCA already could have imposed supervisory measures in the first step of the procedure (**IV.4.2**), it was felt by some Members that the situation is not alike. Measures in the first step are in the context of the supervision as a Host MSCA, whereas the measures referred to in the second step are meant for the Home MSCA. It could be difficult for the Host MSCA to propose appropriate measures, not knowing the prudential situation of the undertaking.

Recommendation 18

The Review Panel recommends that the Protocol is made more flexible in respect of proposing supervisory measures by the Host MSCA to the Home MSCA.

- **ad Part IV. 5. Portfolio transfer**

The Protocol provisions with regard to transfer of portfolio of contracts of insurance (**IV.5.1**) and reinsurance undertakings (**IV.5.2**) are quite detailed. The same procedures have to be followed in case of a merger (**IV.5.1.9** & **IV.5.2.6** respectively).

The self-assessment questionnaire contained separate questions for cases of transfers and cases of mergers. After cross-checking the replies of Members many inconsistencies appeared. The Review Panel concluded that these inconsistencies were rather related to the structure of the questions, than to the compliance with the provisions.

However, the provisions cause confusion with regard to the reference to **CA of the Host State** in **IV.5.1.2**, whereas **IV.5.1.1** makes reference to both **CA of the Host State** and **CA of the MS of risks and commitments**.

Recommendation 19

The Review Panel recommends that the Protocol clearly defines in the respective provisions which CAs are envisaged. The following redrafting of provision **IV.5.1.2** is suggested: "... The **Competent Authorities** shall acknowledge"

Although the Protocol foresees an extensive list of information to be provided, some Members have expressed an interest in receiving also information on the status of the solvency before and after the transfers, and the fact that the transferring undertaking continues to exist and/or continues its activities (through branches/freedom to provide services).

Recommendation 20

The Review Panel recommends further analysis on the type of information that would be needed and could be included. Information about the validity of existing notifications of cross-border business (as included in **IV.5.1.9** for mergers) should be included for transfers as well.

Any revision should recognise the fact that mergers can take different forms and that MS' situations are divergent in this matter.

• **ad Part IV.6.5. Withdrawal or Lapse of Authorisation**

The reference to 'withdrawing authorisation' in the Protocol (**IV.6.5.2**) appears to be unclear. Some Members regard the withdrawal of permission to effect contracts as an effective withdrawal of authorisation, whereas for others, withdrawal of authorisation is considered to occur only when all business is fully run-off (or otherwise discharged). A Member raised a question during the Peer Review as to what information procedures should be followed in case of suspension of activities. This is foreseen neither by the Protocol, nor by the Directives.

Recommendation 21

The Review Panel recommends that further consideration is given to include procedures in case of suspension of activities and the clarification of the scope of withdrawal.

• **ad Part V.1. Authorisation of Branches of Undertakings of Third Countries**

A Member has indicated during the Peer Review that it has only requested the Competent Authority of the Third Country undertaking to submit information and not the undertaking itself with regard to the existence of other branches, subsidiaries etc.. in the EEA (**V.1.2**).

Recommendation 22

The Review Panel considers that approaching the Competent Authority is an acceptable alternative to approaching the undertaking and recommends that the Protocol's provisions are extended in this perspective.

• **ad Part VI.2. Exchange of Statistical Information**

The General Protocol has introduced the requirement to provide statistics on a company basis (in the Siena Protocol it was only aggregate data). Although the Protocol clearly states that the CA of the Home State shall communicate to the CA of the Host State, many Members provide this information

only on request.

Most Members have improved their practice during the Peer Review, but further clarifications to the Protocol should be considered.

Recommendation 23

The Review Panel recommends that an additional provision in the Protocol should be considered, which should emphasise the need for the statistical information on company basis to be communicated automatically by the Competent Authority of the Home State.

Statistics about the actual business carried out are very important, because many undertakings have sent notifications of freedom to provide services without having the real intention to offer services, but rather some notifications are sent just "in case". On the other hand, the annual exchange of statistical information imposes a considerable burden on CAs. It should be analysed whether EIOPA could play a role in centralising such data to remove the burden of bilateral exchanges between CAs (see A.1.2 below).

- **concerning Acknowledgement of receipt**

Many provisions of the Protocol (originating from the relevant Directives) set the starting point for the period in which the informed CA must react to the informing CA at the time the information is **received** by the CA. To determine this time the Protocol established the requirement for the CA which receives the information to send an **acknowledgement of receipt**.

The Peer Review has shown that although simple in itself this requirement has not been easily implemented in an efficient and effective way. The Peer Review has also shown that not all Members are thoughtful about acknowledging receipt. The fact, that the Protocol in some instances allows for the informing CA to have an option to request, or not an acknowledgement of receipt, and in other instances such acknowledgement is obligatory, does not facilitate the situation.

Notwithstanding practices that national authorities have developed (see 3.2.C below), the Protocol could benefit from some clarification in this matter.

Recommendation 24

The Review Panel recommends that further consideration is given to the role of acknowledging receipt and to possible improvements in the process. Future revisions of the Protocol should make clear what the purpose of this requirement is, and should strive to achieve a consistent approach throughout the different notification procedures.

A.2. Other recommendations to EIOPA

This section gives an overview of recommendations directed to EIOPA as an organisation. The recommendations should be viewed in the wider context of legal and organisational developments, e.g. the introduction of Solvency II, which will have an impact on the cooperation and exchange of information between supervisory authorities, and the transformation of CEIOPS into EIOPA with wider powers for coordination and data collection. Such developments will certainly demand a revision of the General Protocol. The Review Panel has not analysed the potential impact of these developments on the application of the General Protocol, but it has identified issues which should be given specific attention once a revision of the Protocol begins. The recommendations regarding the general issues are therefore proposed as 'recommendations for further consideration/analysis'.

- **concerning Keeping Trace of Market Developments**

The issue of modernising the Protocol in order to keep trace of market developments has been extensively discussed by the Review Panel.

Recommendation 25

The Review Panel recommends that:

- ◆ with a view of the collaboration with 3rd countries, EIOPA should investigate the impact of future developments (e.g. equivalence) to the scope and functioning of the General Protocol.
- ◆ EIOPA should make sure to follow market developments (e.g. products, markets) which may impact on the functioning of the General Protocol.
- ◆ Further to that, taking into consideration the new rules soon to be in place (SII, technical standards, guidelines), the General Protocol should be amended to reflect the respective changes.

- **concerning relationships with Third countries**

Liechtenstein informed the Review Panel that – due to the broad bilateral agreement with Switzerland – provisions similar to those in the Directives are applied towards undertakings operating from or in Switzerland. Consequently, Swiss undertakings are not treated by Liechtenstein as "third country undertakings", while undertakings from other EEA countries are treated as "third country undertakings" by Liechtenstein. This situation is very specific and linked to the close economic and historical relationship with Switzerland.

Other Members have concluded Memoranda of Understanding (MoU) with preferred countries and one Member has confirmed that they have not found any contradictions with Protocols and legal acts within these MOUs. The Review Panel decided not to analyse these MOUs in respect of the review of the respective Members' compliance with the Protocol.

Recommendation 26

The Review Panel recommends that EIOPA considers the need to analyse possible interference with the functioning of Protocols of MOUs between Members in the same field as CEIOPS' Protocols. The scope of such analysis could go beyond the EEA, e.g. in case of countries assessed equivalent in the framework of Solvency II (cfr. **Recommendation 25**).

- **concerning Efficiency of Communication between Members – role for EIOPA in the central access to data**

The role of EIOPA in the central access to data is one of the most important issues for a future revision, which to a considerable extent could relieve the Members of some tasks currently carried out. EIOPA should analyse the functions, which could be organised at a central level taking into account the technical possibilities and constraints such as confidentiality and restricted access. The necessity and use of central access to data and the creation of databases has been extensively discussed by the Review Panel. The Review Panel sees a potential for an increasing reliance on centrally stored or centrally accessible information; however, it should be analysed in-depth, including through cost/benefit analysis, if there could be a worthy alternative to the current bilateral information exchanges. The creation and functioning of such central access or database can only be effective if data is adequately and timely supplied by all Members, probably through standardised formats. Any such analysis should of course include an assessment of the added value of such systems. Such central access or database could not only serve as a communications tool between Members but might also be useful for statistical and even for Peer Review purposes.

Recommendation 27

The Review Panel recommends that the following items are considered when analysing the role of EIOPA in the central access to data, taking into account the legal, technical and operational feasibility for each of the items, in addition to the results of the cost/benefit analysis undertaken:

- ◆ Statistical information;
- ◆ General Good Provisions;
- ◆ Specific information with regard to the policy conditions for compulsory insurance and alternative health insurance, with clear indication if the policy conditions should be presented prior to operating;
- ◆ Lists per MS of branches and notifications of freedom to provide services;
- ◆ Announcement of on-site visits and observations; and
- ◆ Flow-charts of procedures to be followed in relation with situations such as authorisations, on-site inspections branches, transfers of portfolio, etc..

3.2.B. Recommendations to all Members

The proposed recommendations in this section concern issues which have been identified during the Peer Review and which are relevant for many, if not all, Members. Most of these issues have been solved during the Peer Review but they are listed here to provide other Members with further guidance on how to improve the application of the General Protocol.

- **concerning Application of additional requirements on top of Directive requirements**

Some Members consider that only the Directive requirements should be applied and refer to the Directive requirements when assessing their compliance with the General Protocol. Although the Protocol is not of a legally binding nature, all CEIOPS Members have committed to apply the Protocol by approval at the CEIOPS' Members Meeting. These additional requirements should not necessarily be implemented in the local legislation (see further below) but procedures (formal or informal) should ensure the application of these additional requirements. One Member has informed the Review Panel that the lack of an explicit legal provision is a legal barrier for it to act upon certain provisions of the General Protocol which set additional requirements. That Member will present this issue to the relevant national Ministry.

Recommendation 28

The Review Panel stresses that, notwithstanding **Recommendation 2**, all Protocol requirements should be applied, including the additional requirements on top of the Directive requirements.

- **concerning Proportionality in applying the General Protocol**

Some Members have applied the proportionality principle to some cross-border cases, thus waiving some provisions of the General Protocol. For instance, the other supervisors would not always be informed when a restoration plan is requested, if the respective infringement is minor and the Member is sure that the solvency margin would soon be restored (e.g. because there is a very sound shareholder, and the request for restoration is only formal). While this approach could be regarded as reasonable, it does not correspond to the spirit and provisions of the General Protocol.

Recommendation 29

Each Member should fully apply the General Protocol even in those cases, where the general principle of proportionality could be regarded as not requiring doing so.

- **concerning Implementing measures**

Most Members refer to their legislation as an implementing measure of Protocol requirements, although in most cases this legislation implemented the Directives requirements only, and not the additional requirements set by the Protocol. According to the CEIOPS Peer Review Protocol and Methodology 'implementing measures' could be legislation, regulation, circulars, but also internal procedures (written or not).

Recommendation 30

The Review Panel would like to reiterate that it is not expected that the General Protocol provisions are copied into law, nor written procedures have to be established in order to comply with the General Protocol.

- **concerning Internal procedures**

Some Members have found, as a result of the Peer Review that some formal procedures did not contribute to the accurate application of the Protocol but on the other hand, some undocumented informal procedures did in fact contribute to that end quite successfully. It is not always the best solution to have written procedures, but it is of essence that Members ensure that the relevant staff has the necessary information to perform their duties in an efficient and effective way (e.g. where to find the necessary information and whom to contact).

Many Members have established internal procedures or handbooks which guide their staff in their day-to-day operations. The Review Panel has reviewed the internal procedures of some Members more profoundly and has found that further improvements could be sought to draw higher attention to the need for supervisory cooperation.

Recommendation 31

Members should continuously assess the adequacy of existing procedures (formal and informal), keep them up-to-date (see also **Recommendation 34** in case of informal procedures) and develop new procedures where necessary.

Recommendation 32

The Review Panel recommends that the internal procedures, if any, should explicitly contain reference to the General Protocol and the necessary links to the CEIOPS website. Additionally a description of the procedures to be followed in rare cases should be available as well.

- **concerning Registration and filing systems**

The approach taken by the Review Panel to assess compliance of Members on the basis of actual cases has obliged the Members to search their registration and filing systems and archives for cases relevant to the questions asked. Most Members had difficulties in collecting such cases because most registration and filing systems are not constructed in a way that allows extracting data for the purposes of replying to questionnaires. The Review Panel recognises that these systems have been designed for supervisory purposes, not for data collection purposes. However, in view of the importance of the Peer Review as a tool and data collection as a whole, improvements could be made to national systems to allow easy access and to track cross-border activity. Any changes to the

national systems should of course be considered in view of the developments at EIOPA with regard to centralised access to data (see above).

Recommendation 33

The Review Panel recommends national authorities to consider improving or developing registration and filing systems. Such registration systems should allow national authorities to:

- ◆ identify the respective Competent Authorities from other Member States involved,
- ◆ identify the undertakings involved in cross-border cases, and
- ◆ keep track of the communication in cross-border cases.

• **concerning Misunderstanding of questions**

Many Members have made subsequent amendments to their replies in the course of the Peer Review, to a large extent due to a misunderstanding of the possible replies, which in most of these cases should have been "no cases". Other reasons for the changes in the replies are contradictions identified in the initial replies in a Member's self-assessment, as well as inconsistencies between some Members' self-assessments. Many Members have provided their initial replies to the self-assessment on the basis of procedures and usual behaviour, not always on actual cases. Although it was not evident for Members to collect data on actual cases (see above), the Review Panel maintained throughout the exercise its initial approach to only assess Members' compliance with the Protocol on the basis of actual cases.

The length, complexity and language used for the questionnaire have also raised some difficulties for some Members to correctly understand the questions and how to reply.

During the whole Peer Review process the Review Panel and CEIOPS Secretariat have provided continuous clarifications and assistance to Members in the process of correcting/revising replies.

• **concerning Informing authority's staff of the General Protocol provisions**

In the course of the Peer Review, instances were observed at some Members where it appears that the staff was not fully aware of the obligations set by the General Protocol. On the other hand, some Members have informed the Review Panel about their practices in providing training to the CA's staff regarding the General Protocol provisions.

Recommendation 34

Although the issue of training staff was not the objective of the Review by Peers, as a logical consequence from the analysis, the Review Panel believes that it is worth recommending that Members pay special attention in conveying the appropriate information about the General Protocol provisions to their staff members involved in cross-border cases supervision.

3.2.C. National practices observed

This section describes the Review Panel's observations of practices and solutions at national level, which could be useful for consideration by other authorities. Some of these practices have been introduced by the respective national authority as solutions for specific issues; others are embedded in a wider institutional setting. These practices were subject to a first discussion within the Review Panel, but further analysis with regard to the effectiveness, practicality and cost of these practices might best be conducted as part of an overall revision of the General Protocol, in view of Solvency II and other developments.

- **concerning Acknowledgement of receipt**

As described in the section above (see **Recommendation 24**) the process of acknowledging receipt poses difficulties in the practical application of the Protocol.

The following are four practices, which are currently in use or are being considered by Members in this respect:

1. The Home MSCA asks the Host MSCA to immediately acknowledge receipt of the information for notification of cross-border activity;
2. The Host MSCA sends immediately the requested information, which is then considered by the Home MSCA as proof that the Host MSCA has received the notification;
3. The notification is sent by the Home MSCA to the Host MSCA by way of 'Registered mail with advice of receipt'. This allows for an 'automatic' message to the Home MSCA that the notification is received by the Host MSCA; and
4. The Home MSCA includes in the covering letter accompanying the notification information, the name and contact details of the individual to whom the acknowledgement of receipt should be sent, with an e-mail address specified.

- **concerning Written handbooks**

As described in the section above there is no obligation, nor expectation that the Protocol requirements should be implemented through written procedures or handbooks (see **Recommendation 30**). However, some Members have established such handbooks, including processes related to all or part of the General Protocol provisions.

Other Members within the Review Panel have expressed their opinion that through other channels and follow-up means similar appropriate outcomes can be reached as well.

- **concerning Template letters**

At least one Member has developed template letters for every communication under the Protocol.

Other Members of the Review Panel prefer that communications under the Protocol be kept as flexible possible to allow for specific circumstances.

- **concerning the Institutional organisation**

As a result of the Peer Review a Member has decided to establish an internal audit unit to assess the appropriateness of its procedures and to ensure the accurate application of procedures to be developed.

Another Member has already established such internal audit department years ago and has confirmed its effectiveness.

4. Detailed Report of the Review by Peers

This Chapter gives the results of the Review by Peers for each of the provisions of the General Protocol related to the exchange of information and cooperation between supervisors, divided by the respective Parts of the Protocol (Parts II to VI).

For each of these provisions the results show the issues identified during the Review by Peers, which are common to all supervisors (for details see Section 3.2. Issues & Recommendations), as well as the issues observed at certain individual supervisors.

The results shown below illustrate in separate tables the situation after the initial self-assessments and the final revision of replies to the self-assessments (as of 23 December 2010).

The reasons for the revisions of the replies to the self-assessments have been divided in the following categories: changes due to an improved understanding of the Protocol's provisions, or additional verification of actual cases, or changes due to an enhanced compliance (e.g. new internal procedures, new legislation, etc.). Another reason for the updates in the replies is the occurrence of actual cases after the reference period, whereas before there were no cases.

4.1. Part II. Authorisation of Domestic Undertakings

Part II of the General Protocol is subdivided into the following sections.

II.2 Exchange of licensing information with other insurance supervisory authorities

II.3 Exchange of licensing information with other financial supervisory authorities.

II.4 Exchange of information on directors, managers, shareholders/members.

These provisions have their origin in the insurance directives, more specifically, the Financial Conglomerates Directive¹⁰, which has amended the directives on direct insurance¹¹, introducing the obligation for the Supervisory Authority to consult the identified competent authorities of any other Member State involved prior to granting an authorisation to a direct insurance undertaking. The same obligation applies to reinsurance undertakings pursuant to Article 14 of the Reinsurance Directive.

The competent authorities shall in particular consult each other when assessing the suitability of shareholders and the fit and proper requirements of directors, managers and other persons who effectively run the affairs of the business.

This Part of the General Protocol is almost completely new compared to the previous Siena Protocol and contains an important number of adaptations introducing new requirements and taking into account new situations not considered in the Siena Protocol. In fact, the General Protocol has widened the scope of consultation between supervisory authorities. At the same time it has envisaged a list of items – including items additional to those explicitly mentioned in the Directives – on which any relevant information shall be asked.

It has been established by the Review Panel that the benchmark "fully applied" refers to a situation where the competent authority – as a usual practice – asks *the other relevant competent authorities – specified in the Protocol – involved in the cross-border activity* for information relating to all the items listed in the respective General Protocol provision. This means that providing only information on the items requested by the directives, i.e. *the good repute and financial soundness of the Shareholders/Members, and the reputation and experience of directors, managers and other persons who effectively run the affairs of the business*, is not sufficient to obtain a "fully applied". The General Protocol requests also information to be communicated on *the structure of the group, possible conflicts of interest, and other relevant licensing criteria, as appropriate*.

Also with regard to the number of CA's to be consulted, the General Protocol goes further than the Directive in requesting the consultation of the Lead Supervisor in case of the authorisation of a subsidiary of the parent of an undertaking established in another MS.

¹⁰ 2002/87/EC of 16 December 2002

¹¹ Article 12a of Directive 73/239/EEC and Article 12a of Directive 79/267/EC

General findings

See **Recommendations 5 to 9** in Section 3.2. Issues & Recommendations.

II.2. Exchange of licensing information with other insurance supervisory authority

2.1 Subsidiary of an Undertaking authorised in another Member State

Provision 1

2.1.1 Where the Undertaking seeking authorisation is a subsidiary of an Undertaking authorised in another Member State, the Competent Authority of the Home State shall ask the Competent Authority of the direct parent Undertaking and, if applicable, of the ultimate EU parent Undertaking for any relevant information relating to:

- the good repute and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and other persons who effectively run the affairs of the business;
- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria, as appropriate.

2.1.3. If the ultimate parent of the Undertaking seeking authorisation is not a regulated Undertaking, or if it is a regulated undertaking not located in the EU, the Competent Authority of the ultimate EU parent Undertaking shall be asked to provide the Competent Authority of the Home State with all the relevant information in its possession about the ultimate parent Undertaking.

The self-assessment included 2 questions in relation to this provision:

- 1 Do you require as Competent Authority of the Home State** to the Competent Authority of the direct parent undertaking and, if applicable, of the ultimate EU parent undertaking, including the situations mentioned in the § 2.1.3 (where the ultimate parent of the undertaking seeking authorisation is not a regulated undertaking, or if it is a regulated undertaking not located in the EU), any relevant information relating to each one of the items mentioned in § 2.1.1 of the Protocol?
- 2 a) In the negative to question 1, do you limit your request only to some of the following Competent Authorities:**
In relation with the situation mentioned in Art. 2.1.1:
 - i. To the CA of the direct parent undertaking
 - ii. To the CA of the ultimate EU parent undertaking, if applicable.**In relation to the situation mentioned in Art. 2.1.3:**
 - iii. To the CA of the ultimate EU parent, if applicable.**b) Do you limit your request only to some of the items mentioned in § 2.1.1:**
 - i. the good repute and financial soundness of the Shareholders/Members
 - ii. the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
 - iii. the structure of the group
 - iv. possible conflicts of interest
 - v. other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 1.

Partially applied: If a negative answer is given to question 1 and a positive answer to at least 2b)i and 2b)ii.

Not applied: If a negative answer is given to question 1 and questions 2b)i or 2b)ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY CZ DE IE MT NL PL PT RO SE UK	BG ES HU IT LI NO	SK	FR	AT BE DK EE FI GR IS LT LU LV SI
How many MS	11	6	1	1	11

During the Review by Peers, self-assessments have been revised by Members to reflect improvements in practice and compliance of the Protocol provisions or to correct previous instances of misunderstanding. Some of these revisions have happened early in the process and were therefore taken into account during the Review by Peers; however, revisions which happened at the end of the process could not be fully assessed by the reviewers¹². The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY CZ DE ES IE LI NO PL PT RO SE UK	BG HU IT	LU MT	FR	AT BE DK EE FI GR IS LT LV NL SI SK
How many MS	12	3	2	1	12

Changes due to improved understanding/additional verification: LI, NL, NO, LU, MT

Changes due to enhanced compliance: ES

ES – Spain showed initially a partially applied situation due to the fact that the DGSFP has limited the requirement of information to the CA of the direct parent undertaking only, under the understanding that the mentioned CA needed to facilitate us the information required.

DGSFP has confirmed they have reviewed the previous practice and that they treated cases which have emerged after the reference period in accordance with these particular provisions of the General Protocol. Therefore the situation is fully applied now.

IE – When licensing an insurer which is part of a group CBI does consult the lead supervisor or the relevant supervisory authority of the parent company. A letter used in such cases focuses on two points: any objection coming from the consulted CA, and the inclusion of the subsidiary in the supplementary supervision at group level. Apart from some cases the request from CBI does not give details on the business the new insurer intends to do. The reviewers have concluded that these letters do not fit exactly with the provisions of the Protocol; in particular they do not ask any explicit questions on the structure of the group.

CBI committed itself to provide more information, particularly in relation to cross-border business, in order to allow the lead supervisor have an accurate view of the new subsidiary within the group structure. They will amend the text of their correspondence with other competent authorities to fulfil the General Protocol requirements. Furthermore, they will provide information (in excess of the minimum protocol requirements) relating to the type of cross-border business to be conducted to facilitate better insight by the lead supervisor into the strategy of the group. They confirmed that since the Review by Peers they have amended their authorisation procedures accordingly to successfully

¹² This disclaimer remains valid for the rest of the report.

achieve implementation of the above objectives. The original reply was already Y to Q1 so no changes to the self-assessment were needed.

IT – ISVAP states that they do not ask, as a rule, information about the structure of the group (Q2b.iii) and possible conflicts of interest (Q2b.iv) because ISVAP receives the respective data from the authorisation documents. As this issue is treated as a common issue the reviewers accepted this reply and did not recommend specific action.

LI – The question was initially misinterpreted by the FMA. Copies of the relevant correspondence were provided to the reviewers. The assessment by the reviewers is that the provision is “fully applied”, so the reply to Q1 is changed from N to Y.

LU – After checking the actual situation CaA changed the reply from NC to N. CaA stated that they are currently undergoing a close revision of their procedures and that they foresee to have a check-list to provide for a systematic consultation with other authorities.

MT – The original reply to Q1 was Y but MFSA revised this to N upon recommendation by the reviewers, because the MFSA does not request all information as required by the General Protocol but instead relies on some information from the applicant. Although the Review Panel reported this issue as a common issue (see above) MFSA confirmed they will amend their internal procedures to reflect the requirements of the General Protocol.

NO – A misunderstanding was due to a lack of clarity in the questions. The reply to Q1 is therefore changed from N to Y, leading to a fully applied situation.

PL – The reply to the self-assessment by PFSA was Y to Q1 which means that as a usual practice the information with regard to all the listed items (see the sub-questions of Q2) is sent to all relevant authorities. The comment accompanying this reply, however, states that “we have not requested for information regarding the structure of the group and possible conflict of interests as it was ascertained on the basis of other evidences”. As this issue is treated as a common issue the reviewers accepted this reply and did not recommend specific action.

However, from the answer to the additional questions, and confirmed by the response to the individual feedback report, it appears that the Protocol is not fully applied with regard to requesting information from the appropriate Competent Authority in case the ultimate parent is not a regulated entity. PFSA informed the reviewers that there was a misunderstanding and that in fact there have been no cases in Poland where the ultimate parent of the undertaking seeking authorisation was not a regulated undertaking, or was a regulated undertaking not located in the EU and at the same time having a parent undertaking in the EU.

In relation with the situation mentioned in art. **II.2.1.1** PFSA has confirmed that they fulfill the regulations but there were no cases with regard to art. **II.2.1.3**.

Provision 2

The Competent Authority to which the request has been made shall, as soon as possible, provide the Competent Authority of the Home State with any relevant information in its possession or inform the requesting authority that it does not have any such information.

There were 2 questions asked in relation to this provision:

- 3** a) When requested, do you provide as soon as possible the Competent Authority of the Home State with any relevant information in your possession?
- b) In case you do not have any such information, do you inform as soon as possible the requesting Authority of this?

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 3a) or question 3b).

Not applied: If a negative answer is given to question 3a) and question 3b).

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CY CZ DE ES HU IE IS IT LU NL NO PT RO SE SI SK UK		LI	FR	BE BG DK EE FI GR LT LV MT PL
How many MS	18	0	1	1	10

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CY CZ DE ES HU IE IS IT LU NL NO PT RO SE SI SK UK			FR	BE BG DK EE FI GR LI LT LV MT PL
How many MS	18	0	0	1	11

Changes due to improved understanding/additional verification: LI

UK – The FSA responded Y to these questions, noting that the FSA would provide general information confirming whether an undertaking is authorised by the FSA to conduct regulated activities in the UK and the type of permissions that it has been granted, with requests for additional information, referred to the relevant FSA supervisory unit.

The FSA noted that there are special circumstances in which it **might** be prevented, in accordance with UK legislation, from disclosing information, namely (1) where the information sought may be highly market sensitive; (2) where the information is subject to legal professional privilege; and (3) in situations involving the provision of information by whistleblowers. The FSA is not, however, aware of any cases, during the reference period where information has been withheld on these grounds.

The design of the process is not considered, by the Review Panel, to be in accordance with the General Protocol, because these circumstances could prevent the FSA from disclosing information to the host supervisor. On this point, the FSA noted that in relation to the first situation, disclosure would only be delayed for a short time and the information would then be disclosed. The second and third situations involve fundamental issues which would require careful consideration within the UK by a number of government and other stakeholders to determine whether and what change(s) might be needed, and would potentially involve changes to primary legislation and/or requirements to clarify the relevant Directives. The FSA has confirmed that the UK has the scope to consider what steps should be taken and to discuss the timing of such steps, in the course of the UK regulatory reform process. In its response to the evaluation report FSA raises the concern that, differences in the implementation of the financial services Directives has given rise to considerable complexity and uncertainty within the European Union concerning issues surrounding the impact of secrecy provisions and how these provisions are applied within Member States.

2.2 Subsidiary of the parent of an Undertaking authorised in another Member State

Provision 3

2.2.1 Where the Undertaking seeking authorisation is a subsidiary of the parent of an Undertaking authorised in another Member State, the Competent Authority of the Home State shall ask the Competent Authority of the Undertaking and the Lead Supervisor under the Helsinki Protocol for any relevant information relating to:

- the good repute and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and other persons who effectively run the affairs of the business;
- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria, as appropriate.

2.2.3 In cases where the parent Undertaking is an Undertaking authorised in a Third Country, the Competent Authority of the Home State shall ask the supervisory authority of the Third Country Undertaking for the aforementioned information.

There were 3 questions asked in relation to this provision:

- 4 Do you require as Competent Authority of the Home State** to the Competent Authority of the Undertaking in another Member State and to the Lead Supervisor or to the supervisory authority of the Third Country Undertaking in the case mentioned in the § 2.2.3 of the Protocol (where the parent Undertaking is an undertaking authorised in a Third Country) any relevant information relating to each one of the items mentioned in § 2.2.1 of the Protocol?
- 5** a) In the negative to question 4, do you limit your request only to some of the following Competent Authorities:
- i. To the CA of the Undertaking in another Member State
 - ii. To the Lead Supervisor
 - iii. To the supervisory authority of the Third Country Undertaking in the case where the parent Undertaking is an Undertaking authorised in a Third Country.
- b) Do you limit your request only to some of the items mentioned in § 2.2.1.:
- i. the good repute and financial soundness of the Shareholders/Members
 - ii. the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
 - iii. the structure of the group
 - iv. possible conflicts of interest
 - v. other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 4.

Partially applied: If a negative answer is given to question 4 and a positive answer to questions 5b)i and 5b)ii.

Not applied: If a negative answer is given to question 4 and to questions 5b)i and 5b)ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	MT NL PT RO SE UK	ES IE LI NO	HU LU SK	FR	AT BE BG CY CZ DE DK EE FI GR IS IT LT LV PL SI

How many MS	6	4	3	1	16
-------------	---	---	---	---	----

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	LU NO PT RO SE UK		HU	FR	AT BE BG CY CZ DE DK EE ES IE FI GR IS IT LI LT LV MT NL PL SI SK
How many MS	6	0	1	1	22

Changes due to improved understanding/additional verification: ES, LI, LU, NL, NO, MT, SK

Changes due to enhanced compliance: IE

ES – Spain showed initially a partially applied situation due to the fact that the DGSFP has limited the requirement of information to the CA of the direct parent undertaking only, under the understanding that the mentioned CA needed to facilitate us the information required. DGSFP confirmed they have reviewed the previous practice in accordance with the procedures of the General Protocol. Since the improvement, no new cases have emerged so the result is therefore changed from PA to NC.

IE – Same as for Q1 & 2.

They confirmed that since the Review by Peers they have amended their authorisation procedures accordingly to successfully achieve implementation of the above objectives. The reply to the self-assessment should be changed to NC in the absence of the occurrence of cases after the improvement in procedures.

LU – CaA's initial reply was 'not applied' because they understood that a YES reply was supposed to mean that requirements were ALWAYS complied with. However, after having discussed this with the Reviewers, they clarified that they have consulted the concerned authorities for the licensing of companies that fall under the criteria of the Protocol. They stated in general that they are currently undergoing a close revision of their procedures and that they foresee to have a check-box list to provide for a systematic consultation with other authorities.

MT – The original reply to Q4 was Y but MFSA revised it to NC.

NO – A misunderstanding was due to a lack of clarity in the questions. The reply to Q4 is therefore changed from N to Y, leading to a fully applied situation.

Provision 4

2.2.2 The Competent Authority to which the request has been made shall, as soon as possible, provide the Competent Authority of the Home State with any relevant information in its possession or inform the requesting authority that it does not have any such information.

There were 2 questions asked in relation to this provision:

- 6 a) When requested, do you provide as soon as possible the Competent Authority of the Home State with any relevant information in your possession?
- b) In case you do not have any such information, do you inform as soon as possible the requesting Authority of this?

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 6a) or question 6b).

Not applied: If a negative answer is given to question 6a) and question 6b).

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE ES IE IT LU MT NL NO PT RO SE SI SK UK		LI	FR	AT BE BG CY CZ DK EE FI GR HU IS LT LV PL
How many MS	14	0	1	1	14

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE ES IE IT LU NL NO PT RO SE SI SK UK			FR	AT BE BG CY CZ DK EE FI GR HU IS LI LT LV MT PL
How many MS	13	0	0	1	16

Changes due to improved understanding/additional verification: LI, MT

MT – After identification by the reviewers of a misunderstanding of MFSA of the scope of this question MFSA changed its reply from Y to NC.

UK – Same as for Q3.

2.3 Control by the same person who controls an Undertaking authorised in another Member State

Provision 5

2.3.1 In cases where the undertaking seeking authorisation is controlled by the same natural or legal person who controls an Undertaking authorised in another Member State, the Competent Authority of the Home State shall ask the Competent Authority of the Undertaking for any relevant information relating to:

- the good repute and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and other persons who effectively run the affairs of the business;
- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria, as appropriate.

There were 2 questions asked in relation to this provision:

- 7 As Home MSCA**, do you require to the Competent Authority of the Undertaking authorised in another Member State and controlled by the same natural or legal person who controls the undertaking seeking authorisation any relevant information relating to each one of the items mentioned in 2.3.1 of the Protocol?
- 8** In the negative to question 7, do you limit your request only to some of the items mentioned in § 2.3.1:
- i. the good repute and financial soundness of the Shareholders/Members
 - ii. the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
 - iii. the structure of the group
 - iv. possible conflicts of interest
 - v. other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: if a positive answer is given to question 7.

Partially applied: If a negative answer is given to question 7 and a positive answer to questions 8i and 8ii.

Not applied: If a negative answer is given to question 7 and a negative answer to questions 8i or 8ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE IT MT RO SE UK	LI NO	SK	FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS LT LU LV NL PL PT SI
How many MS	6	2	1	1	20

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE NO RO SE UK		MT	FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV NL PL PT SI SK
How many MS	5	0	1	1	23

Changes due to improved understanding/additional verification: IT, LI, MT, NO, SK

IE – Same as for Q1/2.

They confirmed that since the Review by Peers they have amended their authorisation procedures accordingly to successfully achieve implementation of the above objectives. The original reply was already Y to Q7 so no changes to the self-assessment were needed.

IT – The responses regarding this question has been changed from Y to NC because there was a misinterpretation of the question in the sense that the initial Y answer was referring to the existence of specific law provisions and not to cases really occurred.

MT – The original reply to Q1 was Y but MFSA revised this to N on recommendation of the Reviewers, because they do not request all information as required by the General Protocol but instead rely on some information from the applicant. Although the Review Panel reported this issue as a common issue (see above) MFSA confirmed they will amend their internal procedures to reflect the requirements of the General Protocol.

NO – A misunderstanding was due to a lack of clarity in the questions. The reply to Q7 is therefore changed from N to Y, leading to a fully applied situation.

Provision 6

2.3.2 The Competent Authority to which the request has been made shall, as soon as possible, provide the Competent Authority of the Home State with any relevant information in its possession or inform the requesting authority that it does not have any such information.

There were 2 questions asked in relation to this provision:

- 9** a) When requested, do you provide as soon as possible the Competent Authority of the Home State with any relevant information in your possession?
b) In case you do not have any such information, do you inform as soon as possible the requesting Authority of this?

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 9a) or 9b).

Not applied: If a negative answer is given to questions 9a) and 9b).

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT DE ES HU IE IT MT NL NO SE SI SK UK		LI	FR IS	BE BG CY CZ DK EE FI GR LT LU LV PL PT RO
How many MS	13	0	1	2	14

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT DE ES HU IE IT NL NO SE SI SK UK			FR	BE BG CY CZ DK EE FI GR IS LI LT LU LV MT PL PT RO
How many MS	12	0	0	1	17

Changes due to improved understanding/additional verification: IS, LI, MT

MT – As for Q6, after identification by the reviewers of a misunderstanding of MFSA of the scope of this question MFSA changed its reply from Y to NC.

UK – Same as for Q3.

II.3. Exchange of licensing information with other financial supervisory authorities.

3.1 Subsidiary of a credit institution or investment firm authorised in the EU

Provision 7

3.1.1. In cases where the Undertaking seeking authorisation is a subsidiary of a credit institution or investment firm authorised in the E.U, the Competent Authority of the Home State shall ask the Competent Authority of the direct and, if applicable, the ultimate regulated E.U parent for any relevant information relating to:

- the good repute and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and other persons who effectively run the affairs of the business;
- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria, as appropriate.

3.1.2. If the ultimate parent is not a regulated Undertaking, or is a regulated Undertaking located in a Third Country, the supervisory authority of the ultimate regulated EU parent shall be asked to provide the Competent Authority of the Home State with the aforementioned information.

There were 2 questions asked in relation to this provision:

- 10 Do you require as Competent Authority of the Home State** to the Competent Authority of the direct parent undertaking different from the Competent Authority of an insurance entity and, if applicable, of the ultimate regulated EU parent (including the situations mentioned in 3.1.2) any relevant information relating to each one of the items mentioned in 3.1.1. of the Protocol?
- 11** a) In the negative to question 10, do you limit your request only to some of the following Competent Authorities:
In relation with the situation mentioned in Art. 3.1.1:
i. To the CA of the direct parent undertaking
ii. To the CA of the ultimate EU parent undertaking, if applicable
In relation to the situation mentioned in Art. 3.1.2:
iii. To the CA of the ultimate EU parent, if applicable.
- b) Do you limit your request only to some of the items mentioned in § 3.1.1:
i. the good repute and financial soundness of the Shareholders/Members
ii. the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
iii. the structure of the group
iv. possible conflicts of interest
v. other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 10.

Partially applied: If a negative answer is given to question 10 and a positive answer to questions 11b)i and 11b)ii.

Not applied: If a negative answer is given to question 10 and to questions 11b)i or 11b)ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	----------------------	--------------------------	--------------------	-----------------------	-----------------

Which MS	CZ IT MT PT SE UK	IE LI NO	LU SK	FR	AT BE BG CY DE DK EE ES FI GR HU IS LT LV NL PL RO SI
How many MS	6	3	2	1	18

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ LU NO PT SE UK	IE	MT	FR	AT BE BG CY DE DK EE ES FI GR HU IS IT LI LT LV NL PL RO SI SK
How many MS	6	1	1	1	21

Changes due to improved understanding/additional verification: IT, LI, LU, MT, NO, SK

IT – ISVAP has changed its response from Y to NC because the case described happened prior to the reference period.

MT – MFSA does not request other Competent Authorities for all the information listed in the Protocol but instead relies on some information from the applicant. Although the Review Panel reported this issue as a common issue (see above) MFSA confirmed they will amend their internal procedures to reflect the requirements of the General Protocol. In the meantime the reviewers requested MFSA to correct their reply to fully reflect the actual situation, i.e. a "N" reply to Q10, coupled with a "N" reply to Q11b.ii, iii and iv. All other sub-questions can be answered by Y. The MFSA has amended the replies to reflect the comments of the Review Panel.

LU – CaA's initial reply was 'not applied' because they understood that a YES reply was supposed to mean that requirements were ALWAYS complied with. However, after having discussed this with the Reviewers, they clarified that they have consulted the concerned authorities for the licensing of companies that fall under the criteria of the Protocol. They stated in general that they are currently undergoing a close revision of their procedures and that they foresee to have a check-box list to provide for a systematic consultation with other authorities.

NO – A misunderstanding was due to a lack of clarity in the questions. The reply to Q10 is therefore changed from N to Y, leading to a fully applied situation.

3.2 Subsidiary of the parent undertaking of a credit institution or investment firm authorised in another Member State

Provision 8

When the Undertaking seeking authorisation is a subsidiary of the parent undertaking of a credit institution or investment firm authorised in another Member State, the Competent Authority of the Home State shall ask the supervisory authority of the subsidiary for any relevant information relating to:

- the good reputation and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and any other persons who effectively run the affairs of the business;

- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria.

There were 2 questions asked in relation to this provision:

- 12 Do you require as Competent Authority of the Home State** to the Competent Authority of the undertaking in other Member State, different from the Competent Authority of an insurance entity, any relevant information relating to each of the items mentioned in Article 3.2 of the Protocol?
- 13** In the negative to question 12 do you limit your request only to some of the items mentioned in Article 3.2.:
- the good repute and financial soundness of the Shareholders/Members
 - the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
 - the structure of the group
 - possible conflicts of interest; and
 - other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 12

Partially applied: If a negative answer is given to question 12 and a positive answer to questions 13b)i and 13b)ii.

Not applied: If a negative answer is given to question 12 and to questions 13b)i or 13b)ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IT PT SE UK	IE LI NO RO	LU SK	FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS LT LV MT NL PL SI
How many MS	4	4	2	1	19

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	LU NO PT RO SE UK	IE		FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LV MT NL PL SI SK
How many MS	6	1	0	1	22

Changes due to improved understanding/additional verification: IT, LI, LU, NO, RO, SK

IT – The responses regarding this question has been changed from Y to NC because there was a misinterpretation of the question in the sense that the initial Y answer was referring to the existence of specific law provisions and not to cases really occurred.

LU – CaA's initial reply was 'not applied' because they understood that a YES reply was supposed to mean that requirements were ALWAYS complied with. However, after having discussed this with the Reviewers, they clarified that they have consulted the concerned authorities for the licensing of companies that fall under the criteria of the Protocol. They stated in general that they are currently undergoing a close revision of their procedures and that they foresee to have a check-box list to provide for a systematic consultation with other authorities.

NO – A misunderstanding was due to a lack of clarity in the questions. The reply to Q12 is therefore changed from N to Y, leading to a fully applied situation.

RO – In the initial self-assessment CSA provided a N response for Q12 with a Y response for Q13, although this combination is not possible. CSA clarified that the initial answer was due to a misunderstanding of the question and revised the response to Y for Q12 and NA for Q13, confirming that they request all the information mentioned.

3.3 Control by the same person who controls a credit institution or investment firm authorised in another Member State

Provision 9

3.3.1. When the Undertaking seeking authorisation is controlled by the same natural or legal person who controls a credit institution or investment firm authorised in another Member State, the Competent Authority of the Home State shall ask the supervisory authority of the subsidiary for any relevant information relating to:

- the good repute and financial soundness of the Shareholders/Members;
- the reputation and experience of directors, managers and other persons who effectively run the affairs of the business;
- the structure of the group;
- possible conflicts of interest; and
- other relevant licensing criteria, as appropriate.

There were 2 questions asked in relation to this provision

14 Do you require as Competent Authority of the Home State to the Competent Authority of the Undertaking authorised in another Member State, different from the Competent Authority of an insurance entity, and controlled by the same natural or legal person who controls the undertaking seeking authorisation any relevant information relating to each one of the items mentioned in 3.3. of the Protocol?

15 In the negative to question 14, do you limit your request only to some of the items mentioned in Article 3.3.:

- i. the good repute and financial soundness of the Shareholders/Members
- ii. the reputation and experience of directors, managers and other persons who effectively run the affairs of the business
- iii. the structure of the group
- iv. possible conflicts of interest
- v. other relevant licensing criteria, as appropriate.

and the benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 14.

Partially applied: If a negative answer is given to question 14 and a positive answer to questions 15b)i and 15b)ii.

Not applied: If a negative answer is given to question 14 and to questions 15b)i or 15b)ii.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE IT NO SE UK	LI	SK	FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS LT LU LV MT NL PL PT RO SI
How many MS	5	1	1	1	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE NO SE UK			FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL PL PT RO SI SK
How many MS	4	0	0	1	25

Changes due to improved understanding/additional verification: IT, LI, SK

IT – The responses regarding this question has been changed from Y to NC because there was a misinterpretation of the question in the sense that the initial Y answer was referring to the existence of specific law provisions and not to cases really occurred.

II.4. Exchange of information on directors, managers, Shareholders/Members

Provision 10

4.1. In view of the importance of the supervision of

- the good repute competence and professional experience of directors, managers, and other persons who effectively run the business of Undertakings; and
 - the good repute and financial soundness of Shareholders/Members,
- both during the process of authorisation and on an on-going basis, the Competent Authorities shall endeavour, where possible, to share the information available to them in those fields.

4.2. Where the persons who are responsible for directing the affairs of the Undertaking, and /or the Shareholders/Members with qualifying holdings come from, or are connected to, other Member States, the Competent Authority of the Home State may request from the Competent Authorities of those other Members States relevant information relating to:

- the good repute, competence and professional experience of the directors, managers and any other person(s) who effectively run the affairs of the Undertaking; and
- the good repute and financial soundness of the Shareholders/Members

There were 2 questions asked for information purposes only in relation to this provision and hence there are no benchmarks:

- 16** Does your Supervisory Authority require the information as it is referred to in the Protocol
a) as a usual practice?
b) on an occasional basis only?

Provision 11

4.3. The Competent Authority to which the request has been made shall, as soon as possible, provide to the Competent Authority of the Home State, any relevant information in its possession or inform the requesting Competent Authority that it does not have any such information.

There were 2 questions asked in relation to this provision:

- 17** a) When requested, do you provide as soon as possible the Competent Authority of the Home State with any relevant information in your possession?
b) In case you do not have any such information, do you inform as soon as possible the requesting Authority of this?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 17 a and b.

Not applied: If a negative answer is given to questions 17 a and b.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE EE ES FI GR HU IE IS IT LT LU LV MT NL NO PT SE SI SK UK		LI	FR	DK PL RO
How many MS	25	0	1	1	3

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PT SE SI SK UK			FR	DK PL RO
How many MS	26	0	0	1	3

Changes due to improved understanding/additional verification: LI

LI – The reviewers found that the original reply was wrong. The reviewers were given documentation from a communication with the other CA, showing that FMA does apply the Protocol. The answer should be changed from N to Y.

Provision 12

4.4. The Competent Authority of the Home State shall immediately inform the Competent Authority of the Host State when it issued any action against directors, managers or any other person(s) who effectively run the affairs of the Undertaking, or against its Shareholders/ Members, in accordance with the provisions of the relevant Directives.

There was 1 question asked for information purposes only in relation to this provision and hence there are no benchmarks:

18 Do you – as the Competent Authority of the Home State – inform immediately the Competent Authority of the Host State when you issued any action against directors, managers or any other person (s) who effectively run the affairs of the undertaking or against its Shareholders/ Members?

Provision 13

4.5. The Competent Authorities shall inform those other supervisors concerned of all decisions that might be of interest to them when assessing the good reputation, competence and professional experience of the directors, managers or any other person(s) who effectively run the affairs of the Undertaking or the good reputation or financial soundness of the Shareholders/Members.

There were 3 questions asked in relation to this provision:

19 Do you – as the Competent Authority of the Home State – inform the other supervisors concerned of all decisions that might be of interest to them in relation to:
a) the good reputation, competence and professional experience of the directors, managers, or any other person (s) who effectively run the affairs of the undertaking?
b) the good reputation of the Shareholders/Members.
c) the financial soundness of the Shareholders/Members.

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 19 a, b and c.

Partially applied: If a positive answer is given to any combination of questions 19 a-b-c

Not applied: If a negative answer is given to questions 19 a, b and c

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE GR IE LU NO RO SI UK		ES LI NL	FR	AT BE BG CZ DK EE FI HU IS IT LT LV MT PL PT SE SK
How many MS	9	0	3	1	17

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE ES GR IE LU NL RO SI UK			FR	AT BE BG CZ DK EE FI HU IS IT LI LT LV MT NO PL PT SE SK
How many MS	10	0	0	1	19

Changes due to improved understanding/additional verification: ES, LI, NL

Provision 14

4.6. The competent Authority shall establish a contact point for the exchange of information on directors, managers and Shareholders/Members and forward the details on the contact point to the CEIOPS Secretariat. The Competent Authority shall update this information as necessary and inform the CEIOPS Secretariat accordingly. The CEIOPS Secretariat will publish the list of contact points on the Members' area on the CEIOPS website.

There were 2 questions asked in relation to this provision:

- 20** a) Have you established a contact point for the exchange of information on directors, managers and Shareholders/Members?
b) Have you forwarded the details on the contact point to the CEIOPS Secretariat?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 20a and b

Partially applied: If a negative answer is given to question 20b and a positive answer to question 20a

Not applied: If a negative answer is given to question 20a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE ES FI FR GR HU IS IT LI LT LU LV MT NO PL PT RO SE SI SK UK	IE NL	DK EE		
How many MS	26	2	2	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK				
How many MS	30	0	0	0	0

Changes due to improved understanding/additional verification: DK, EE, NL

Changes due to enhanced compliance: IE

DK – FTNET's contact point is not a person but a dedicated e-mail address for the purposes of this provision. In that respect they are not compliant with this part of the General Protocol. However, the reviewers considered that the system they have for this purpose has served as a modern and strict tool to store and file all material received and sent through a journalisation system. So, in this respect they seem to be compliant with the intention of this part of the General Protocol. The Review Panel considers that the provision is fully applied.

II.6. Acquisition and increase of shareholders in domestic undertakings

Provision 15

6.1. If it is proposed that an Undertaking is acquired by an Undertaking mentioned in paragraphs 2.1., 2.2, 2.3, 3.1 or 3.2, the Competent Authorities shall, without undue delay, provide each other with any information which they deem essential or relevant for the assessment, be it on request of another Authority, or on own initiative.

6.2. The same applies if a person who has taken a decision to further increase, directly or indirectly, a qualifying holding in an Undertaking as a result of which the proportion of the voting rights or of the capital held would reach or exceed 20%, 30% or 50%. [Note that Member States need not apply the 30% threshold where, in accordance with Article 9(3) of Directive 2004/109/EC, they apply a threshold of one-third.]

6.3. Notwithstanding, the Competent Authorities are entitled to give, receive or request information on any change in the shareholder structure of supervised Undertakings to/from any other Supervisory Authority at any time.

There were 6 questions asked in relation to this provision. Some questions (21c and 22c – marked in blue in the text) were asked for information purposes only and therefore not benchmarked.

- 21** Does your Supervisory Authority provide, the other Competent Authority/ies – upon request – with the information deemed essential or relevant for the assessment of the authorisation for
- a) an acquisition
 - b) a further increase of qualifying holdings
 - c) any other change in the shareholders' structure
- 22** Does your Supervisory Authority provide the other Competent Authority/ies – upon own initiative – with the information deemed essential or relevant for the assessment of the authorisation for
- a) an acquisition
 - b) a further increase of qualifying holdings
 - c) any other change in the shareholders' structure

The benchmarks for the assessment are only applied to Questions 21 a and b, and 22 a and b:

Fully applied: If a positive answer is given to questions 21 a and b, and 22 a and b

Partially applied: If a positive answer to questions 21 a and b, and a negative answer is given to question 22 a or 22 b

Not applied: If a negative answer is given to questions 21 a, or 21b

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY DE ES FI IS IT MT NL NO PT RO UK	CZ HU IE LU SE SK	LI	FR	DK EE GR LT LV PL SI
How many MS	15	6	1	1	7

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BG CY CZ DE ES FI HU IE IS IT LT MT NL NO PT RO SE SK UK	LU		FR	BE DK EE GR LI LV PL SI
How many MS	20	1	0	1	8

Changes due to improved understanding/additional verification: BE, CZ, IE, LI, SE, SK

Changes due to improved compliance: HU

HU – The Insurance Act has been amended and PSZAF confirmed that from 2010 letters are being sent to other CAs on the PSZAF's own initiative in case of acquisitions. As regards a further increase of qualifying holdings and any other change in the shareholder's structure it has no cases.

LI – The reviewers found that there were no cases during the period under review. However, proof of a recent case related to Q21 was provided to the reviewers indicating FMA's compliance with the General Protocol.

UK – Same as for Q3.

4.2. Part III. Cross-border Activities

This part of the Protocol refers to passporting notifications in case of the establishment of branches and in case of commencing activities by way of freedom to provide services, the general good conditions under which activities must be pursued within the territory of the Host state and information to be provided to the CEIOPS secretariat.

III.1. Establishment of a Branch by an Insurance Undertaking (Q23-Q64)

III.1.1 Information to be provided by the Competent Authority of the Home State to the Competent Authority of the Host State

Provision 16

1.1.1 When it does not oppose the opening of a Branch in another Member State, the Competent Authority of the Home State shall communicate, in Written Form, the following information to the Competent Authority of the Host State (notification):

- the scheme of operations [9] indicating in particular the type of operation envisaged and the structure of the organisation of the Branch;
- the classes of insurance according to the annexes to the First Non-Life Directive and the Consolidated Life Directive into which the planned businesses fall;
- the name and address of the head office of the Undertaking;
- the address in the Member State of the Branch, from which documents may be obtained from the Undertaking (which shall also be that of the General Representative) and to which they may be delivered;
- the name and powers of the General Representative;
- if the Undertaking is to cover motor vehicle third party risks (class 10, not including carrier's liability) a declaration of membership or a certificate of application for membership [10] of the national office and of the National Guarantee Fund of the Host State;
- in cases where the Undertaking intends to cover risks relating to legal expenses insurance, the option chosen from those described in Article 3(2) of Directive 87/344/EEC of 22 June 1987;
- a certificate of solvency, in the form provided for in Annex II.

(Footnotes:

[9] The scheme of operations shall contain information or explanations concerning

a) the nature of the risks or commitments which the undertaking is proposing to cover;

b) the principles which it uses for guidance for re-insurance;

c) estimates of the cost of setting up administrative services and the organisation for securing business; the financial resources set aside for this purpose and, if the risks to be covered fall within class n°18 of Title A of the Annex to the First Non-Life Directive, the company taking over assistance services or the resources available to the Undertaking for providing the promised assistance;

d) the structure of the organisation of the Branch;

In addition, for the first three financial years:

e) estimates of overheads other than the cost of setting up, in particular, general running costs and commission;

f) estimates of premiums or contributions and claims.

10] In this case, the Competent Authority of the Home State shall obtain from the Undertaking a commitment that it will not engage in business concerning this class as long as it has not forwarded the final membership declaration.)

There was 1 question asked in relation to this provision

23 When acting as the Competent Authority of the Home State, and when not opposed to the opening of a branch, do you communicate in written form to the relevant Host State authority [all the information listed under III.1.1.]?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to all parts of questions 23

Not applied: If a negative answer is given to any applicable part of the question 23

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ				BG GR IS LT PL

	DE DK EE ES FI FR HU IE IT LI LU LV MT NL NO RO SE SI SK UK				PT
How many MS	24	0	0	0	6

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FR IE IT LI LU LV MT NL NO RO SE SI SK UK		HU		BG FI GR IS LT PL PT
How many MS	22	0	1	0	7

Changes due to improved understanding/additional verification: FI, HU

HU – PSZAF stated that when not opposed to the opening of a branch, it did not communicate to the relevant CA the powers of the General Representative, as here is no such provision in the Hungarian law. Following to the Review by Peers PSZAF stated that the law amendment would be initiated by end of 2010, its adoption is expected by the first quarter of 2011. Consequently the reviewers' assessment is not applied, but nevertheless the reviewers have noted the strong commitment of PSZAF to bring its procedures in line with the General Protocol.

RO – Due to a initial misunderstanding of the question and the occurrence of a case after the reference period CSA has made several changes to the replies for this question: CSA initially answered on the basis that they have implemented the General Protocol provisions in its law and regulation (Y – initial reply), then CSA clarified that it did not register any cases (NC – additional questions), finally CSA informed the reviewers about a case which started end of June and was only approved by their Board end of August, i.e. outside the initial reference period (Y – response to feedback report).

Provision 17

1.1.2 The information shall be communicated by the Competent Authority of the Home State, as soon as possible, and in any event within three months of having received all necessary information from the Undertaking which intends to establish a Branch in the territory of another Member State. The Competent Authority of the Home State shall ensure that the Competent Authority of the Host State receives the complete notification.

There were 2 questions asked in relation to this provision:

24 When acting as the Competent Authority of the Home State

1. Where you do not oppose the opening of a branch in another Member State, do you communicate a branch notification within 3 months of receiving all the necessary information from the Undertaking concerned?
2. Do you ensure that a complete branch notification has been received by the Competent Authority of the Host State?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 24 .1 and 2

Not applied: If a negative answer is given to questions 24 .1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI HU IE IT LI LU LV MT NO RO SE SI SK		FR NL UK		BG GR IS LT PL PT
How many MS	21	0	3	0	6

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FR HU IE IT LI LU LV MT NL NO RO SE SI SK UK				BG FI GR IS LT PL PT
How many MS	23	0	0	0	7

Changes due to improved understanding/additional verification: FI

Changes due to enhanced compliance: FI, FR, NL, UK

FI – Prior to the Review by Peers FIN-FSA did not have any formal procedure for ensuring that a complete branch notification has been received by the Competent Authority of the Host State. They explained that since the cases have been so few and the fact that they have very close relationships with the relevant authorities, they have not seen this necessary so far. Although there were no actual cases during or after the reference period of this exercise, FIN-FSA informed the Review Panel that they have changed the procedure so that they'll make sure the notification has been received by the Competent Authority of the Host State.

FR – During the reference period and up to now as well, ACP has normally requested an acknowledgement of receipt. However, from 1st November on, ACP strengthened its practice ensuring by every means (e-mail and telephone reminders, etc) that the complete notification has been received, by requesting an acknowledgement of receipt from the Host State. Additionally they will formalise this procedure by the beginning of 2011. Since the change in practice no new cases have emerged, so the reply to Q24.2 has been revised from N to NC.

NL – DNB did not seek an acknowledgment of the receipt by the other competent authority of notifications. To overcome this issue DNB has changed the procedure and it now includes the requirement to send the notification through 'registered mail with advice of receipt'. The supervisory staff was informed of these changes to the internal procedures and that the standard text of respective templates has been amended. Since the change in practice no new cases have emerged, so the reply to **Q24.2** has been revised from N to NC.

UK – The FSA responded in the affirmative to question 24.1. In relation to question 24.2, the, FSA previously relied on confirmation of the general good provisions as evidencing receipt – a practice also adopted by several other Members. The FSA has changed its practice to specifically request acknowledgement of receipt in relevant FSA template letters. Since the change in practice no new cases have emerged, so the reply to Q24.2 has been revised from N to NC.

Provision 18

1.1.2 (...) The Competent Authority of the Host State shall acknowledge receipt if so requested.

There was 1 question asked in relation to this provision:

25 When acting as the Competent Authority of the Host State do you acknowledge the receipt of branch notifications, when requested?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 25

Not applied: If a negative answer is given to question 25

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK		FI	FR	BG GR UK
How many MS	25	0	1	1	3

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI HU IE IS IT LT LU LV MT NL NO PL PT RO SE SI SK			FR	BG GR LI UK
How many MS	25	0	0	1	4

Changes due to improved understanding/additional verification: LI

Changes due to enhanced compliance: FI

FI – FIN-FSA did not send a separate acknowledge in half of the cases, because the requested information was sent so soon after the notification that they felt it unnecessary to send a separate acknowledgement. Therefore the initial reply was not applied. FIN-FSA informed the Review Panel that

after reorganisation of their authority the acknowledgements are sent immediately so therefore the situation is now fully applied.

HU – PSZÁF stated that it did not *per se* acknowledge receipt of a branch notification, because very shortly after receiving this notification, PSZÁF always provides the CA with the necessary information for the undertaking to commence its operations in Hungary.

Provision 19

1.1.3 The Competent Authority of the Home State shall advise the Undertaking that the information has been sent to the Host State and that activity should not commence in the Host State until the occurrence of either of the events referred to in paragraph III.1.3.1.

There were 2 questions asked in relation to this provision

26 When acting as the Competent Authority of the Home State:

1. Do you inform the Undertaking when the branch notification has been sent to the Host State Competent Authority?
2. Do you inform the Undertaking that it should not commence activities in the Host State until the earliest of the events referred to in III.1.3.1.

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 26.1 and 2

Not applied: If a negative answer is given to questions 26.1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY DE DK EE ES FI FR IE IT LI LU LV MT NL NO RO SE SI UK		CZ HU SK	IS	BG GR LT PL PT
How many MS	21	0	3	1	5

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FR HU IE IT LI LU LV MT NL NO RO SE SI UK		SK		BG FI GR IS LT PL PT
How many MS	22	0	1	0	7

Changes due to improved understanding/additional verification: FI, IS

Changes due to enhanced compliance: CZ

Comment – In order to be classified as having fully applied the provisions of question 26, the respondent had to respond in the affirmative to questions 26.1 and 26.2. Consequently, an affirmative response to only question 26.1 (as was provided in respect of the majority of respondents), does, in the absence of a positive response to question 26.2, result in a 'not applied' classification.

CZ – A new Insurance Act came into force this year. The procedure has been reorganised according to it and now the undertaking is informed that it should not commence activities in the Host State until it receives the general good provisions or the period of 2 months expires. Several new cases have occurred since the respective change in the Insurance Act.

HU – In its initial answer to Q26.2, PSZÁF stated that it did not inform the insurer that it was prohibited from commencing its activities before a specified date (cf. art. III.1.3.1 of the General Protocol), because there was no expressed obligation for PSZÁF to do so, and because such prohibition was already detailed in the Hungarian law; accordingly it was not necessary to draw insurers' attention on a provision they were necessarily already fully aware of.

During the Review by Peers PSZÁF stated that it had amended its procedure although it did not had cases since then. PSZÁF stated that from now on it included this information in the template letter.

Provision 20

1.1.4 In the event of the receipt of an incomplete notification the Competent Authority of the Host State shall immediately inform the Competent Authority of the Home State of the areas in respect of which the information is considered to be incomplete, and request provision of the outstanding information.

There were 2 questions asked in relation to this provision

27 When acting as the Competent Authority of the Host State:

1. Do you inform the Competent Authority of the Home State immediately if an incomplete notification is received?
2. Do you inform the Competent Authority of the Home State of the areas in respect of which the information is considered incomplete and request provision of the outstanding information?

and the benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 27.1 and 2

Not applied: If a negative answer is given to questions 27.1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI GR HU IE IS IT LI LU NL NO PL PT RO SE SI SK			FR	BG LT LV MT UK
How many MS	24	0	0	1	5

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	AT BE CY CZ DE DK EE ES FI GR HU IE IS IT LU NL NO PL PT RO SE SI SK			FR	BG LI LT LV MT UK
How many MS	23	0	0	1	6

Changes due to improved understanding/additional verification: LI

III.1.2 Conditions imposed in the interests of the general good

Provision 21

1.2.1 The Competent Authority of the Host State, shall, within two months from the date of receipt of the notification, communicate, in Written Form, to the head office of the Undertaking and the Competent Authority of the Home State, any conditions under which, in the interests of the general good, the activity must be pursued within the territory of the Host State.

1.2.2 The communication shall also include a reference to the website on which information on general good provisions is available.

(Footnote: In the context of this Protocol, the term "general good provisions" shall be understood in the meaning of the relevant Insurance Directives. However, a Competent Authority will not be expected to provide information on general good provisions which extend beyond those directly relating to the area of financial services.)

There were 4 questions asked in relation to this provision. 2 questions (29a and 29b – marked in blue in the text) were asked for information purposes only in relation to this provision. Hence, there is only a benchmark to the following questions:

28 When acting as the Competent Authority of the Host State:

1. Do you communicate in written form, and within two months of the date of receipt of a branch notification, any general good provisions that will apply to the activities of the branch in your territory to both the head office of the Undertaking and the Competent Authority of the Home State?
2. Does the communication referred to above include a reference to the website on which information on the general good provisions is available?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 28.1 and 2

Not applied: If a negative answer is given to questions 28.1 or 2

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ EE FI IE IS IT LI LT LV NO PT RO SE SK UK		AT BG CY DE DK ES GR HU LU MT PL SI	FR	NL

How many MS	16	0	12	1	1
-------------	----	---	----	---	---

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE BG CZ EE FI IE IS IT LT LV MT NL NO PT RO SE SK UK		AT CY DE DK ES GR HU LU PL SI	FR	LI
How many MS	18	0	10	1	1

Changes due to improved understanding/additional verification: LI

Changes due to enhanced compliance: MT, NL

Comment – In order to be classified as having applied the requirements of question **28.1**, the general good provisions have to be sent to the head office of the undertaking **and** the competent authority. The respondent would be considered to have 'not applied' the provision when, for example, the information was sent only to the competent authority (even if it was intended that the information would be passed by the competent authority to the head office of the undertaking), and/or the information was not specifically sent to the head office of the undertaking (e.g. the general good provisions were sent to the branch).

DE – Only with regard to life insurance the general good provisions are also communicated to the Competent Authority of the Home State. However, BaFin always communicates the general good provisions **to all** competent authorities. Therefore, these should already have the provisions available.

MT – At the time when the self-assessment exercise was undertaken, the MFSA was communicating in writing the general good provisions solely to the Home competent authority. Subsequently, in line with the Protocol requirements, both the insurance undertaking and the Home state competent authority concerned are informed about the applicable general good provisions. In addition, on the 1st July 2009, amendments were also introduced to local insurance legislation,

NL – As of 1 June 2009 DNB established and published (21 July 2009) General Good Provisions. Since then, the general good provisions have been communicated.

29 How many branch notifications did you deal with as:

- a) The Competent Authority of the Home State
- b) The Competent Authority of the Host State

III.1.4 Changes to information concerning the Branch

Provision 22

1.4.1 Where on the basis of changes to the information notified under paragraph III.1.1.1 by the Undertaking, the Home State does not object to the proposed change(s), it shall communicate the information to the Competent Authority of the Host State as soon as possible, and in any event no later than one month after it has received the information from the Undertaking.

There was 1 question asked in relation to this provision

30 When acting as the Competent Authority of the Home State:

Where you do not object to changes regarding an existing branch notification, do you communicate these changes to the Competent Authority of the Host State within one month of receiving the information?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 30

Not applied: If a negative answer is given to question 30

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK ES FI FR HU IE IT LI LU LV MT NO PT SE SI SK UK				BG EE GR IS LT NL PL RO
How many MS	22	0	0	0	8

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK ES FI FR HU IE IT LU LV MT NL NO PT SE SI SK UK				BG EE GR IS LI LT PL RO
How many MS	22	0	0	0	8

Changes due to improved understanding/additional verification: LI, NL

Changes due to enhanced compliance: NL

Provision 23

1.4.2 The Competent Authority of the Host State shall, where considered necessary, communicate in Written Form to the head office of the Undertaking and the Competent Authority of the Home State the conditions, under which, in the interests of the general good, the activities of the Undertaking may be pursued within the Host State, as soon as possible, and in any event no later than one month after it has received the information from the Undertaking. This information shall include the link to the website of the Competent Authority of the Host State where the general good conditions are published.

There were 2 questions asked in relation to this provision

31 When acting as the Competent Authority of the Host State

1. Where necessary, are the general good provisions applicable in the case of a change of branch notification communicated to the head office of the Undertaking and to the Competent Authority of the Home State within one month of receipt of the revised branch information?

2. Does the communication of the applicable general good provisions also include a reference to the website on which information on the general good provisions is available?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 31.1 and 2

Not applied: If a negative answer is given to questions 31.1 or 2

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ DE EE FI GR IT LI LT LV NO PT RO SE UK		AT DK ES HU IE LU SI SK	FR	BE BG CY IS MT NL PL
How many MS	14	0	8	1	7

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ DE EE FI GR IE IT LT LV NL NO PT RO SE SK UK		AT DK ES HU LU SI	FR	BE BG CY IS LI MT PL
How many MS	16	0	6	1	7

Changes due to improved understanding/additional verification: LI, IE

Changes due to enhanced compliance: NL

Comment – In order to be classified as having applied the requirements of **Q31.1**, the general good provisions have to be sent to the head office of the undertaking **and** the competent authority (see comment to **Q28.1**).

III.1.5 Branch Closure

Provision 24

1.5.1 The Competent Authority of the Home State shall notify the Competent Authority of the Host State as soon as possible if business activities will no longer be continued due to the proposed closure of the Branch.

1.5.2 In the event of the closure of the Branch the Competent Authority of the Home State shall inform the Competent Authority of the Host State how the policies underwritten by the Branch will be managed.

1.5.3 The procedure mentioned in paragraph III.1.5.1 shall apply whenever a Branch no longer accepts new business and no longer administers its portfolio of contracts via this Branch.

There were 2 questions asked in relation to this provision

32 When acting as the Competent Authority of the Home State

1. Where a branch is to be closed, or when a branch no longer accepts new business and no longer administers its portfolio of contracts via the branch, do you notify the Competent Authority of the Host State as soon as possible?
2. Where a branch is to be closed, do you notify the Competent Authority of the Host State about how the policies underwritten by the branch will be managed?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 32.1 and 2

Not applied: If a negative answer is given to questions 32.1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE DK ES FI IE IT LI LT LU NO RO SE UK		FR		BG CY EE GR HU IS LV MT NL PL PT SI SK
How many MS	16	0	1	0	13

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE DK ES FI FR IE IT LT LU NL SE UK				BG CY EE GR HU IS LI LV MT NO PL PT RO SI SK
How many MS	15	0	0	0	15

Changes due to improved understanding/additional verification: FR, LI, NO

Changes due to enhanced compliance:

EE – On the basis of the information and explanations received, the reviewers understood that if a branch would be closed, which has not happened until now, the Competent Authority of the Host State (i.e. the State of the branch) would only be informed by the insurance undertaking itself and not by EFSA. The reviewers recognise that the Insurance Activities Act, to which EFSA refers, seems to be in compliance with the Directive requirements, but the reviewers brought to the attention that the Protocol sets some additional requirements to enhance the cooperation between supervisors. Although EFSA considers that they apply the principle of the General Protocol since according to the Estonian Financial Supervision Act they have to co-operate with its counterparts in other Contracting States and other countries and they have to exchange any information that may be in the interest of the counterparty, they informed the Review Panel that their internal procedures will be accordingly revisited to ensure compliance with the General Protocol.

FR – After revising the actual situation during the reference period, ACP changed its reply to Q32.2 from N to Y, leading to a fully applied result. Even though not formalised in the Code des assurances or in any other guideline, ACP confirms they have provided the necessary information as soon as possible.

III.2. Commencing activities by way of freedom to provide services – Direct Insurance**III.2.1 Information to be provided by the Competent Authority of the Home State to the Competent Authority of the Host State****Provision 25**

2.1.1 Where it does not oppose the provision of services in another Member State, the Competent Authority of the Home State shall communicate in Written Form, to the Competent Authority of the Host State, the following information (notification):

- the nature of the risks or commitments which the Undertaking is proposing to cover by way of freedom to provide services;
- the classes of insurance according to the Annexes to the First Non-Life Directive and the Consolidated Life Directive into which these risks or commitments fall;
- the name and address of the head office of the Undertaking;
- where applicable, the name and address of the establishments (other than the head office of the Undertaking), situated in the Member States from which it is planned to provide services;
- a certificate of solvency, in the form provided for in Annex II;
- if the Undertaking is to cover motor vehicle third party risks (class 10, not including carrier's liability), a declaration of membership or a certificate of application for membership (see footnote) of the National Office and of the National Guarantee Fund of the Member State of provision of services and the name and address of the representative for the handling of claims;
- if the Undertaking intends to cover risks relating to legal expenses insurance, the option chosen from those described in Article 3(2) of Directive 87/344/EEC of 22 June 1987.

(Footnote: In this case, the Competent Authority of the Home State shall obtain from the Undertaking a commitment that it will not engage in business concerning this class as long as it has not forwarded the final membership declaration. If this commitment is not honoured, the Competent Authority of the Home State can appraise the reasons put forward.)

There was 1 question asked in relation to this provision

33 When acting as the Competent Authority of the Home State, and when not opposed to the provision of services in another Member State, do you communicate in written form to the relevant Host State authority all information listed under III.2.1.1:

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to all applicable parts of question 33

Not applied: If a negative answer is given to any applicable part of question 33

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI GR HU IE IS IT LT LU LV MT NO PT RO SE SI UK		BG FR LI NL PL SK		
How many MS	24	0	6	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK				
How many MS	30	0	0	0	0

Changes due to improved understanding/additional verification: FR, LI, NL, PL, SK

Comment – In order to be classified as having ‘fully applied’ the relevant provision, the respondent had to respond in the affirmative to **all** seven parts of the question.

FR – During the Review by Peers ACP noticed that the previous answer to Q33f was erroneous. They confirm that they do communicate the necessary information; therefore the reply is changed from N to Y.

LI – There were no cases related to Q33g during the period under review. However, proof of a recent case was provided to the reviewers where information regarding this topic (option chosen regarding legal expenses insurance) was provided to the other CA, which acknowledged receipt at their request. In the meantime the FMA has put into place a procedure to ensure that if such cases occur the information is sent automatically to the CA. The reply is therefore changed from N to Y.

PL – During the Review by Peers PFSA claimed that the initial N responses were due to a misunderstanding and that the information provided to the reviewers was not clear with regard to the actual situation. In their final response PFSA confirmed that they do provide the necessary information according to the Protocol requirements and therefore the responses have been changed to Y.

Provision 26

2.1.2 The information shall be communicated by the Competent Authority of the Home State, as soon as possible, and in any event within one month of having received all necessary information from the Undertaking which intends to carry on business by way of freedom to provide services. The Competent Authority of the Home State shall ensure that the Competent Authority of the Host State receives the complete notification.

There were 2 questions asked in relation to this provision

34 When acting as the Competent Authority of the Home State.

1. Where you do not oppose the provision of services in another Member State, do you communicate a notification within one month of receiving all the necessary information from the Undertaking concerned?
2. Do you ensure that a complete notification has been received by the Competent Authority of the Host State?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 34.1 and 34.2

Not applied: If a negative answer is given to question 34.1 or 34.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CY CZ DE DK ES FI GR HU IE IS IT LI LT LU LV MT PL PT RO SI SK UK		AT BG EE FR NL NO SE		
How many MS	23	0	7	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FR GR HU IE IS IT LI LT LU LV MT NL PL PT RO SE SI SK UK		NO		FI
How many MS	28	0	1	0	1

Changes due to improved understanding/additional verification: AT, EE, FI

Changes due to enhanced compliance: FR, NL, SE

Comment – In order to be classified as having fully applied the provisions of **Q34**, the respondent had to respond in the affirmative to **Q34.1** and **Q34.2**. Consequently, an affirmative response to only **Q34.1** (as was provided in respect of the majority of respondents), does, in the absence of a positive response to **Q34.2**, result in a 'not applied' classification.

NL – DNB did not seek an acknowledgment of the receipt by the other competent authority of notifications. To overcome this issue DNB has changed the procedure and it now includes the requirement to send the notification through 'registered mail with advice of receipt'. The supervisory staff was informed of these changes to the internal procedures and that the standard text of respective templates has been amended. Since the change in practice cases have emerged, so the reply to **Q34.2** has been revised from N to Y.

Provision 27

2.1.2 (...) The Competent Authority of the Host State shall acknowledge receipt if so requested. (Footnote: Evidence of receipt may assume the form of communications between Competent Authorities which take place during the usual course of the notification process.)

There was 1 question asked in relation to this provision

35 When acting as the Competent Authority of the Host State do you acknowledge the receipt of notifications, when requested?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 35

Not applied: If a negative answer is given to question 35

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES GR HU IE IS IT LI LT LU LV MT NO PL PT RO SE SI SK UK		FI	FR	NL
How many MS	27	0	1	1	1

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK			FR	
How many MS	29	0	0	1	0

Changes due to improved understanding/additional verification: NL

Changes due to enhanced compliance: FI

FI – The initial reply was not applied. FIN-FSA has been allocating their resources to the notifications itself to be able to close the cases in time, and did therefore not acknowledge the receipt of these notifications. They informed the Review Panel that now, after the reorganisation of their authority, the acknowledgements have been sent immediately; therefore the situation is now fully applied.

NL – DNB initially responded 'NC' due to the fact that Home States usually do not request a receipt of the notification. Even so, they very quickly respond to incoming notifications. Therefore the response is in it-self the acknowledgement of the receipt of the notification. The reply was therefore changed to Y.

SE – FI has noted that their guidelines in relation to freedom of services do not state that they are to ask the Host Competent Authority to acknowledge receipt of their notification letter. The reason for this is the large number of notifications concerning freedom of services and that the matters are also normally handled by the Host Member States in a swiftly manner. They viewed asking the Host Member States to acknowledge receipt of all the notifications of freedom to provide services as to burdensome in relation to administration and costs.

They will for the future, consider new ways of ensuring this requirement, hoping without putting too much administrative burden and costs on the Authority.

Provision 28

2.1.3 The Competent Authority of the Home State shall advise the Undertaking concerned that the information has been sent to the Host State.

There was 1 question asked in relation to this provision

36 Do you inform the Undertaking concerned when the notification has been sent to the Competent Authority of the Host Member State?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 36

Not applied: If a negative answer is given to question 36

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PT RO SE SI SK UK		PL		
How many MS	29	0	1	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK				
How many MS	30	0	0	0	0

Changes due to enhanced compliance: PL

PL – PFSA describes that they apply the procedures in case of freedom to provide services the same way as for in case of the establishment of branches, i.e. the undertaking is informed about the notification only after PFSA, as Home CA, received the confirmation from the Host CA that the notification was received. It could be understood that their practice and procedures are acceptable from a practical point of view; however, they are not in line with the Protocol, nor the respective Directives.

The purpose of informing the undertaking that the notification has been sent to the Host CA is because this determines the date from which the undertaking is allowed according to the respective Directives to offer its services in that Host MS.

The Reviewers therefore recommended that PFSA should also inform the respective undertaking immediately when the notification is sent to the Host CA. On the basis of this recommendation PFSA has already taken measures to rectify this and currently the required information is sent to the notifying company once the notification is sent to the Competent Authority of the Host State. The reply is therefore changed to Y.

Provision 29

2.1.4 In the event of the receipt of an incomplete notification the Competent Authority of the Host State shall immediately inform the Competent Authority of the Home State of the areas in respect of which the information is considered to be incomplete, and request provision of the outstanding information.

There were 2 questions asked in relation to this provision

37 When acting as the Competent Authority of the Host State:

1. Do you inform the Competent Authority of the Home State immediately if an incomplete notification is received?
2. Do you inform the Competent Authority of the Home State of the areas in respect of which the information is considered incomplete and request provision of the outstanding information?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 37.1 and 2

Not applied: If a negative answer is given to question 37.1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI HU IE IS IT LI LT LV NO PL PT RO SE SI SK UK			FR	BG GR LU MT NL
How many MS	24	0	0	1	5

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI HU IE IS IT LI LT LV NL NO PL PT RO SE SI SK UK			FR	BG GR LU MT

How many MS	25	0	0	1	4
-------------	----	---	---	---	---

Changes due to improved understanding/additional verification: NL

III.2.3 Conditions imposed in the interests of the general good

Provision 30

2.3.1 The Competent Authority of the Host State, shall, as soon as possible after the receipt of the notification, communicate, in Written Form, to the head office of the Undertaking and the Competent Authority of the Home State any conditions, under which, in the interests of the general good, the activity must be pursued within the territory of the Host State.

2.3.2 The communication shall also include a reference to the website on which information on general good conditions is available.

There were 4 questions asked in relation to this provision. 2 questions (39a and 39b – marked in blue in the text) were asked for information purposes only in relation to this provision. Hence, there is only a benchmark to the following questions:

38 When acting as the Competent Authority of the Host State:

1. Do you communicate in written form, as soon as possible after the receipt of a notification, any general good provisions that will apply to the activities pursued within your territory to both the head office of the Undertaking and the Competent Authority of the Home State?
2. Does the communication referred to above include a reference to the website on which information on the general good provisions is available?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 38.1 and 2

Not applied: If a negative answer is given to question 38.1 or 2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE EE ES FI IE IS IT LI LT LV NO PT RO SE UK		AT BG CY CZ DE DK GR HU LU MT PL SI SK	FR	NL
How many MS	15	0	13	1	1

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE BG CZ DK EE ES FI IE IT LI LT LV MT NL NO PT RO SE		AT CY DE GR HU IS LU PL SI	FR	

	SK UK				
How many MS	20	0	9	1	0

Changes due to improved understanding/additional verification: DK, IS, SK

Changes due to enhanced compliance: CZ, MT, NL

Comment – In order to be classified as having applied the requirements of **Q38.1**, the general good provisions have to be sent to the head office of the undertaking **and** the competent authority (see comment to **Q28.1**).

DE – Only with regard to life insurance the general good provisions are also communicated to the Competent Authority of the Home State. However, BaFin always communicates the general good provisions **to all** competent authorities. Therefore, these should already have the provisions available.

39 How many notifications regarding the provision of services did you deal with as:

a) The Competent Authority of the Home State

b) The Competent Authority of the Host State

III.2.5 Changes to information

Provision 31

2.5.1 An Undertaking shall give notice to the Competent Authority of the Home State, in Written Form, of any change to the information notified under paragraph III.2.1.1.

2.5.2 Where on the basis of the new information forwarded by the Undertaking, the Home State does not object to the proposed change(s), it shall communicate the information to the Competent Authority of the Host State, as soon as possible, but in any event no later than one month after it has received the information from the Undertaking.

There was 1 question asked in relation to this provision:

40 When acting as the Competent Authority of the Home State,

where you do not object to changes regarding an existing notification of activity by way of freedom to provide services, do you communicate these changes to the Competent Authority of the Host State within one month of receiving the information?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 40

Not applied: If a negative answer is given to question 40

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI FR IE IS IT LI LU LV MT NL NO PL PT RO SE SI SK UK				BG GR HU LT

How many MS	26	0	0	0	4
-------------	----	---	---	---	---

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI FR IE IS IT LI LU LV MT NL NO PT SE SI SK UK				BG GR HU LT PL RO
How many MS	24	0	0	0	6

Changes due to improved understanding/additional verification: PL, RO

Provision 32

2.5.3 The Competent Authority of the Host State shall, where considered necessary, communicate in Written Form to the head office of the Undertaking and the Competent Authority of the Home State the conditions under which, in the interests of the general good, the activities of the Undertaking may be pursued within the Host State. This information shall include the link to the website of the Competent Authority of the Host State where the general good conditions are published.

There were 2 questions asked in relation to this provision:

41 When acting as the Competent Authority of the Host State:

1. Where considered necessary, do you communicate in written form any general good provisions that will apply to the activities within your territory to both the head office of the Undertaking and the Competent Authority of the Home State?
2. Does the communication referred to above include a reference to the website on which information on the general good provisions is available?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to questions 41.1 and 41.2

Not applied: If a negative answer is given to question 41.1 or 41.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BG DE EE ES FI IE IT LI LT NO PL PT RO SE UK		AT CY CZ DK GR IS LU SI SK	FR	BE HU LV MT NL
How many MS	15	0	9	1	5

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BG CZ DE EE ES FI IE IT LI LT NL NO PL PT RO SE SK UK		AT CY DK GR IS LU SI	FR	BE HU LV MT
How many MS	18	0	7	1	4

Changes due to improved understanding/additional verification: SK

Changes due to enhanced compliance: CZ, NL

Comment – In order to be classified as having applied the requirements of **Q41.1**, the general good provisions have to be sent to the head office of the undertaking **and** the competent authority (see comment to **Q28.1**).

DK – The Danish CA committed to change their procedures in 2011, so that when found necessary they will communicate in written form, including reference to their website, the general good conditions to both the head office of the undertaking and the CA of the Home State. In the near future, the Danish CA will therefore be in accordance with this provision.

Provision 33

2.5.4 The proposed change may be made as soon as the Competent Authority of the Home State has informed the head office of the Undertaking that the proposed change has been notified to the Competent Authority of the Host State, pursuant to paragraph III.2.5.2.

There was 1 question asked in relation to this provision:

42 When acting as the Competent Authority of the Home State

Do you inform the head office of the Undertaking that a proposed change has been notified and that it may commence activity consistent with the changes made?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 42

Not applied: If a negative answer is given to question 42

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI FR GR IE IS IT LI LU LV NO PT RO SE SI SK UK		BG		HU LT MT NL PL
How many MS	24	0	1	0	5

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE DK EE ES FI FR GR IE IS IT LI LU LV NO PT SE SI SK UK				BG HU LT MT NL PL RO
How many MS	23	0	0	0	7

Changes due to improved understanding/additional verification: BG, RO

III.2.6. Cessation of Activities

Provision 34

The Competent Authority of the Home State shall notify the Competent Authority of the Host State as soon as possible if business activities will no longer be continued by freedom to provide services.

There was 1 question asked in relation to this provision:

43 When acting as the Competent Authority of the Home State, and where activity by way of freedom to provide services is to be terminated, do you inform the Competent Authority of the Host State as soon as possible?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 43

Not applied: If a negative answer is given to question 43

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE DK EE ES FI FR HU IE IT LI LT LU LV MT NL NO PL PT RO SE UK				BE BG CY GR IS SI SK
How many MS	23	0	0	0	7

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE DK EE ES FI FR HU IE IT LT LU LV				BE BG CY GR IS LI RO SI SK

	MT NL NO PL PT SE UK				
How many MS	21	0	0	0	9

Changes due to improved understanding/additional verification: LI, RO

III.3. Establishment of a Branch by a Reinsurance Undertaking

III.3.1. Establishment of a Branch by a Reinsurance Undertaking

Provision 35

3.1.1 The Competent Authority of the Home State shall – as far as possible – communicate in Written Form the following information to the Competent Authority of the Host State:

- the name and address of the head office of the Undertaking;
- the address of the Branch, which shall also be that of the General Representative;
- the name and powers of the General Representative;
- the type of reinsurance activity, according to Article 4(2) of the Reinsurance Directive, into which the planned business falls;
- the fulfilment of the solvency requirements.

There were 5 questions asked in relation to this provision:

- 44 When acting as the Competent Authority of the Home State of a reinsurer that wishes to open a branch in another Member State**, do you communicate – as far as possible – in written form to the relevant Host State authority:
- a) the name and address of the head office of the Undertaking.
 - b) the address of the Branch, which shall also be that of the General Representative.
 - c) the name and powers of the General Representative.
 - d) the type of reinsurance activity, according to Article 4(2) of the Reinsurance Directive, into which the planned business falls.
 - e) the fulfillment of the solvency requirements.

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 44 a to e

Partially applied: If a positive answer is given to, at least 44 a, b and e

Not applied: If a negative answer is given to question 44 a, b or e

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK EE FR LI LU SE SI UK			IE	AT BE BG CZ ES FI GR HU IS IT LT LV MT NL NO PL PT RO SK
How many MS	10	0	0	1	19

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK FR IE LU UK				AT BE BG CZ EE ES FI GR HU IS IT LI LT LV MT NL NO PL PT RO SE SI SK
How many MS	7	0	0	0	23

Changes due to improved understanding/additional verification: EE, IE, LI, SE, SI,

LI – Due to clarification of the actual situation during the Review by Peers, the correct reply is NC.

Provision 36

3.1.2 The information shall be communicated by the Competent Authority of the Home State within one month after having received information from the Undertaking, of its intention to establish a Branch in the territory of another Member State.

There was 1 question asked in relation to this provision:

45 When acting as the Competent Authority of the Home State, do you communicate the information within one month of receiving all the necessary information from the Undertaking concerned?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 45

Not applied: If a negative answer is given to question 45

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK EE FR IS LI LU NL SE SI UK			IE	AT BE BG CZ ES FI GR HU IT LT LV MT NO PL PT RO SK
How many MS	12	0	0	1	17

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK FR IE LU UK				AT BE BG CZ EE ES FI GR HU IS IT LI LT LV MT NL NO PL PT RO SE SI SK

How many MS	7	0	0	0	23
-------------	---	---	---	---	----

Changes due to improved understanding/additional verification: EE, IE, IS, LI, NL, SE, SI,

LI – As for Q44, due to clarification of the actual situation during the Review by Peers, the correct reply is NC.

Provision 37

3.2 Changes to information

Any proposed change to the information submitted pursuant to paragraph III.3.1.1 shall be – as far as possible – communicated by the Competent Authority of the Home State to the Competent Authority of the Host State as soon as possible, and in any event no later than one month after having received the information from the Undertaking.

There was 1 question asked in relation to this provision:

46 When acting as the Competent Authority of the Home State, do you communicate – as far as possible – changes to information within one month of receiving all the information from the Undertaking concerned?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 46

Not applied: If a negative answer is given to question 46

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK EE FI FR LI LU NL SE SI		IS	IE	AT BE BG CZ ES GR HU IT LT LV MT NO PL PT RO SK UK
How many MS	11	0	1	1	17

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CY DE DK FR IE LU				AT BE BG CZ EE ES FI GR HU IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK
How many MS	6	0	0	0	24

Changes due to improved understanding/additional verification: EE, FI, IE, IS, LI, NL, SE, SI

LI – As for Q44 & 45, due to clarification of the actual situation during the Review by Peers, the correct reply is NC.

Provision 38

3.3 Branch Closure

The Competent Authority of the Home State shall notify the Competent Authority of the Host State if business activities will no longer be continued due to the proposed closure of the Branch.

There were 3 questions asked in relation to this provision. 2 questions (48a and 48b – marked in blue in the text) were asked for information purposes only in relation to this provision. Hence, there is only a benchmark to one question.

47 When acting as the Competent Authority of the Home State, do you notify the Competent Authority of the Host State where business activities will no longer be continued due to the proposed closure of the Branch?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 47

Not applied: If a negative answer is given to question 47

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE DK EE FI LI LU NL SE SI		FR	IE	AT BE BG CY CZ ES GR HU IS IT LT LV MT NO PL PT RO SK UK
How many MS	9	0	1	1	19

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE DK LU		FR		AT BE BG CY CZ EE ES FI GR HU IE IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK
How many MS	3	0	1	0	26

Changes due to improved understanding/additional verification: EE, FI, IE, LI, NL, SE, SI

FR – ACP does currently not comply with this requirement, because unlike the similar provision of art. III.1.5.1 applicable to the closure of a branch of a direct insurer (**Q32**), the provision of art. III.3.3 relating to the closure of a branch of a reinsurer isn't supported by any provision of EU directives.

Although ACP commits to comply with this provision from January 2011 on, they question whether the provision of such information is appropriate given that reinsurance is a business to business activity.

LI – As for Q44, 45 & 46, due to clarification of the actual situation during the Review by Peers, the correct reply is NC.

- 48** How many reinsurance branch notifications did you deal with as:
a) The Competent Authority of the Home State
b) The Competent Authority of the Host State

III.4. Information on planned business, risks and commitments

Provision 39

4.1 The Competent Authority of the Host State may ask the Competent Authorities of the other Member States for the information that it wishes to receive in addition to that specified in paragraphs III.1.1.1 and III.2.1.1. Any such request should be proportionate to the type of business, risks or commitments that an Undertaking intends to cover or contract on its territory.

4.2 The Competent Authority of the Home State shall inform the Undertaking of the request.

There were 2 questions asked in relation to this provision. 1 question (50 – marked in blue in the text) was asked for information purposes only in relation to this provision. Hence, there is only a benchmark to one question.

- 49** When acting as the Competent Authority of the Home State, do you make undertakings in your jurisdiction aware of the need to supply additional information in respect of applications to passport where this has been requested by the Competent Authority in another Member State and is proportionate by reference to the type of business, risks or commitments the Undertaking intends to cover?

The benchmarks for the assessment are:

Fully applied: If a positive answer is given to question 49

Not applied: If a negative answer is given to question 49

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE DK EE ES FI HU IE LI LU MT PL RO SK		NL		BG CY FR GR IS IT LT LV NO PT SE SI UK
How many MS	16	0	1	0	13

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	----------------------	--------------------------	--------------------	-----------------------	-----------------

Which MS	AT BE CZ DE EE ES FI HU IE LU MT NL PL RO SK				BG CY DK FR GR IS IT LI LT LV NO PT SE SI UK
How many MS	15	0	0	0	15

Changes due to improved understanding/additional verification: DK, LI, NL

50 When acting as the Competent Authority of the Host State.

Have you informed the Competent Authorities in other Member States of your expectations in terms of the provision of additional information in respect of certain notifications?

Provision 40

4.3 The Competent Authority of the Home State, shall, where possible, include the additional information with the notification relating to the opening of a Branch, or to the pursuit of business by way of freedom to provide services or to the communication of a change.

There was 1 question asked in relation to this provision:

51 When acting as the Competent Authority of the Home State, do you – where possible – include the requested additional information with the notification relating to the opening of a Branch, or to the pursuit of business by way of freedom to provide services or to the communication of a change.

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 51

Not applied: If a negative answer is given to question 51

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE DK EE ES FI FR HU IT LI MT PT SI		IE	NO	BE BG CY GR IS LT LU LV NL PL RO SE SK UK
How many MS	14	0	1	1	14

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE DK EE ES FI FR HU IE IT MT SI			NO	BE BG CY GR IS LI LT LU LV NL PL PT RO SE SK UK

How many MS	13	0	0	1	16
-------------	----	---	---	---	----

Changes due to improved understanding/additional verification: IE, LI, PT

PT – The Review Panel was informed that within the time reference of the questionnaire no competent authority of the host member state asked for additional information. The first answer (Y) resulted from an incorrect understanding of the question; therefore, the correct answer is no cases.

Provision 41

4.4 If the Undertaking is not in a position to provide the additional information, the Competent Authority of the Home State shall inform the Competent Authority of the Host State.

There was 1 question asked in relation to this provision:

52 When acting as the Competent Authority of the Home State, do you inform the Competent Authority in a Host State in every case where they have asked for additional information but it has not proved possible to supply it?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 52

Not applied: If a negative answer is given to question 52

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ DE DK EE ES FI FR IT LI PL RO SI SK			IE NO	AT BE BG CY GR HU IS LT LU LV MT NL PT SE UK
How many MS	13	0	0	2	15

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ DE DK EE ES FI FR IT PL RO SI SK			NO	AT BE BG CY GR HU IE IS LI LT LU LV MT NL PT SE UK
How many MS	12	0	0	1	17

Changes due to improved understanding/additional verification: IE

III.5. Language, communication means, contact point and list of Notifications

Provision 42

5.1 All information referring to notifications of the establishment of a Branch or the commencement of free provision of services, including information on changes and additional information according to paragraph III.4.1, shall be written in a language which is accepted by the Competent Authority of the Host State, with the exception of the certificate of solvency and any further communication relating to the notification and changes from the Competent Authority of the Home State at the request of the Competent Authority of the Host State, which shall be produced in the language of the Competent Authority of the Home State or in any other language accepted by the Competent Authorities of the Home and the Host State. Competent Authorities should aim to be as flexible as possible in respect of languages in which they will accept notifications.

There was 1 question asked in relation to this provision:

53 When acting as the Competent Authority of the Home State, do you comply with the language requirements set out in 5.1?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 53

Not applied: If a negative answer is given to question 53

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK		FR IE		CZ
How many MS	27	0	2	0	1

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY DE DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK		FR		CZ
How many MS	28	0	1	0	1

Changes due to improved understanding/additional verification: IE

Provision 43

5.2 Each Competent Authority shall establish a contact point for all questions, requests and problems

arising from the notification and changes of cross-border business activities.

There was 1 question asked in relation to this provision:

54 For all Competent Authorities, have you established a contact point for all questions, requests and problems arising from the notification and changes of cross-border business activities?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 54

Not applied: If a negative answer is given to question 54

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK		DK		
How many MS	29	0	1	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK				
How many MS	30	0	0	0	0

Changes due to improved understanding/additional verification: DK

Provision 44

5.3 Each Competent Authority shall inform the CEIOPS Secretariat about

- the details of the contact point (including name, function, postal address, e-mail address, fax and phone number);
- the language(s) in which it will accept documents referring to the notification of cross-border activities;
- the communication means by which it will accept documents referring to the notification of cross-border activities.

5.4 Each Competent Authority shall, as necessary, notify the CEIOPS Secretariat of any changes to the aforementioned information.

There was 1 question asked in relation to this provision:

55 For all Competent Authorities, have you notified the CEIOPS Secretariat of the required details of your contact point, your language requirements, and the communication means by which you will accept documents?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 55

Not applied: If a negative answer is given to question 55

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE EE ES FI FR GR HU IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK		DK IE		
How many MS	28	0	2	0	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK				
How many MS	30	0	0	0	0

Changes due to improved understanding/additional verification: DK, IE

Comment – In order to be classified as having fully applied the provisions of **Q55**, the respondent had to notify **all** information requested.

Provision 45

5.6 The Competent Authority of the Host State should upload on its website a list of all Undertakings which have notified their intention to open a Branch or provide services in that jurisdiction. The information should be updated as necessary.

There were 2 questions asked in relation to this provision:

56 For all Competent Authorities.

1. Does your website include a list of all Undertakings that are authorised to operate in your jurisdiction?
2. Are the details on your website updated each time a new notification is received, or when a change to an existing notification is received?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 56.1 and 56.2

Not applied: If a negative answer is given to question 56.1 or 56.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI FR GR IE IS IT LT LV MT NL NO PL PT RO SE SI SK UK		HU LI LU		
How many MS	27	0	3	0	0

There are no changes in replies after the initial self-assessments.

HU – PSZÁF stated that the website list of EEA insurers which have notified their intention to open a branch or provide services in Hungary was updated every 45 days. This was not compliant with the General Protocol, which provides that the updating should take place after every new notification is received. Following the peer review, PSZÁF stated that they would change their procedure before end 2010, so that the website list will be updated after each notification is received.

LI – The reviewers were informed that FMA's website does not currently have information on undertakings who have notified their intention to provide services in Liechtenstein. Any requests by an interested person to the FMA will be answered after checking with the CA of the home state involved. According to the FMA the reason why such a list is currently not on the website is that they want to reconfirm first with the other CA that the information provided is still up to date. The project to check whether the list is still up to date is intended to be finalised in 2011.

On the reviewers' recommendation FMA, has been contacting the supervisory authorities of the MS to reconfirm the information of insurance undertakings providing cross-border services in LI. They informed the Review Panel that they are currently preparing to publish the respective list of undertakings on their website by end of 2010. They will then send CEIOPS' secretariat the link to the document on their website.

III.6. Conditions imposed in the interests of the general good

Provision 46

6.1 Without prejudice to the provisions laid down in paragraphs III.1.2.1 and III.2.3.1, each Competent Authority shall, in Written Form, advise other Competent Authorities of the general good conditions imposed in its jurisdiction.

There was 1 question asked in relation to this provision:

57 For all Competent Authorities, do you advise other Competent Authorities in written form of the general good conditions imposed in your jurisdiction?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 57

Not applied: If a negative answer is given to question 57

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI GR IE IS LI LT MT NO PL PT RO SE SI UK		HU IT SK	FR LU	LV NL
How many MS	23	0	3	2	2

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI GR IE IS IT LI LT LV MT NL NO PL RO SE SI UK		HU PT SK	FR LU	
How many MS	25	0	3	2	0

The peer review has demonstrated divergent interpretations of this provision. Some Members have interpreted this provision as the obligation to provide all CAs with the general good conditions, whereas others interpreted it as referring only to the CAs relevant for the passporting undertaking. This issue was discussed by the Review Panel and it concluded that it is not possible to determine a correct interpretation on the basis of the current drafting of the Protocol. The Review Panel therefore has considered all interpretations as acceptable. As a result all Members' responses are upgraded to "fully applied":

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK			FR LU	
How many MS	28	0	0	2	0

Provision 47

6.2 Each Competent Authority shall publish an up-to-date list of the general good conditions of the respective jurisdiction on its website, in its own language(s) and/or in English.

There were 2 questions asked in relation to this provision:

58 For all Competent Authorities

1. Is an up-to-date list of the general good conditions available on your website in your own language?
2. Is an up-to-date list of general good conditions available on your website in English?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 58.1 or 58.2

Not applied: If a negative answer is given to question 58.1 and 58.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DK ES FI HU IE IS LI LT LV MT NL NO PL PT RO SE SI SK UK		CY DE EE GR IT	FR LU	
How many MS	23	0	5	2	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DE DK EE ES FI HU IE IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK		CY GR	FR LU	
How many MS	26	0	2	2	0

Changes due to improved understanding/additional verification: EE

Changes due to enhanced compliance: DE, IT

DE – On 1 February 2010 BaFin published the new list of general good provisions (in German and English) on its websites. Thus BaFin is now complying with the GP. The list of the General Good Provisions had to be revised due to numerous and substantial changes in the "VVG - Versicherungsvertragsgesetz" (Insurance Contract Law) and "VAG - Versicherungsaufsichtsgesetz" (Insurance Supervision Act). At the time of the self-assessment this work was not concluded. Therefore, BaFin was assessed as not applying the provision.

IT – At the time of the initial self-assessment, the list of the general good provisions was under revision due to an internal revision of the national legislation requested by the Insurance Code.

Provision 48

6.3 The Competent Authorities shall provide the CEIOPS Secretariat with the links to the general good conditions on their respective websites or on any other relevant websites in their jurisdiction. The CEIOPS Secretariat shall publish these links on the Public Area of the CEIOPS website.

There were 2 questions asked in relation to this provision:

59 For all Competent Authorities

1. Have you provided the CEIOPS Secretariat with the links to the general good conditions on your website?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 59.1

Not applied: If a negative answer is given to question 59.1

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DE DK ES FI HU IE IS LI LT LV MT NL NO PL PT RO SE SI SK UK		CY EE GR IT	FR LU	
How many MS	24	0	4	2	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DE DK EE ES FI HU IE IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK		CY GR	FR LU	
How many MS	26	0	2	2	0

Changes due to improved understanding/additional verification: EE

Changes due to enhanced compliance: IT

IT – At the time of the initial self-assessment, the list of the general good provisions was under revision due to an internal revision of the national legislation requested by the Insurance Code.

- 59** **2.** Where applicable, have you provided the CEIOPS Secretariat with links to general good conditions on other websites in your jurisdiction?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 59.1 and 59.2.

Not applied: If a negative answer is given to question 59.1 and 59.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	LT RO SI		CY DK EE HU IE IT PL	AT BE BG CZ DE ES FI FR GR IS LI LU MT NL NO PT SE SK UK	
How many MS	3	0	7	20	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE LT RO SI		CY HU PL	AT BE BG CZ DE DK EE ES FI FR GR IS IT LI LU MT NL NO PT SE SK UK	
How many MS	4	0	3	22	0

Changes due to improved understanding: DK, EE, IE, IT

III.7. Submission of policy conditions to the Competent Authority of the Host State

Provision 49

7.1 The Competent Authority of the Host State shall inform the Competent Authorities of relevant Member States of instances of compulsory insurance or alternative health insurance, where the general and specific conditions of such policies must be provided to the Competent Authorities of the Host State before they are applied. This information should be updated as soon as new legislation is introduced or the existing one is changed. This information shall include a link to the relevant website of the Competent Authority of the Host State.

There were 3 questions asked in relation to this provision:

60 When acting as the Competent Authority of the Host State

1. Do you inform the Competent Authorities of relevant Member States of instances of compulsory insurance or alternative health insurance where the general or specific conditions of such policies must be provided to the Competent Authorities of the Host State before they are applied?
2. Do you ensure that this information is updated as soon as new legislation is introduced or the existing legislation changed?

3. Do you include in your information to other Competent Authorities a link to your relevant webpage?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 60.1, 60.2 and 60.3

Partially applied: If a positive answer is given to question 60.1 and 60.2, and a negative answer to 60.3

Not applied: If a negative answer is given to question 60.1 and 60.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE EE FI HU IS LU LV NO PT RO SI	AT IE LI MT	DK UK	BG CZ ES FR GR IT NL SE	CY LT PL SK
How many MS	12	4	2	8	4

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE FI HU IE IS LI LU NO PT RO SI UK	MT		BG CZ DK ES FR GR IT NL PL SE SK	CY EE LT
How many MS	14	1	0	12	3

Changes due to improved understanding/additional verification: AT, DK, EE, IE, LV, PL, SK, UK

Changes due to enhanced compliance: LI

DK – This question was misunderstood by FTNET in its initial response. It was clarified to the reviewers that Danish legislation does not name any products (classes) in which the hosted undertaking has to file in the policy conditions to FTNET. The rules that exist regarding the minimum coverage of some products are related to consumer protection and not relevant here. The reply was therefore changed to "not applicable".

LI – FMA confirmed that they do not provide a link to the relevant information, but only the information in paper form. The reviewers suggested to the FMA to provide the link to the relevant information (compulsory insurance or alternative health insurance) to the home Member State (i.e. by including it in the model letter) in order to be compliant. The model letter was immediately amended during the visit to take account of the suggestion.

LV – FCMC concluded that their initial replies had been mistaken. As in Latvia there are no instances of insurance where conditions of policies must be provided to FCMC before they are applied, answers to Q60.1 and Q 60.2 are "not applicable".

MT – MFSA stated that it will be including a link to the Laws of Malta website, where the legislation on compulsory motor insurance may be accessed. Currently, the MFSA is including this link in its letters.

PL – From the PFSA's reply to the additional questions ("the Polish law does not require any provisions of agreement or conditions of the policies to be provided to us as the competent authority before they

may be applied") it appears to the Reviewers that the provision referred to in Q60 is not applicable in Poland. The reply has therefore been changed.

Provision 50

7.2 The other Competent Authorities shall transmit this information to Undertakings wishing to establish a Branch or take up the provision of services in the Member State concerned. The Competent Authorities shall advise that such contracts may not be concluded before the Competent Authority of the Host State is in possession of policy terms and conditions, in the language(s) specified by the Host State's national law.

There were 2 questions asked in relation to this provision:

61 When acting as the Competent Authority of the Home State.

1. Do you transmit to relevant Undertakings information received on instances of compulsory insurance or alternative health insurance where the general or specific conditions of such policies must be provided to the Competent Authority of the Host State before they are applied?
2. Do you advise that such contracts may not be concluded before the Competent Authority of the Host State is in receipt of the policy terms and conditions in the language specified in the Host State's law?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 61.1 and 61.2

Not applied: If a negative answer is given to question 61.1 or 61.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE BG CZ DE DK ES GR LI LT LU LV MT NO PT RO SI SK UK		HU IE	EE FR SE	AT CY FI IS IT NL PL
How many MS	18	0	2	3	7

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE BG CZ DE DK ES GR IE LI LT LU LV MT NO PT RO SI SK UK			FR SE	AT CY EE FI HU IS IT NL PL
How many MS	19	0	0	2	9

Changes due to improved understanding/additional verification: EE, HU, IE

Provision 51

7.3 The Competent Authorities shall provide the CEIOPS Secretariat with the link to the websites where the insurance classes and/or insurance products are listed, for which policy conditions have to be presented to the Competent Authority of the Host State. The aforementioned information shall be updated as necessary. The CEIOPS Secretariat will publish the relevant links on the Public Area of the CEIOPS website.

There were 2 questions asked in relation to this provision:

62 For all Competent Authorities

1. Have you provided the CEIOPS Secretariat with the link to the website on which the insurance classes and/or insurance products concerned are listed?
2. Do you ensure that the information on the website is updated as necessary?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 62.1 and 62.2

Not applied: If a negative answer is given to question 62.1 or 62.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY FI GR IS LI LV MT NL NO PT RO UK		DE DK EE HU IE LU PL SK	BG CZ ES FR IT LT SE SI	
How many MS	14	0	8	8	0

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY DE FI GR IS LI LV MT NL NO PT RO UK		FR HU LU PL SK	BG CZ DK EE ES IE IT LT SE SI	
How many MS	15	0	5	10	0

Changes due to improved understanding/additional verification: DE, FR, IE

DE – The initial response was wrong. The correct link has indeed been provided to CEIOPS.

DK – The initial misunderstanding on the scope of this question was finally clarified by FTNET that they do not have such obligations. The reply was therefore changed to not applicable and they updated the spreadsheet on the CEIOPS website by stating that DK has no applicable conditions.

FR – The information is at the present not available online, but ACP expects to put this information available online by the beginning of 2011. ACP will then provide CEIOPS with the relevant direct link.

IE – ICB is not responsible of the implementation of this kind of rules. CBI provided CEIOPS secretariat with a link to the Health Insurance Authority website.

IS – The response was changed from "N" to "Y". The reviewers concluded that the link on CEIOPS' website¹³ to FME's website (a pdf file) is functional and satisfies the General Protocol requirements. However, as the file to which this link leads is dated 2007, the reviewers requested that FME should ensure to keep this file updated. FME confirmed a minor update to this file and commit to keep it updated in the future.

LU – CaA answered "*not applied*" to this question, but stated that it would take the necessary steps for CEIOPS Secretariat to be provided with a link to the website where are listed those insurance classes / products the conditions of which must be submitted to the CaA as host state before they are applied.

III.8. Representative for the handling of claims

Provision 52

8.1 In the area of motor vehicle liability insurance, Competent Authorities shall co-operate in order to facilitate the ability of the Competent Authority of the Home State to check the reliability and the professional qualification of the claims representative, who is to be appointed in the Host State pursuant to Article 6 of Directive 90/618/EEC or in the other Member States if the Insurance Undertaking is to cover motor vehicle third party risks (class 10, not including carrier's liability) pursuant to Article 4 of the 4th Motor Insurance Directive.

8.2 The requested Competent Authority shall, as far as possible, endeavour to promptly supply the information requested by the Competent Authority of the Home State or confirm that they have no such information.

There were 2 questions asked in relation to this provision:

63 When acting as the Competent Authority of the Host State

1. When requested by the Competent Authority of the Home State, do you as far as possible endeavour to supply promptly the information requested by the Competent Authority of the Home State regarding claims representatives?
2. Where no information is available, do you confirm this fact to the Competent Authority of the Home State?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 63.1 and 63.2

Not applied: If a negative answer is given to question 63.1 or 63.2

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE DK EE ES GR IE LI LV NL PL PT RO SE SI SK UK			FR	AT BG CY CZ FI HU IS IT LT LU MT NO
How many MS	17	0	0	1	12

There are no changes in replies after the initial self-assessments.

¹³ https://www.ceiops.eu/fileadmin/tx_dam/files/supervisory-disclosure/CEIOPS-Classes-and-Products-General%20Protocol.xls

III.9. Discovery of activities not notified**Provision 53**

9.1 If the Competent Authority of a Host State discovers that an Insurance Undertaking has not notified an activity as prescribed in the relevant Directives¹⁸, it shall immediately inform the Competent Authority of the Home State.

9.2 The Competent Authority of the Host State may, in an emergency situation, request the Insurance Undertaking to stop the relevant activity immediately.

There were 2 questions asked in relation to this provision:

64 When acting as the Competent Authority of the Host State.

1. Do you inform the Competent Authority of the Home State immediately when you discover activity taking place in your jurisdiction where an appropriate notification is not in place?
2. Do you request the Undertaking to stop its activity immediately in an emergency situation?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 64.1

Not applied: If a negative answer is given to question 64.1

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE EE IE IT LI MT PL PT RO SE		FI	FR	BG CY CZ DK ES GR HU IS LT LU LV NL NO SI SK UK
How many MS	12	0	1	1	16

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE EE FI IE IT MT PL PT RO SE			FR	BG CY CZ DK ES GR HU IS LI LT LU LV NL NO SI SK UK
How many MS	12	0	0	1	17

Changes due to improved understanding/additional verification: LI

Changes due to enhanced compliance: FI

FI – FIN-FSA receives automatically information from the County Administrative Board on fire protection charges paid. During the reference period they found, when checking this information, that some of the insurers had not made the notification and that FIN-FSA did not inform the Home Authority in cases of "minor importance" where the insurance premium income was less than around

some hundred Euros. FIN-FSA confirmed the Review Panel that nowadays they do inform the Competent Authority of the Home State always, when an appropriate notification is not in place. After the reference period they have again received information from the County Administrative Board on two insurance companies that have not made an appropriate notification and FIN-FSA informed the Home supervisor accordingly.

4.3. Part IV. On-going Supervision of Undertakings Engaged in Business

This part is considered to be a core part of the General Protocol since it deals with the sharing of information and cooperation between supervisory authorities on an on-going basis. It is related to competent authorities being well informed and aware of the developments about the respective undertakings related to undertakings in other Member States, and which could as well influence the situation of undertakings established in other Member States. Information is therefore relevant for all concerned supervisory authorities.

Part IV.2. The exercise of on going prudential supervision over Undertakings

Provision 54

2.2 When the Competent Authority of the Home State makes a decision regarding an on-site inspection in a Branch situated in another Member State, it shall inform the Competent Authority of the Host State, as soon as possible, indicating the:

- name and position of the persons responsible for the investigation;
- dates planned for the action in the Branch;
- reason(s) for the investigation; and
- programme for the proposed investigation.

There were 5 questions asked in relation to this provision:

65 As the Competent Authority of the Home State

- a) Do you inform the Competent Authority of the Host State of an on-site inspection of a branch as soon as possible?
- b) Do you indicate the name and position of the persons responsible for the investigation?
- c) Do you indicate the dates planned for the action in the branch?
- d) Do you indicate the reason(s) for the proposed investigation?
- e) Do you indicate the programme for the proposed investigation?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to questions 65 a to 65 e

Partially applied: If a positive answer is given to 65 a and to, at least, three of the questions 65 b,c,d,e

Not applied: If a negative answer is given to 65 a or if a positive answer is given to 65 a but only two positive answers to 65 b,c,d,e

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE FR IE LU NL		DE ES	RO	AT BE BG CY CZ DK FI GR HU IS IT LI LT LV MT NO PL PT SE SI SK UK

How many MS	5	0	2	1	22
-------------	---	---	---	---	----

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DK EE FR LU NL UK				AT BE BG CY CZ DE ES FI GR HU IE IS IT LI LT LV MT NO PL PT RO SE SI SK
How many MS	6	0	0	0	24

Changes due to improved understanding/additional verification: DK, ES, IE, RO, UK

Changes due to enhanced compliance: DE

General findings – See **Recommendation 15** in Section 3.2. Issues & Recommendations.

DE – When conducting an on-site visit of a branch, Bafin as Home supervisor did not inform, only on request, the Host supervisor about the names of the participating persons because this can be subject to sudden change and they considered this information of minor priority. It neither informed the Host supervisor of the programme for the proposed investigation, because this only refers to the organisational issues.

Bafin therefore did not apply this provision at the time of the self-assessment, but in order to guarantee full application of the General Protocol provisions, BaFin has confirmed it adapted its process handbook (Prozesshandbuch VA) with a full specification of the General Protocols provisions.

NL – DNB has performed on-site inspections of branches of a Dutch insurer in most Member States. In these cases, the Home MSCA has not participated in the inspection. Additionally, DNB invites the competent authority for a meeting before starting the investigation and after the investigation.

NO – On-site inspections in branches are rarely carried out. In the later years representatives from Host supervisor have participated in on-site inspections in the Home state. The Norwegian CA would not rule out future on site inspections in branches.

The Norwegian CA informs the Host minimum 14 days before on-site inspections will take place. There have been no on-site inspections in the period March 2008 – June 2009.

SE – The SE CA has examined its internal procedures and actual practices concerning on-site inspections and has taken actions in order to bring its procedures in line with the provisions of the General Protocol. The SE CA has provided the RP with a translation of guidelines for planning supervision activities. The guidelines are always used when starting a supervision activity. The guidelines have been amended with a paragraph that deals with the CA's obligations (according to the General Protocol) if the planned supervision concerns a Swedish branch in another country or a foreign branch in Sweden. The paragraph also makes reference to a letter to be used when informing the Competent Authority of the host member state of an on-site inspection.

Provision 55

2.5 The Competent Authority of the Host State may take part in the on site inspection. When the Competent Authority of the Host State decides to use the option to participate in the on-site inspection, it shall immediately inform the Competent Authority of the Home State and communicate the name and position of the persons who will participate in the inspection.

There were 2 questions asked in relation to this provision:

66 As the Competent Authority of the Host State

- a) Do you immediately inform the Competent Authority of the Home State in case you have decided to participate in the on-site inspection?
- b) Do you also communicate the name and position of the persons who will participate in the inspection?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 66.a and 66.b

Partially applied: if a positive answer is only given to 66 a

Not applied: If a negative answer is given to question 66.a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BG CZ DE ES FR IT LI LT RO	EE IS			AT BE CY DK FI GR HU IE LU LV MT NL NO PL PT SE SI SK UK
How many MS	9	2	0	0	19

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BG CZ DE EE ES FR IT LT LV				AT BE CY DK FI GR HU IE IS LI LU MT NL NO PL PT RO SE SI SK UK
How many MS	9	0	0	0	21

Changes due to improved understanding/additional verification: IS, LI, RO, LV

Changes due to enhanced compliance: EE

General findings – See **Recommendation 16** in Section 3.2. Issues & Recommendations.

Q66, 67, 68 relate to on-site visits but refer to different situations:

- **Q66** concerns on-site visits to a branch upon the initiative of the Home State and where the Host supervisor decides to participate in these;
- **Q67** concerns on-site visits the Home supervisor conducts in a branch situated in another country;
- **Q68** concerns on-site visits the Host supervisor conducts in a branch situated in the Host State on its own initiative.

EE – The EE CA has informed the RP about a change in its response leading to a result from partially applied to no cases. The initial reply to the self-assessment is due to the misinterpretation of the question and the fact that Insurance Activities Act does not state expressis verbis that the insurer has to be informed of the details of the persons participating in the on-site inspection as well as the fact that there have been no cases. Currently the EE CA's internal procedures are being revisited to state expressis verbis that the names of the persons participating in the inspection will be communicated.

LV – As part of a prior analysis by the Review Panel, FCMC was to verify if the reply to this question was in fact "No Cases", because Latvia was identified as Host State by another MS (being the Home State informing FCMC of an on-site visit of a branch). As a result FCMC informed the Review Panel that the reply should be "Y" to both **Q 66.a** and **Q 66.b**. This reply would mean that FCMC had decided to participate in the on-site visit and that the Host CA communicated to the Competent Authority of EE the names of the persons that would participate in the visit.

Provision 56

2.6 After concluding the on-site inspection, the Competent Authority of the Home State shall communicate the observations from the investigation of the Branch, and any consequences that may arise, to the Competent Authority of the Host State.

There was 1 question asked in relation to this provision:

67 As the Competent Authority of the Home State, do you communicate the observations from the investigation of the Branch, and any consequences that may arise, to the Competent Authority of the Host State?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 67

Not applied: If a negative answer is given to question 67

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE ES NL		DE	RO	AT BE BG CY CZ DK FI FR GR HU IE IS IT LI LT LU LV MT NO PL PT SE SI SK UK
How many MS	3	0	1	1	25

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE IE NL UK				AT BE BG CY CZ DE DK ES FI FR GR HU IS IT LI LT LU LV MT NO PL PT RO SE SI SK
How many MS	4	0	0	0	26

Changes due to improved understanding/additional verification: ES, RO, UK

Changes due to enhanced compliance: DE

Occurrence of actual cases after reference period: IE

Comment – The apparent inconsistency with the initial answers to question 65 is explained by two different factors:

- Inspections where both supervisory authorities were involved and the observations were shared by both during the inspection and therefore there was no need to communicate the final observations. This case was reported as "No cases";
- Some supervisory authorities implemented the policy of only communicating the cases where non-compliances occurred, which was not the case in the inspections performed. This case was reported as "No cases".

General findings – See **Recommendation 17** in Section 3.2. Issues & Recommendations.

DE – When conducting an on-site visit of a branch, BaFin as Home supervisor did not inform, only on request, the Host supervisor about the names of the participating persons because this can be subject to sudden changes and it considered this information of minor priority. It neither informed the Host supervisor of the programme for the proposed investigation, because this only refers to the organisational issues.

BaFin therefore did not apply this provision at the time of the self-assessment, but in order to guarantee full application of the GP provisions, BaFin has confirmed it adapted its process handbook (Prozesshandbuch VA) with a full specification of the GPs provisions.

EE – The EE CA has informed the RP that the Host Supervisor will always be informed of the results. With regard to the results confirming the conformity of the practises of the insurance undertaking with legislation and other legal requirements, the information does not appear to be very detailed. With regard to issues discovered in the course of on-site inspections and needing any extra attention and/or corrective measures, the other relevant Supervisor will be informed in detail.

Part IV.3. Monitoring of compliance with the applicable rules of law

Provision 57

3.3 Where, in order to investigate compliance with the rules of law applicable to a Branch, it is considered necessary to carry out an on-site inspection at the Branch, the Competent Authority of the Host State may carry out such an investigation on its own initiative.

The Competent Authority of the Host State shall inform the Competent Authority of the Home State of its decision as soon as possible, communicating to it the:

- name and position of the persons responsible for the investigation;
- dates planned for the action in the Branch;
- reason for the inspection; and
- proposed programme.

There were 5 questions asked in relation to this provision:

68 As the Competent Authority of the Host State

- a) Do you inform the Competent Authority of the Home State of an on site-inspection of a branch for the purposes of monitoring with the rules of law applying to a Branch as soon as possible?
- b) Do you communicate the name and position of the persons responsible for the investigation?
- c) Do you communicate the dates planned for the action in the branch?
- d) Do you communicate the reason(s) for the proposed investigation?
- e) Do you communicate the programme for the proposed investigation?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 68.a to 68.e

Partially applied: if a positive answer is given to 66 a and to, at least, three of the questions 68 b,c,d,e

Not applied: If a negative answer is given to question 68.a or if a positive answer is given to 68a but only two positive answers to 68 b,c,d,e

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES FI IE RO	EE IS		CZ	AT BE BG CY DE DK FR GR HU IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	4	2	0	1	23

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE ES FI RO	IS			AT BE BG CY CZ DE DK FR GR HU IE IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	4	1	0	0	25

Changes due to improved understanding/additional verification: CZ, IE

Changes due to enhanced compliance: EE

General findings – See **Recommendation 16** in Section 3.2. Issues & Recommendations.

EE – Idem Q66.

Provision 58

3.3. (...) The Competent Authority of the Home State can participate in the on-site inspection. If it chooses to do so, it shall immediately inform the Competent Authority of the Host State, indicating the name and position of the persons who will participate in the inspection.

There were 2 questions asked in relation to this provision:

69 As the Competent Authority of the Home State

- Do you immediately inform the Competent Authority of the Host State if you have chosen to participate in the on-site inspection?
- Do you indicate the name and position of the persons who will participate in the inspection?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 69.a and 69.b

Partially applied: if a positive answer is given to 69.a

Not applied: If a negative answer is given to question 69.a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE			RO	AT BE BG CY CZ DE DK EE ES FI FR GR HU IS IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	1	0	0	1	28

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE				AT BE BG CY CZ DE DK EE ES FI FR GR HU IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	0	29

Changes due to improved understanding/additional verification: RO

Provision 60

3.5 The Competent Authority carrying out the inspection shall inform the other Competent Authority of the observations from the investigation.

There were 2 questions asked in relation to this provision. Each question is benchmarked separately.

70 As Competent Authority of the Host State, do you inform the Competent Authority of the Home State of the observations from the investigations, if an on-site inspection in the branch is performed?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 70

Not applied: If a negative answer is given to question 70

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	EE ES FR IE IS RO			CZ	AT BE BG CY DE DK FI GR HU IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	6	0	0	1	23

There are no changes in replies after the initial self-assessments.

Provision 59

3.4 When, for the purposes of monitoring compliance with the rules of law applying to a Branch or to operations conducted within its territory by way of freedom to provide services, an on-site inspection at the head office of the Undertaking is considered necessary, the Competent Authority of the Host State shall inform the Competent Authority of the Home State. The Competent Authority of the Home State may carry out the investigation.

There were 2 questions asked in relation to this provision. 1 question (73 – marked in blue in the text) was asked for information purposes only in relation to this provision. Hence, there is only a benchmark to one question.

71 As the Competent Authority of the Host State, do you inform the Competent Authority of the Home State that an on-site inspection is considered necessary at the head office of the Undertaking?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 71

Not applied: If a negative answer is given to question 71

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	RO				AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	1	0	0	0	29

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS					AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	0	0	30

Changes due to improved understanding/additional verification: RO

72 As Competent Authority of the Home State, do you inform the Competent Authority of the Host State of the observations from the investigations, if an on-site inspection at the head of the undertakings is performed?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 72

Not applied: If a negative answer is given to question 72

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	SE		ES	RO	AT BE BG CY CZ DE DK EE FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT SI SK UK
How many MS	1	0	1	1	27

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	MT				AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	0	29

Changes due to improved understanding/additional verification: ES, RO, SE

Changes due to enhanced compliance: MT

SE – FI has difficulties to interpret what "kind of observations" should be forwarded to the host supervisor.

73 As the Competent Authority of the Home State, do you carry out the investigation in cases where the Competent Authority of the Host State has informed you that for the purposes of monitoring compliance with the rules of law applying to a Branch or to operations conducted within the its territory by way of freedom to provide services, an on-site inspection at the head office of the Undertaking is considered necessary?

Part IV.4. Procedures in case of non compliance of Undertakings with the rules of law of the Host Member State

Provision 61

4.1 The Competent Authority of the Host State shall send a letter to the head office of the Undertaking, stating the type of infringement(s) observed and the measures to be taken. A copy of the letter shall also be sent to the Competent Authority of the Home State.

Where the operations are engaged in by a Branch, a copy of this letter shall also be sent to the General Representative of the Branch.

There were 2 questions asked in relation to this provision:

74 As the Competent Authority of the Host State, do you send a copy of the letter you have sent to the Undertaking to the Competent Authority of the Home State stating
a) the type of infringement(s) observed?
b) the measures to be taken?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 74.a and 74.b

Partially applied: if a positive answer is only given to 74.a or 74.b

Not applied: If a negative answer is given to question 74.a and 74.b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BG CY DE EE ES IT NO PT RO		AT		BE CZ DK FI FR GR HU IE IS LI LT LU LV MT NL PL SE SI SK UK
How many MS	9	0	1	0	20

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE BG DE EE ES IT NO PT				AT CY CZ DK FI FR GR HU IE IS LI LT LU LV MT

					NL PL RO SE SI SK UK
How many MS	8	0	0	0	22

Changes due to improved understanding/additional verification: BE, CY, RO

Changes due to enhanced compliance: AT

General findings – See **Recommendation 18** in Section 3.2. Issues & Recommendations.

NO – Based on former cases the NO CA does comply with this provision, but not always send the copy of the first letter if the NO CA is not sure whether there is non-compliance.

Provision 62

4.3 If the Undertaking does not do what is required, the Competent Authority of the Host State shall inform the Competent Authority of the Home State and submit to the latter all relevant information, including an assessment of the situation and the supervisory measures proposed.

There were 2 questions asked in relation to this provision:

75 As the Competent Authority of the Host State,

a) do you inform the Competent Authority of the Home State, if the Undertaking does not do what is required?

b) do you also submit to the Competent Authority of the Home State all relevant information, including an assessment of the situation and the supervisory measures proposed, if the Undertaking does not do what is required ?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 75.a and 75.b

Partially applied: if a positive answer is only given to 75.a

Not applied: If a negative answer is given to question 75.a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE EE ES IT PT RO	AT			BE BG CY CZ DK FI FR GR HU IE IS LI LT LU LV MT NL NO PL SE SI SK UK
How many MS	6	1	0	0	23

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE EE ES IT PT	AT			BE BG CY CZ DK FI FR GR

					HU IE IS LI LT LU LV MT NL NO PL RO SE SI SK UK
How many MS	5	1	0	0	24

Changes due to improved understanding/additional verification: RO

LT – LT was identified as a Host State of branches by 2 MS, for which ISC has contacted their Competent Authorities. The reviewers acknowledge the clarification given by ISC and accept that the response remains NC for the reason that the communications related to requests for opinion and clarification rather than informing about non-compliance.

Provision 63

4.3. (...) The Competent Authority of the Home State shall acknowledge receipt of this information.

There was 1 question asked in relation to this provision:

76 As the Competent Authority of the Home State, do you acknowledge receipt of information as referred to art 4.3.?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 76

Not applied: If a negative answer is given to question 76

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE ES PL			RO	BG CY CZ DK EE FI FR GR HU IE IS IT LI LT LU LV MT NL NO PT SE SI SK UK
How many MS	5	0	0	1	24

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE ES LV MT PL UK				BG CY CZ DK EE FI FR GR HU IE IS IT LI LT LU NL NO PT RO SE SI SK
How many MS	8	0	0	0	22

Changes due to improved understanding/additional verification: LV, RO, UK
 Changes due to enhanced compliance: MT

LU – There was a difference of interpretation between CaA and another authority as to know whether cases signalled by the other CA fell, or did not fall, under the scope of the Protocol, in particular art. IV.4.1. CaA believed it didn't and accordingly answered "*no cases*" to Q76. The Peer Review Panel considered that the cases submitted by the other CA did fall under the provisions of the Protocol. Accordingly CaA's answer to Q76 could not have been "*no cases*". Nonetheless, since CaA complied with the provisions of the protocol when it processed those cases (acknowledgement of receipt in the terms provided for by Art. IV.4.3, etc.), the answer to Q76 should be "*fully applied*". CaA remains the original reply of no cases.

LV – As part of a prior analysis by the Review Panel, FCMC was requested to verify if the reply to this question was really "No Cases", because LV was identified as Home State by another MS which is the Host State, informing FCMC of the fact that a particular undertaking does not rectify its situation of non-compliance. As a result FCMC informed the Review Panel that the reply should be "Y" to Q 76.

UK – This question asked whether respondents acknowledge receipt of information regarding an infringing undertaking, when received from the Competent Authority of the Home State. The FSA changed its initial 'no cases' response to 'yes'. The FSA has procedures in place which outline the responsibilities of relevant persons in this context.

Provision 64

4.4 The Competent Authority of the Home State shall take all appropriate measures to ensure that the Undertaking terminates the irregular situation. It shall inform the Competent Authority of the Host State of the measures that have been taken and, if applicable, explain why these measures deviate from those proposed in the assessment of the Competent Authority of the Host State.

There were 2 questions asked in relation to this provision:

77 As the Competent Authority of the Home State,

- a) do you inform the Competent Authority of the Host State of the measures that have been taken to ensure that the Undertaking terminates the irregular situation?
- b) do you explain (if applicable) why these measures deviate from those proposed by the Competent Authority of the Host State?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 77a (and if applicable to 77b)

Partially applied: If a positive answer is given to 77a (and a negative answer to 77b, if applicable)

Not applied: If a negative answer is given to question 77 a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE ES FR IT PL			RO	BG CY CZ DK EE FI GR HU IE IS LI LT LU LV MT NL NO PT SE SI SK UK
How many MS	7	0	0	1	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE ES FR MT PL RO				BG CY CZ DK EE FI GR HU IE IS IT LI LT LU LV NL NO PT SE SI SK UK
How many MS	8	0	0	0	22

Changes due to improved understanding/additional verification: IT, RO
Occurrence of actual case after reference period: MT

Provision 65

4.5 If the Undertaking persists in infringing the general good conditions of the Host State, or if the Competent Authority of the Host State considers the measures taken by the Competent Authority of the Home State to be inadequate or lacking, the former may take appropriate measures to terminate the irregular situation. It shall, wherever possible, inform the Competent Authority of the Home State of the measures in advance, or, in any event, as soon as possible after the measures have been taken.

There were 2 questions asked in relation to this provision:

78 As the Competent Authority of the Host State,

- a) do you inform the Competent Authority of the Home State, whenever possible, in advance of the measures you are going to take if the Undertaking persists in infringing the general good conditions of your State ?
- b) or do you inform the Competent Authority of the Home State in any event as soon as possible after the measures have been taken if the Undertaking persists in infringing the general good conditions of your State?

The benchmarks for the assessment were:

Fully applied: If a positive answer is either given to 78 a or b

Not applied: If a negative answer is given to question 78 a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE EE ES IT SI				AT BE BG CY CZ DK FI FR GR HU IE IS LI LT LU LV MT NL NO PL PT RO SE SK UK
How many MS	5	0	0	0	25

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES SI				AT BE BG CY CZ DE DK EE FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SK UK
How many MS	2	0	0	0	28

Changes due to improved understanding/additional verification: DE, EE, IT,

Provision 66

4.5 (...) Notwithstanding the procedure defined above, in emergencies, the Competent Authority of the Host State may take any appropriate measures, under the conditions defined in the above paragraph, to prevent irregularities committed on its territory. In this case, it shall immediately inform the Competent Authority of the Home State.

These measures shall be notified in Written Form, simultaneously to the head office of the Undertaking and, where appropriate, to the Branch concerned. The measures may, in particular, include a prohibition on the Undertaking from continuing to conclude new (re)insurance contracts in the territory of the Member State concerned, or any other measure provided for by national legislation. The rationale for the invocation of the measures must be explained in the notification. The notification may be drafted in the language of the Host State.

There was 1 question asked in relation to this provision:

79 As the Competent Authority of the Host State, do you immediately inform the Competent Authority of the Home State, if you have taken in emergencies any appropriate measures to prevent irregularities committed in your territory by the Undertaking?

The benchmarks for the assessment were:

Fully applied: If a positive answer is either given to 79

Not applied: If a negative answer is given to question 79

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE ES IT				AT BE BG CY CZ DE DK FI FR GR HU IE IS LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	3	0	0	0	27

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES				AT BE BG CY CZ DE DK EE FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	0	29

Changes due to improved understanding/additional verification: EE, IT

Provision 67

4.6 When the irregular situation constitutes an infringement of the law or regulations in force in the Host State, the procedure defined above does not prevent the application of national penalties, as provided for by the laws of the Member States concerned.

The Competent Authority of the Host State shall immediately inform the Competent Authority of the Home State when a national penalty procedure is initiated.

There was 1 question asked in relation to this provision:

80 As the Competent Authority of the Host State, do you immediately inform the Competent Authority of the Home State when a national penalty procedure is initiated against the Undertaking?

The benchmarks for the assessment were:

Fully applied: If the information is sent

Not applied: If the information is not sent

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE IT		ES PT		AT BE BG CY CZ DE DK FI FR GR HU IE IS LI LT LU LV MT NL NO PL RO SE SI SK UK
How many MS	2	0	2	0	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS			ES		AT BE BG CY CZ DE DK EE FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	1	0	29

Changes due to improved understanding/additional verification: EE, IT–
Changes due to improved compliance: PT

PT – ISP ensures that all issues raised in such communications are appropriately recorded in the system and addressed. The department which is competent for the penalty procedure has included that communication in the system, although from July 2009 until the present date no concrete situation has occurred that required ISP as Competent Authority of the Host State, to inform the Competent Authority of the Home State.

Part IV.5. Portfolio transfer

General findings – See **Recommendations 19 and 20** in Section 3.2. Issues & Recommendations.

IV.5.1 Transfer of portfolio of contracts of Insurance Undertakings

Provision 68

5.1.1 Before an Insurance Undertaking is authorised under the conditions laid down by its national law to transfer all or part of its portfolio of contracts to an accepting Insurance Undertaking, the Competent Authority of the Home State of the transferring Insurance Undertaking Shall

- consult the Competent Authority of the Host State of the Branch whose portfolio is to be transferred; and
- obtain the agreement of the Competent Authority(ies) of the Member State(s) of risks or commitments.

There were 2 sets of questions asked in relation to this provision. Each set is benchmarked separately:

83 As the Competent Authority of the Home State of a transferring Insurance Undertaking,

- a) do you consult the Competent Authority of the Host State of the Branch whose portfolio is transferred?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 83a

Not applied: if a negative answer is given to 83a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE ES FI GR IE IT LI NL NO SE UK			FR RO	AT BG CY CZ DK EE HU IS LT LU LV MT PL PT SI SK
How many MS	12	0	0	2	16

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE ES FI GR IE IT LT NO SE SK UK			FR	AT BG CY CZ DK EE HU IS LI LU LV MT NL PL PT RO SI
How many MS	12	0	0	1	17

Changes due to improved understanding/additional verification: LI, LT, NL, RO, SK

- 83** b) do you obtain the agreement of the Competent Authority(ies) of the Member State(s) of risks and commitments?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 83b

Not applied: if a negative answer is given to 83b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE EE ES FI GR IE IT LI LU LV NL NO PL PT SE UK			FR RO	AT BG CY CZ DK HU IS LT MT SI SK
How many MS	17	0	0	2	11

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE EE ES FI GR IE IT LU LV NO PL PT SE SK UK			FR	AT BG CY CZ DK HU IS LI LT MT NL RO SI
How many MS	16	0	0	1	13

Changes due to improved understanding/additional verification: LI, NL, SK, RO

Provision 69

5.1.2 These opinions and agreements shall be given as soon as possible, and in any event no later than three months after the date of receipt of the request. The Competent Authority of the Host State shall acknowledge receipt if so requested. Once this period has expired, the opinion shall be considered positive or agreement shall be deemed to have been given.

There were 2 questions asked in relation to this provision:

82 As the Competent Authority of the Host State,

- a) do you give your opinions and agreements to the request concerning a transfer of portfolio as soon as possible and in any event not later than three months after the date of receipt of the request?
- b) do you acknowledge the receipt of the request if requested?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 82a and b

Partially applied: If a positive answer is given to 82 a)

Not applied: if a negative answer is given to 82a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DE EE ES IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI UK	FI HU		FR	CY DK GR SK
How many MS	23	2	0	1	4

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CY CZ DE EE ES FI HU IE IS IT LI LT LU LV MT NL NO PL PT SE SI SK UK			FR	DK GR RO
How many MS	26	0	0	1	3

Changes due to improved understanding/additional verification: CY, HU, IE, RO, SK

Changes due to enhanced compliance: FI

Provision 70

5.1.3 When the head office of the accepting Insurance Undertaking and that of the transferring Insurance Undertaking are not in the same Member State, the Competent Authority of the Home State of the transferring Insurance Undertaking, shall also obtain a certificate of solvency from the Competent Authority of the Home State of the accepting Insurance Undertaking, stating that the accepting Insurance Undertaking has the necessary solvency margin, taking account of the transfer. This certificate shall be issued as soon as possible, and in any event no later than three months after the request.

There were 2 questions asked in relation to this provision. Each question is benchmarked separately:

81 As the Competent Authority of the Home State of the transferring Insurance Undertaking, do you obtain a certificate of solvency from the Competent Authority of the Home State of the accepting Insurance Undertaking?

The benchmarks for the assessment were:

Fully applied: if a positive answer is given to 81

Not applied: if a negative answer is given to 81

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ DE EE ES FI GR HU IE IT LI LU LV NL NO PL PT SE SI UK			FR RO	AT BG CY DK IS LT MT SK
How many MS	20	0	0	2	8

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ DE EE ES FI GR HU IE IT LU LV NL NO PT SE SI SK UK			FR	AT BG CY DK IS LI LT MT PL RO
How many MS	19	0	0	1	10

Changes due to improved understanding/additional verification: LI, PL, RO, SK

FI – The responses given by FI to the initial self-assessment questionnaire "Y" to Q 82a) and "N" to Q 82 b) lead to the conclusion that the respective provisions of the General Protocol are partially applied. FI has changed the procedure so that the answer to both 82 a) and b) is YES nowadays, fully applied.

LT – Following a close examination of the replies in this Part of the General Protocol, an inconsistency was identified between two answers, i.e. to **Q.83a** and **Q.90d** of the self-assessment questionnaire. The reply of ISC to the Individual Feedback Report revealed a misinterpretation as to how to treat a case of merger and corresponding transfer of portfolio for the purpose of the questionnaire.

The Reviewers are of the opinion that both Q83a and Q90d should be answered in the affirmative ("Y") even if it concerns the same case.

PL – The reviewers acknowledge the responses provided for these questions. Since the quoted cases occurred before the reference period the reviewers recommended a change in the respective responses in the self-assessment from Y to NC.

84 As the Competent Authority of the Home State of the accepting Insurance Undertaking

a) do you issue the certificate of solvency as soon as possible; and in any event no later than three months after the request?

b) In case the answer was "NO", do you issue the certificate of solvency after the deadline of three months?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 84a

Partially applied: If a positive answer is given to 84b

Not applied: if a negative answer is given to 84a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE EE ES FI IE IT LI LU LV MT NL NO PT SE UK			FR RO	BG DK GR HU IS LT PL SI SK
How many MS	19	0	0	2	9

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CY CZ DE EE ES FI IE IT LU LV MT NL NO PT SE UK			FR	BG DK GR HU IS LI LT PL RO SI SK
How many MS	18	0	0	1	11

Changes due to improved understanding/additional verification: LI, RO

Provision 71

5.1.4 In order to facilitate these measures as a whole, the Competent Authority of the Home State of the transferring Insurance Undertaking shall provide the following minimum information:

a) to the Competent Authority of the Home State of the accepting Insurance Undertaking:

- the draft transfer agreement or the transfer agreement and, if they do not appear in it, the names

<p>and addresses of the transferring Insurance Undertaking and the accepting Insurance Undertaking, the insurance classes and the details of the nature of the risks or commitments to be transferred;</p> <ul style="list-style-type: none"> • the volume of gross and net technical provisions, established on the basis of the contracts to be transferred; • the volume of gross and net written premiums; • the volume of the gross and net burden of claims in non-life insurance; • details of assets transferred; • details of guarantees provided by the transferring Insurance Undertaking or a third party (for example a reinsurance undertaking) to safeguard against deterioration of the reserves corresponding to the transferred business; and • name(s) of the country or countries of the risks or commitments. <p>b) to the Competent Authority of the Host State of the Branch whose portfolio is to be transferred:</p> <ul style="list-style-type: none"> • the draft transfer agreement or the transfer agreement and, if they do not appear in it, the names and addresses of the transferring Insurance Undertaking and the accepting Insurance Undertaking, and the scope of the operation (total or partial transfer of the Branch's portfolio); • arrangements for the settlement of claims in the event of the closure of the Branch following the transfer. <p>c) to the Competent Authority of the Member State of the risks or commitments:</p> <ul style="list-style-type: none"> • the draft transfer agreement or the transfer agreement and, if they do not appear in it, the names and addresses of the transferring Insurance Undertaking and the accepting Insurance Undertaking.
--

There were 3 questions asked in relation to this provision. Each question is benchmarked separately.

85 As the Competent Authority of the Home State of the transferring Insurance Undertaking, do you provide the minimum information:

a) to the Competent Authority of the Home State of the accepting Insurance Undertaking referred to under provision 5.1.4 a)?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 85a

Not applied: If a negative answer is given to either 85a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ DE EE ES FI GR HU IE IT LI LU LV NL NO PT SE UK		PL	FR RO	AT BG CY DK IS LT MT SI SK
How many MS	18	0	1	2	9

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ DE EE ES FI GR HU IE IT LU LV NL NO PT SE UK			FR	AT BG CY DK IS LI LT MT PL RO SI SK

How many MS	17	0	0	1	12
-------------	----	---	---	---	----

Changes due to improved understanding/additional verification: LI, PL, RO

PL – The reviewers acknowledge the responses provided for these questions by the PFSA. Since the quoted cases occurred before the reference period the reviewers recommended a change in the respective responses in the self-assessment from N to NC.

85 As the Competent Authority of the Home State of the transferring Insurance Undertaking, do you provide the minimum information:

b) to the Competent Authority of the Host State of the Branch whose portfolio is to be transferred referred to under provision 5.1.4 b)

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 85b

Not applied: If a negative answer is given to 85b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES FI GR IE IT LI LU NL NO SE UK			FR RO	AT BG CY CZ DK EE HU IS LT LV MT PL PT SI SK
How many MS	13	0	0	2	15

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES FI GR IE IT LU NL NO SE UK			FR	AT BG CY CZ DK EE HU IS LI LT LV MT PL PT RO SI SK
How many MS	12	0	0	1	17

Changes due to improved understanding/additional verification: LI, RO

85 As the Competent Authority of the Home State of the transferring Insurance Undertaking, do you provide the minimum information:

c) to the Competent Authority of the Member State of the risks or commitments referred to under provision 5.1.4 c)

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 85c

Not applied: If a negative answer is given to 85c.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE EE ES FI GR IE IT LI LU NL NO PL PT SE UK			FR RO	BG CY CZ DK HU IS LT LV MT SI SK
How many MS	17	0	0	2	11

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE CZ DE EE ES FI GR IE IT LU NO PT SE UK			FR	AT BG CY DK HU IS LI LT LV MT NL PL RO SI SK
How many MS	14	0	0	1	15

Changes due to improved understanding/additional verification: AT, CZ, LI, NL, PL, RO

PL – The reviewers acknowledge the responses provided for these questions. Since the quoted cases occurred before the reference period the reviewers recommended a change in the respective responses in the self-assessment from Y to NC.

Provision 72

5.1.5 If the Competent Authority of the Home State of the accepting Insurance Undertaking has serious concerns about how that Insurance Undertaking will perform in the future, it shall inform the Competent Authority of the Home State of the transferring Insurance Undertaking of those concerns as soon as they arise, but in any event no later than within a period of three months after it has been consulted.

There were 2 questions asked in relation to this provision:

- 86 As the Competent Authority of the Home State of the accepting Insurance Undertaking,**
- do you inform the Competent Authority of the Home State of the transferring Insurance Undertaking, if you have serious concerns about the future performance of the accepting Insurance Undertaking as soon as these concerns arise, but in any event no later than within the period of three months after you have been consulted?
 - In case the answer was "NO", do you inform the Competent Authority of the Home State of the transferring Insurance Undertaking after the deadline of three months?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 86a

Partially applied: If a positive answer is given to 86b.

Not applied: If a negative answer is given to either 86a and 86b.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT DE NL SE UK			FR RO	BE BG CY CZ DK EE ES FI GR HU IE IS IT LI LT LU LV MT NO PL PT SI SK
How many MS	5	0	0	2	23

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT DE SE UK			FR	BE BG CY CZ DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SI SK
How many MS	4	0	0	1	25

Changes due to improved understanding/additional verification: NL, RO

Provision 73

5.1.6 Where the accepting Insurance Undertaking:

- has not previously taken up the business of direct insurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation; and/or
- will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the State of the Branch; and/or
- will cover the risks or commitments through the provision of services where it has not previously done so;

the relevant Competent Authorities shall co-operate to ensure that, as far as possible, their respective functions can be carried out concurrently, to enable the transfer to take place within a reasonable period.

There were 3 questions asked in relation to this provision:

- 87** a) In case the accepting Insurance Undertaking has not previously taken up the business of direct insurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the transfer takes place within a reasonable time?
- b) In case the accepting Insurance Undertaking will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the State of the Branch, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the transfer takes place within a reasonable time?

c) In case the accepting Insurance Undertaking will cover the risks or commitments through the provision of services where it has not previously done so, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the transfer takes place within a reasonable time?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 87 a to c

Partially applied: If positive answers are only given to two of the questions 87 a to c

Not applied: If negative answers are given

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LI LU PT UK			FR RO	AT BG CY CZ DK EE FI GR HU IE IS LT LV MT NL NO PL SE SI SK
How many MS	8	0	0	2	20

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LU PT UK			FR	AT BG CY CZ DK EE FI GR HU IE IS LI LT LV MT NL NO PL RO SE SI SK
How many MS	7	0	0	1	22

Changes due to improved understanding/additional verification: LI, RO

Provision 74

5.1.7 The Competent Authority of the Home State of the transferring Insurance Undertaking shall communicate its decision to the Competent Authority of the country or countries of risk or commitment and the other authorities which were consulted.

There was 1 question asked in relation to this provision:

88 As the Competent Authority of the Home State of the transferring Insurance Undertaking, do you communicate your decision to the Competent Authority of the country or countries of risk or commitment and the other authorities involved?

The benchmarks for the assessment were:

Fully applied: if positive answer is given to 88

Not applied: If negative answer is given to 88

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE EE ES FI GR HU IT LI LT LU PL PT SE UK		IE	FR RO	BG CY DK IS LV MT NL NO SI SK
How many MS	17	0	1	2	10

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE EE ES FI GR HU IE IT LT LU PL PT SE UK			FR RO	BG CY DK IS LI LV MT NL NO SI SK
How many MS	17	0	0	2	11

Changes due to improved understanding/additional verification: IE, LI

Provision 75

5.1.8 The Competent Authorities of the Member States of risks or commitments shall assist the Competent Authority of the Home State of the transferring Insurance Undertaking or of the accepting Insurance Undertaking, or the transferring Insurance Undertaking or the accepting Insurance Undertaking themselves, at the time of publication of the transfer, in accordance with the law applicable in the States of risks or commitments. The Competent Authorities shall inform each other about the method of publication of the transfer of portfolio provided by their national law.

There was 1 question asked in relation to this provision:

- 89** As a Competent Authority, do you inform the other Competent Authorities about the method of publication of the transfer of portfolio provided by your national law?

The benchmarks for the assessment were:

Fully applied: if positive answer is given to 89

Not applied: If negative answer is given to 89

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE EE ES GR HU IE IS IT LI LT LV			FR LU	BG CY DK FI MT SK

	NL NO PL PT RO SE SI UK				
How many MS	22	0	0	2	6

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE EE ES GR HU IE IS IT LT LV NL NO PL PT RO SE SI UK			FR LU	BG CY DK FI LI MT SK
How many MS	21	0	0	2	7

Changes due to improved understanding/additional verification: LI

Provision 76

5.1.9 In case of a merger of Insurance Undertakings or Insurance and Reinsurance Undertakings, the Competent Authorities shall consult each other in accordance with the procedure laid down for portfolio transfers, and inform each other about the legal consequences of the merger, in particular the validity of existing notifications of cross-border business.

There were 17 questions asked in relation to this provision. Each question is benchmarked separately.

90 As a Competent Authority, do you consult the other Competent Authorities in case of a merger of Insurance or Reinsurance Undertakings in accordance with the procedure laid down for portfolio transfers:

a) **As the Competent Authority of the Home State of a merging Insurance or Reinsurance Undertaking**, do you obtain a certificate of solvency from the Competent Authority of the Home State of the acquiring Insurance or Reinsurance Undertaking?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90a

Not applied: If a negative answer is given to question 90a

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LI LT LV NO PT SE UK		SI	FR IE RO	AT BG CY CZ DK EE FI GR HU IS LU MT NL PL SK
How many MS	11	0	1	3	15

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE ES IE IT LT LV NO PT SK			FR	AT BG CY CZ DE DK EE FI GR HU IS LI LU MT NL PL RO SE SI UK
How many MS	9	0	0	1	20

Changes due to improved understanding/additional verification: IE, LI, RO, SE, SI, SK, UK

90 b) As the Competent Authority of the Host State, do you give your opinions and agreement (consent) to the request concerning a merger as soon as possible and in any event not later than three months after the date of receipt of the request?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90b

Not applied: If a negative answer is given to question 90b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES FI HU IT LI LT LV NO PL RO SE SI UK			FR IE	AT BG CY CZ DK EE GR IS LU MT NL PT SK
How many MS	15	0	0	2	13

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE DE ES FI HU IE IT LT LV NL NO PL PT RO SI SK UK			FR	BG CY CZ DK EE GR IS LI LU MT SE
How many MS	18	0	0	1	11

Changes due to improved understanding/additional verification: IE, LI, NL, PT, SE, SK

90 c) As the Competent Authority of the Host State, do you acknowledge the receipt of the request if requested?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90c

Not applied: If a negative answer is given to question 90c

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES FI IT LI LT LV NO PL RO SE SI UK		HU SK	FR IE	AT BG CY CZ DK EE GR IS LU MT NL PT
How many MS	14	0	2	2	12

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES FI HU IE IT LT LV NL NO PL RO SK UK			CY FR SI	AT BG CZ DK EE GR IS LI LU MT PT SE
How many MS	15	0	0	3	12

Changes due to improved understanding/additional verification: CY, HU, IE, LI, NL, SE, SI, SK

90 d) As the Competent Authority of the Home State of a merging Insurance or Reinsurance Undertaking, do you consult the Competent Authority of the Host State of the Branch which is merged?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90d

Not applied: If a negative answer is given to question 90d

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LI LT NO SE UK			FR IE RO	AT BG CY CZ DK EE FI GR HU IS LU LV MT NL PL PT SI SK
How many MS	9	0	0	3	18

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IE IT LT NO SK			FR	AT BG CY CZ DK EE FI GR

					HU IS LI LU LV MT NL PL PT RO SE SI UK
How many MS	8	0	0	1	21

Changes due to improved understanding/additional verification: IE, LI, RO, SE, SK, UK

LT – After close examination of the replies in this Part of the General Protocol, an inconsistency was identified between two answers, i.e. to **Q.83a** and **Q.90d** of the self-assessment questionnaire. The reply of ISC to the Individual Feedback Report revealed a misinterpretation as to how to treat a case of merger and corresponding transfer of portfolio for the purpose of the questionnaire.

The Reviewers are of the opinion that both Q83a and Q90d should be answered in the affirmative ("Y") even if it concerns the same case.

90 e) As the Competent Authority of the Home State of a merging Insurance Undertaking, do you obtain the agreement (consent) of the Competent Authority(ies) of the Member State(s) of risks and commitments?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90e

Not applied: If a negative answer is given to question 90e

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IE IT LI LT NO PT SE UK			CY FR RO	AT BG CZ DK EE FI GR HU IS LU LV MT NL PL SI SK
How many MS	11	0	0	3	16

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE ES IE LT NO PT SK			FR	AT BG CY CZ DE DK EE FI GR HU IS IT LI LU LV MT NL PL RO SE SI UK
How many MS	7	0	0	1	22

Changes due to improved understanding/additional verification: DE, IT, CY, LI, SE, SK, RO, UK

90 f) As the Competent Authority of the Home State of the acquiring Insurance or Reinsurance Undertaking, do you issue the certificate of solvency as soon as possible; and in any event no later than three months after the request?

g) In case the answer was to 52 f) was "NO", do you issue the certificate of solvency after the deadline of three months?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90f

Partially applied: If a positive answer is given to question 90g

Not applied: If a negative answer is given to question 90f and 90g

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE EE ES IE IT LI LV NO SE UK			FR RO	AT BG CY CZ DK FI GR HU IS LT LU MT NL PL PT SI SK
How many MS	11	0	0	2	17

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE EE ES IE IT LV NL NO SK UK			FR	AT BG CY CZ DK FI GR HU IS LI LT LU MT PL PT RO SE SI
How many MS	11	0	0	1	18

Changes due to improved understanding/additional verification: LI, SK, SE, NL, RO

90 h) As the Competent Authority of the Home State of a merging Insurance or Reinsurance Undertaking, do you provide the minimum information to the Competent Authority of the Home State of the acquiring Insurance or Reinsurance Undertaking referred to under provision 5.1.4a)?

i) **As the Competent Authority of the Home State of the merging Insurance or Reinsurance Undertaking,** do you provide the minimum information to the Competent Authority of the Host State of the Branch which is to be merged referred to under provision 5.1.4b)

j) **As the Competent Authority of the Home State of the merging Insurance Undertaking,** do you provide the minimum information to the Competent Authority of the Member State of the risks or commitments referred to under provision 5.1.4 c)?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90h to j

Not applied: If a negative answer is given to question 90h or 90i or 90j

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE ES IE IT LI LT PT SE UK			FR RO	AT BG CY CZ DK EE FI GR HU IS LU LV MT NL NO PL SI SK
How many MS	10	0	0	2	18

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE DE ES IE IT LT PT SK			FR	AT BG CY CZ DK EE FI GR HU IS LI LU LV MT NL NO PL RO SE SI UK
How many MS	8	0	0	1	21

Changes due to improved understanding/additional verification: LI, RO, SE, SK, UK

90 k) As the **Competent Authority of the Home State of the acquiring Insurance or Reinsurance Undertaking**, do you inform the Competent Authority of the Home State of the merging Insurance or Reinsurance Undertaking, if you have serious concerns about the future performance of the acquiring Insurance or Reinsurance Undertaking as soon as these concerns arise, but in any event no later than within the period of three months after you have been consulted?

l) In case the answer to 52 k) was "NO", do you inform the Competent Authority of the Home State of merging Insurance or Reinsurance Undertaking after the deadline of three months?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90k

Partially applied: If a positive answer is given to question 90l

Not applied: If a negative answer is given to question 90k and 90l

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	DE LI SE			FR IE RO	AT BE BG CY CZ DK EE ES FI GR HU IS IT LT LU LV MT NL NO PL PT SI SK UK
How many MS	3	0	0	3	24

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	SK			FR IE	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL NO PL PT RO SE SI UK
How many MS	1	0	0	2	27

Changes due to improved understanding/additional verification: DE, LI, SE, SK, RO

- 90** m) In case the acquiring Insurance or Reinsurance Undertaking has not previously taken up the business of direct insurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the merger takes place within a reasonable time?
- n) In case the acquiring Insurance or Reinsurance Undertaking will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the State of the Branch, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the merger takes place within a reasonable time?
- o) In case the acquiring Insurance or Reinsurance will cover the risks or commitments through the provision of services where it has not previously done so, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the merger takes place within a reasonable time?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90m to 90 o

Partially applied: If positive answers are only given to two of the questions 90 m to o

Not applied: If negative answers are given

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LT PT RO SE UK			FR IE	AT BG CY CZ DK EE FI GR HU IS LI LU LV MT NL NO PL SI SK
How many MS	9	0	0	2	19

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LT PT RO SK UK			FR IE	AT BG CY CZ DK EE FI GR

					HU IS LI LU LV MT NL NO PL SE SI
How many MS	9	0	0	2	19

Changes due to improved understanding/additional verification: SE, SK

90 p) As the Competent Authority of the Home State of the merging Insurance or Reinsurance Undertaking, do you communicate your decision to the Competent Authority of the country or countries of risk or commitment and the other authorities involved?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90p

Not applied: If a negative answer is given to question 90p

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LT SE UK			FR IE RO	AT BG CY CZ DK EE FI GR HU IS LI LU LV MT NL NO PL PT SI SK
How many MS	7	0	0	3	20

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE ES IT LT SK			FR IE	AT BG CY CZ DK EE FI GR HU IS LI LU LV MT NL NO PL PT RO SE SI UK
How many MS	6	0	0	2	22

Changes due to improved understanding/additional verification: RO, SE, SK, UK

90 q) As a Competent Authority, do you inform the other Competent Authorities about the method of publication of the merger provided by your national law?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 90q

Not applied: If a negative answer is given to question 90q

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE EE ES IE IT LI LT PT RO SE UK			FR LU	AT BG CY CZ DK FI GR HU IS LV MT NL NO PL SI SK
How many MS	12	0	0	2	16

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE DE EE ES IE IT LT PT RO SK			FR LU	AT BG CY CZ DK FI GR HU IS LI LV MT NL NO PL SE SI UK
How many MS	10	0	0	2	18

Changes due to improved understanding/additional verification: LI, SE, SK, UK

LT – idem reference to LT under Q 83 above.

PT – The ISP has interpreted this question as referring to Host competent authority as the competent authority of the acquiring undertaking. However the ISP agrees that if the question is to be interpreted as relating to competent authority of the Host State as the competent authority of the member state of the risk or the commitment, than its answer should be Yes instead of NC.

With regard to the correct interpretation of this question, the reviewers refer to Annex I of the General Protocol which defines "Home State" and Host State". Home State is the Member State in which the head office of the undertaking is situated. Host State is (i) the Member State in which the branch is situated; or (ii) the Member State of the commitment or where the risk is situated; or (iii) the Member State in which a reinsurance undertaking provides services.

On the basis of the definitions and as question 90b refers to Host State, the reviewers interpret the question as referring to the Host State as the competent authority of where the branch is or where the commitment/risk is situated. The question does not refer here to the third definition of Host State, because there is no such requirement to consult under the Protocol.

The reviewers agree with the second interpretation proposed by the ISP, but note it should also include a reference to branches.

SE – Provision IV 5.1.9 of the General Protocol related to consultation in cases of mergers was misinterpreted by FI. FI interpretation of the provision is that it should be applicable to both mergers where the undertakings are authorised in different Member States as well as situations where the undertakings are authorised in the same Member State but where there one or both of the undertakings have commenced activities under the freedom of establishment or the freedom of services. According to the sub-questions of Q.90 it appears that the provisions should only be applicable in the first case mentioned.

SI – Q 90a) refers to Part IV 5.1.9 point of the General Protocol which states that in case of mergers the CA's shall consult each other in accordance with the procedure laid down for portfolio transfers.

Life and non-life directives do not address explicitly the applicable procedure in case of mergers, as a merger is a special portfolio transfer where the transferee (the party eligible to receive the portfolio) is

a new legal entity. The Reviewers team concludes from the different answers of the Slovenian CA that the lack of an explicit legal provision is a legal barrier for them to act upon this part of the Protocol.

With regard to the not applied provisions of the General Protocol, please provide an action plan in which the CA describes the necessary measures (legislative, organisational) and timeframe in order to align the Authority's procedures with the General Protocol provisions.

The reviewers have recommended to ISA to take the necessary measures in order to fully apply the respective General Protocol provisions. The ISA has obliged itself within its competence to recommend to the Ministry of Finance (which is the competent body to prepare amendments of the Insurance Act) to include provision on mergers in the Insurance Act within the next amendment of the Insurance Act (presumably the latest when the Insurance Act will be amended to include provisions of the SII Directive). Until then the ISA will recommend to the CA that merged insurance companies notify merger in the public media.

SK – The correct answer in the self-assessment for the NBS should be changed to Yes as already mentioned in comment to Q83 there was a merge.

UK – This question was concerned with whether the respondents consulted other Competent Authorities in the case of a merger of [re]insurance undertakings in accordance with the procedures of the Protocol dealing with portfolio transfers. In respect of certain sub-questions, the FSA changed its 'yes' response to 'no cases', to reflect the fact that although clear procedures exist within the FSA which are consistent with the Protocol, there were no actual mergers within the reference period.

Provision 77

5.1.10 The authorisation of a transfer under this chapter does not affect the right of Member States to give policyholders the option of cancelling contracts within a fixed period. The Competent Authorities shall inform each other of the circumstances and the period within which contracts can be cancelled according to the provisions of their national law.

There was 1 question asked in relation to this provision:

91 As a Competent Authority, do you inform the other Competent Authorities of the circumstances and the period within which contracts can be cancelled by policyholders according to the provisions of your national law?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 91

Not applied: If a negative answer is given to question 91

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE EE ES IE IT LI LT PT RO SE			DE FR MT UK	AT BG CY CZ DK FI GR HU IS LU LV NL NO PL SI SK
How many MS	10	0	0	4	16

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	BE EE ES IE IT LT PT RO SE			DE FR MT UK	AT BG CY CZ DK FI GR HU IS LI LU LV NL NO PL SI SK
How many MS	9	0	0	4	17

Changes due to improved understanding/additional verification: LI

General findings – See **Recommendations 19 and 20** in Section 3.2. Issues & Recommendations.

Part IV.5.2 Transfer of portfolio of contracts of Reinsurance Undertakings

Provision 78

5.2.1 When the head office of the transferring Reinsurance Undertaking and that of the accepting Undertaking are not in the same Member State, the Competent Authority of the Home State of the transferring Reinsurance Undertaking shall obtain a certificate of solvency from the Competent Authority of the Home State of the accepting Undertaking, stating that the accepting Undertaking has at its disposal the necessary solvency margin, taking into account the transfer.

There was 1 question asked in relation to this provision:

92 As the Competent Authority of the Home State of the transferring Reinsurance Undertaking, do you obtain a certificate of solvency from the Competent Authority of the Home State of the accepting Undertaking?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 92

Not applied: If a negative answer is given to question 92

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE IT LU SE UK		IE	FR RO	AT BE BG CY CZ DK EE ES FI GR HU IS LI LT LV MT NL NO PL PT SI SK
How many MS	5	0	1	2	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE IE IT LU SE UK			FR	AT BE BG CY CZ DK EE ES FI GR HU IS LI LT

					LV MT NL NO PL PT RO SI SK
How many MS	6	0	0	1	23

Changes due to improved understanding/additional verification: RO

Changes due to enhanced compliance: IE

IE – The Protocol has specific provisions covering co-operation between the competent authorities of Member States in the transfer of portfolios of business. In the case of transfers of reinsurance business, it has not been the practice of the Irish SA in respect of reinsurance business transferred from an Irish reinsurer to seek a certificate of solvency from the SA responsible for the accepting reinsurer as required under the Protocol. The certificate of solvency gives some assurance that policyholders of the reinsurer transferring the business will not be prejudiced, and this omission should be addressed.

The General Protocol has specific provisions around portfolio transfers of insurance business. Certain provisions in relation to transfers of reinsurance business have not been met since the General Protocol was amended to cover such companies. Under national legislation there is no requirement on Irish authorised reinsurance companies to notify the CA of a transfer of business to another reinsurance company. In the absence of any impending changes to the legislation the CBI has committed to seek to meet the requirements of the Protocol by amending the CA's internal procedures. It is the CA's intention to require reinsurance companies to notify the CA of any proposed transfers of business where such a transfer takes place within the EEA. Upon notification of same the CA will request a Certificate of Solvency from the relevant competent authority of the accepting undertaking. The CBI will also ask the Department of Finance to have this particular aspect of reinsurance legislation amended.

Provision 79

5.2.1 (...) The certificate of solvency shall, wherever possible, be provided within a period of three months, from the date of receipt of the request.

5.2.2 The Competent Authorities concerned by the transfer of the portfolio of contracts shall cooperate to ensure that, as far as possible, their respective functions can be carried out concurrently to enable the transfer to take place in a reasonable period.

There was 1 question asked in relation to this provision:

93 As the Competent Authority of the Home State of the accepting Undertaking, do you provide the certificate of solvency within a period of three months from the date of receipt of the request?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to question 93

Not applied: If a negative answer is given to question 93

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE IE IT LU MT SE UK			FR RO	AT BE BG CY CZ DK EE ES FI GR HU IS LI LT LV NL NO PL PT

					SI SK
How many MS	7	0	0	2	21

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	DE IE IT LU MT SE UK			FR	AT BE BG CY CZ DK EE ES FI GR HU IS LI LT LV NL NO PL PT RO SI SK
How many MS	7	0	0	1	22

Changes due to improved understanding/additional verification: RO

Provision 80

5.2.3 In order to facilitate these measures as a whole, the Competent Authority of the Home State of the transferring Reinsurance Undertaking shall, wherever possible, provide the following minimum information to the Competent Authority of the Home State of the accepting Undertaking within three months from the date of receipt of the request:

- the draft transfer agreement or the final transfer agreement and, if they do not appear in it, the names and addresses of the transferring Reinsurance Undertaking and the accepting Undertaking, and the type of reinsurance activity provided for under Article 4(2) of the Reinsurance Directive;
- the volume of gross and net technical provisions, established on the basis of the contracts to be transferred;
- the volume of gross and net written premiums;
- the volume of the gross and net burden of claims in non-life reinsurance;
- details of assets transferred;
- details of guarantees provided by the transferring Reinsurance Undertaking or a third party to safeguard against deterioration of the reserves corresponding to the transferred business, if relevant.

There were 6 questions asked in relation to this provision:

- 94 As the Competent Authority of the Home State of the transferring Reinsurance Undertaking**, do you provide to the Competent Authority of the Home State of the accepting Undertaking within three months from the date of the receipt of the request with
- a) the draft transfer agreement or the final transfer agreement and, if they do not appear in it, the names and addresses of the transferring Reinsurance Undertaking and the accepting Undertaking, and the type of reinsurance activity provided for under Article 4(2) of the Reinsurance Directive?
 - b) the volume of gross and net technical provisions, established on the basis of the contracts to be transferred?
 - c) the volume of gross and net written premiums?
 - d) the volume of the gross and net burden of claims in non-life reinsurance?
 - e) details of assets transferred?

f) details of guarantees provided by the transferring Reinsurance Undertaking or a third party to safeguard against deterioration of the reserves corresponding to the transferred business, if relevant?

The benchmarks for the assessment were:

Fully applied: If positive answers are given to 94a to e and 94f if relevant

Partially applied: If positive answers are given to at least four of the questions 94a to f in case 94f is relevant, otherwise three

Not applied: If less than four positive answers are given in case 94f is relevant, otherwise less than three

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE IT LU SE UK		IE	FR RO	AT BE BG CY CZ DK EE ES FI GR HU IS LI LT LV MT NL NO PL PT SI SK
How many MS	5	0	1	2	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE IT LU SE UK			FR	AT BE BG CY CZ DK EE ES FI GR HU IE IS LI LT LV MT NL NO PL PT RO SI SK
How many MS	5	0	0	1	24

Changes due to improved understanding/additional verification: RO

Changes due to enhanced compliance: IE

Provision 81

5.2.4 If the Competent Authority of the Home State of the accepting Undertaking has serious concerns about how that accepting Undertaking will perform in the future, it shall inform the Competent Authority of the Home State of the transferring Reinsurance Undertaking of those concerns as soon as they arise, but in any event not later than within a period of three months after it has been consulted.

There were 2 questions asked in relation to this provision:

95 As the Competent Authority of the Home State of the accepting Undertaking

a) do you inform the Competent Authority of the Home State of the transferring Reinsurance Undertaking, if you have serious concerns about the future performance of the accepting

Insurance Undertaking as soon as these concerns arise, but in any event no later than within the period of three months after you have been consulted?

b) In case you have answered with "NO" do you inform the Competent Authority of the Home State of the transferring Reinsurance Undertaking after the three months deadline?

The benchmarks for the assessment were:

Fully applied: If positive answers are given to 95a

Partially applied: If a positive answer is given to 95a

Not applied: if negative answers are given to 95a and b.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE MT SE			FR IE RO	AT BE BG CY CZ DK EE ES FI GR HU IS IT LI LT LU LV NL NO PL PT SI SK UK
How many MS	3	0	0	3	24

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE MT SE			FR	AT BE BG CY CZ DK EE ES FI GR HU IE IS IT LI LT LU LV NL NO PL PT RO SI SK UK
How many MS	3	0	0	1	26

Changes due to improved understanding/additional verification: RO

Changes due to enhanced compliance: IE

Provision 82

5.2.5 Where the accepting Undertaking:

- has not previously taken up the business of reinsurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation; and/or
- will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the Member State of the Branch;

the relevant Competent Authorities shall co-operate to ensure that, as far as possible, their respective functions can be carried out concurrently, to enable the transfer to take place within a reasonable period.

There were 2 questions asked in relation to this provision:

- 96** In case the accepting Undertaking
- a) has not previously taken up the business of reinsurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the transfer takes place within a reasonable time?
- b) will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the Member State of the Branch?

The benchmarks for the assessment were:

Fully applied: If positive answers are given to 96 and b

Partially applied: If a positive answer is given to 96 or b

Not applied: if negative answers are given to 96a and b.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	LU RO			FR IE	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LV MT NL NO PL PT SE SI SK UK
How many MS	2	0	0	2	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	LU			FR	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	1	28

Changes due to improved understanding/additional verification: RO

Changes due to enhanced compliance: IE

Provision 83

5.2.6 In the case of a merger of Reinsurance Undertakings, the Competent Authorities shall consult each other in accordance with the procedure laid down for portfolio transfers.

There were 12 questions asked in relation to this provision. Each question is benchmarked separately.

97 As the Competent Authority of the Home State of the merging Reinsurance Undertaking, do you obtain a certificate of solvency from the Competent Authority of the Home State of the acquiring Undertaking?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 97

Not applied: if a negative answer is given to 97

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	UK		IE	FR RO	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL NO PL PT SE SI SK
How many MS	1	0	1	2	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS				FR	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	0	1	29

Changes due to improved understanding/additional verification: RO, UK

Changes due to enhanced compliance: IE

98 As the Competent Authority of the Home State of the acquiring Undertaking, do you provide the certificate of solvency within a period of three months from the date of receipt of the request?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 98

Not applied: if a negative answer is given to 98

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE LU MT RO			FR	AT BE BG CY

	UK				CZ DE DK EE ES FI GR HU IS IT LI LT LV NL NO PL PT SE SI SK
How many MS	5	0	0	1	24

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IE LU			FR	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LV MT NL NO PL PT RO SE SI SK UK
How many MS	2	0	0	1	27

Changes due to improved understanding/additional verification: MT, RO, UK

MT – As a result of the Review by Peers of another MS, it appears that MFSA has incorrectly identified this other MS as Home State of the merging reinsurance undertaking for which MFSA has replied in the affirmative to Q98. After cross-checking it was concluded that the case MFSA refers to falls within the scope of Q 93 and not Q 98. Therefore the reply to Q 98 should be No Cases, except if other cases with other authorities have occurred.

- 99 As the Competent Authority of the Home State of the merging Reinsurance Undertaking**, do you provide to the Competent Authority of the Home State of the acquiring Undertaking within three months from the date of the receipt of the request with
- a) the draft merger agreement or the final merger agreement and, if they do not appear in it, the names and addresses of the merging Reinsurance Undertaking and the acquiring Undertaking, and the type of reinsurance activity provided for under Article 4(2) of the Reinsurance Directive?
 - b) the volume of gross and net technical provisions, established on the basis of the contracts to be transferred?
 - c) the volume of gross and net written premiums?
 - d) the volume of the gross and net burden of claims in non-life reinsurance?
 - e) details of assets transferred?
 - f) details of guarantees provided by the merging Reinsurance Undertaking or a third party to safeguard against deterioration of the reserves corresponding to the transferred business, if relevant?

The benchmarks for the assessment were:

Fully applied: If positive answers are given to 99 a to e and 99 f if relevant

Partially applied: If positive answers are given to at least four of the questions 99 a to f in case 99f is relevant, otherwise three

Not applied: If less than four positive answers are given in case 99f is relevant, otherwise less than three

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	UK			FR IE RO	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL NO PL PT SE SI SK
How many MS	1	0	0	3	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS				FR	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	0	1	29

Changes due to improved understanding/additional verification: RO, UK

Changes due to enhanced compliance: IE

100 As the Competent Authority of the Home State of the acquiring Undertaking

a) do you inform the Competent Authority of the Home State of the merging Reinsurance Undertaking, if you have serious concerns about the future performance of the acquiring Reinsurance Undertaking as soon as these concerns arise, but in any event no later than within the period of three months after you have been consulted?

b) In case you have answered with "NO" do you inform the Competent Authority of the Home State of the transferring Reinsurance Undertaking after the three months deadline?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 100 a

Partially applied: If a positive answer is given 100b

Not applied: If negative answers are given to 100a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	MT		IE	DE FR RO	AT BE BG CY CZ DK EE ES FI GR HU IS IT LI LT LU LV NL NO PL PT SE SI SK

					UK
How many MS	1	0	1	3	25

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	MT			FR	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LU LV NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	1	28

Changes due to improved understanding/additional verification: RO, DE

Changes due to enhanced compliance: IE

101 In case the acquiring Undertaking

a) has not previously taken up the business of reinsurance and therefore requires authorisation from the Competent Authority of its Home State or requires an extension of its authorisation, do you as a Competent Authority co-operate with the other Competent Authorities to ensure the merger takes place within a reasonable time?

b) will cover the risks or commitments through a Branch which has yet to be established, or will require an extension of the business which it is entitled to carry on in the Member State of the Branch?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 101 a and b

Partially applied: if a positive answer is given to either 101 a or b

Not applied: If negative answers are given to 101 a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	RO			FR IE	AT BE BG CY CZ DE DK EE ES FI GR HU IS IT LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	1	0	0	2	27

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS				FR	AT BE BG CY CZ DE DK EE ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	0	1	29

Changes due to improved understanding/additional verification: RO,
Changes due to enhanced compliance: IE

Part IV.6. Supervisory measures

IV.6.1 Prohibition of free disposal of assets

Provision 84

6.1.1 The Competent Authority of the Home State shall determine whether to initiate any measure(s) to prohibit the free disposal of the assets of an Undertaking. The Competent Authority of the Home State shall inform the Competent Authority of the Host State of its intention to pursue any such measure(s). The notification and the measure may happen simultaneously where immediate action is required.

6.1.2 The Competent Authority of the Home State shall, in Written Form, inform the Competent Authorities of the Member States where the Undertaking's assets are located, of the assets, disposal of which must be prohibited.

There were 2 questions asked in relation to this provision:

102 As the Competent Authority of the Home State,

- a) do you inform the Competent Authority of the Host State of your intention to pursue any measure(s) to prohibit the free disposal of the assets of an Undertaking?
- b) do you in Written Form, inform the Competent Authorities of the Member States where the Undertaking's assets are located, of the assets, disposal of which must be prohibited?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 102 a and b

Not applied: If negative answers are given to 102 a or b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES FR GR			RO	AT BE BG CY CZ DE DK EE FI HU IE IS IT LI LT LU LV MT NL NO PL PT SE SI SK UK

How many MS	3	0	0	1	26
-------------	---	---	---	---	----

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE GR				AT BG CY CZ DE DK EE ES FI FR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	2	0	0	0	28

Changes due to improved understanding/additional verification: RO, ES

Occurrence of actual cases after reference period: BE

GR – According to the third life and non- life directives the competent Authority of the Home State has to inform the competent Authority of the Host (as a first step) of their intention to pursue any measures etc... unless immediate action is required for which the notification and the measures may happen simultaneously. PISC has taken such measures in the past and has informed all Member States after the prohibition. In these cases the authorities were not informed of the intention. However, in one case another authority was constantly orally informed of the measures before they were applied. PISC confirmed in their response to the evaluation report of the reviewers that they already implemented the necessary internal procedures, so as to inform the host authority of its intention to pursue any measures, which they already applied on a case which emerged after the reference period.

Provision 85

6.1.3 Insofar as it lies within their possibilities, the Competent Authorities of the Member States concerned shall check the existence or the location of certain assets previously identified by the Competent Authority of the Home State, on the basis of data which the latter will have supplied, and on its request.

6.1.4 The Competent Authority to which the request has been made shall prohibit the disposal of the assets and inform the Competent Authority of the Home State of the measures taken. It shall endeavour to provide any assistance required by the Competent Authority of the Home State.

There were 3 questions asked in relation to this provision:

- 103** As the Competent Authority to which a request has been made by the Competent Authority of the Home State to check the existence or the location of certain assets previously identified by the Competent Authority of the Home State, on the basis of data which the latter will have supplied
- a) do you check the existence or the location of these assets in accordance with your possibilities?
 - b) do you prohibit the disposal of the assets?
 - c) do you inform the Competent Authority of the Home State of the measures taken?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 103 a, b and c

Not applied: If negative answers are given to 103 a, or b or c

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES IT RO			UK	AT BE BG CY CZ DE DK EE FI FR GR HU IE IS LI LT LU LV MT NL NO PL PT SE SI SK
How many MS	3	0	0	1	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES IT				AT BE BG CY CZ DE DK EE FI FR GR HU IE IS LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	2	0	0	0	28

Changes due to improved understanding/additional verification: BE, RO, UK

UK – This question asked whether, at the request of the Competent Authority of the Home State, respondents check the existence/location of certain assets and/or prohibit the disposal of the assets. The FSA changed its initial 'non-applicable' response to 'no cases', in order to clarify that the FSA has the legal power to comply with the provisions of this part of the General Protocol.

Clarification was provided by the FSA in a very satisfactory way. As a home Competent Authority the FSA has not asked another Competent Authority to freeze the assets. If and when necessary, the FSA instructs the company and its instructions apply to all assets regardless of where the assets are located. As a host to which a request has been made by the Competent Authority of the Home State the FSA has the powers established in the Directive – although no case ever occurred.

Provision 86

IV.6.2 Plan for the restoration of a sound financial position (Restoration Plan)

6.2.2 The Competent Authority of the Home State shall inform the Competent Authority of the Host State that it has requested a Restoration Plan.

IV.6.3 Short-term finance scheme

6.3.2 The Competent Authority of the Home State shall inform the Competent Authority of the Host

State that it is requesting a short-term finance scheme.

There were 2 questions asked in relation to this provision:

104 As the Competent Authority of the Home State,

a) do you inform the Competent Authority of the Host State if you have requested a Restoration Plan?

b) do you inform the Competent Authority of the Host State if you have requested a Short-term Finance Scheme?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 104 a and b

Not applied: If negative answers are given to 104 a or b

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE ES GR IT		AT HU LU	RO	BG CY CZ DE DK EE FI FR IE IS LI LT LV MT NL NO PL PT SE SI SK UK
How many MS	4	0	3	1	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	BE GR IE IT NL		AT LU		BG CY CZ DE DK EE ES FI FR HU IS LI LT LV MT NO PL PT RO SE SI SK UK
How many MS	5	0	2	0	23

Changes due to improved understanding/additional verification: ES, HU, RO

AT – According to Article 118c (2) Insurance Supervision Act the FMA must inform the respective Home State Authority only in cases where, in connection with a solvency plan or financing plan pursuant to Article 104a paras. 1 and 2, the free disposal of assets is restricted. In order for more information to be passed to the Host State Competent Authority the Insurance Supervision Act would have to be amended.

The reviewers recommend that the FMA develops an action plan to take the necessary measures (legislative and organisational) in order to apply fully the respective General Protocol provisions, including:

- informing the CA of the Host State when FMA has requested an undertaking to provide a restoration plan or short-term finance scheme, irrespective of a meeting of the College (because such meeting could be too late to pass such important information) and irrespective of the fact that the free disposal of assets is restricted; and

- if requested by the CA of the Host State, providing them with the restoration plan or short-term finance scheme itself.

The action plan should formulate concrete deliverables and timeframe.

Provision 87

6.2.2 (...)

[The Competent Authority of the Home State] shall communicate the Restoration Plan to the Competent Authority of the Host State, together with any information which it considers appropriate in the circumstances, on the request of the Competent Authority of the Host State.

6.3.2 (...)

[The Competent Authority of the Home State] shall communicate the short-term finance scheme to the Competent Authority of the Host State, if the latter so requests.

There were 2 questions asked in relation to this provision:

105 As the Competent Authority of the Home State,

a) do you communicate a Restoration Plan to the Competent Authority of the Host State, together with any information which you consider appropriate in the circumstances, on the request of the Competent Authority of the Host State?

b) do you communicate a short-term finance scheme to the Competent Authority of the Host State, if requested by the Competent Authority of the Host State?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 105 a and b

Not applied: If negative answers are given to 105 a or b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IT		ES HU	RO	AT BE BG CY CZ DE DK EE FI FR GR IE IS LI LT LU LV MT NL NO PL PT SE SI SK UK
How many MS	1	0	2	1	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	IT				AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	0	29

Changes due to improved understanding/additional verification: ES, HU, RO

AT – idem Q 104.

ES – Although DGSFP answered "*no cases*" it indicated its intention to improve the provided information, including the content of the plan, if so required by the Host CA, so as to comply with the Protocol.

LU – CaA did not communicate restoration plans to other supervisors, in three cases where CaA had sound reasons to believe that the concerned reinsurers would promptly restore their solvency margins (sound and good repute shareholders, etc) (cf. Q.105).

CaA stated that it would adopt the necessary procedures to ensure that in such future cases, all other concerned supervisors will be informed, even in those cases where the "proportionality principle" could be deemed to waive such information.

Provision 88

IV.6.4 Financial recovery plan

6.4.2 The Competent Authority of the Home State shall inform the Competent Authority of the Host State if it has

- obliged the Undertaking to have a higher required solvency margin; or
- revalued downwards eligible elements of the available solvency margin; or
- decreased the reduction of reinsurance for the calculation of the required solvency margin.

There were 3 questions asked in relation to this provision:

106 As the Competent Authority of the Home State,

- a) do you inform the Competent Authority of the Host State if you have obliged an Undertaking to have a higher required solvency margin?
- b) do you inform the Competent Authority of the Host State if you have revalued downwards eligible elements of the available solvency margin?
- c) do you inform the Competent Authority of the Host State if you have decreased the reduction of reinsurance for the calculation of the required solvency margin?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 106a to c

Partially applied: if positive answers are only given to two of the questions 106 a to c.

Not applied: If more than one negative answer is given to 106 a to c

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	GR		ES NL	RO	AT BE BG CY CZ DE DK EE FI FR HU IE IS IT LI LT LU LV MT NO PL PT SE SI SK UK
How many MS	1	0	2	1	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	GR				AT BE BG CY CZ DE DK EE ES FI FR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	1	0	0	0	29

Changes due to improved understanding/additional verification: ES, NL, RO

Changes due to improved compliance: NL

NL – DNB did not inform the CA of the Host State if they required an insurance company to hold a higher required solvency margin. However DNB has already changed the procedures. DNB will, starting now, inform the other CA in case of (i) an obligation to hold a higher required solvency margin, (ii) a downwards revaluation of the eligible elements of the available solvency margin or (iii) a decrease of the reduction of reinsurance for the calculation of the required solvency margin. A mail was sent to all supervisors with the information on the new procedures and a strong message to them to use it.

IV.6.5 Withdrawal or lapse of authorisation

Provision 89

6.5.2 Except under special circumstances and before withdrawing authorisation in respect of one, several or all the classes for which the Undertaking is authorised, the Competent Authority of the Home State shall inform the Competent Authorities of all Host States of its intention.

There was 1 question asked in relation to this provision:

107 As the Competent Authority of the Home State, do you inform the Competent Authorities of all Host States of your intention to withdraw several or all the classes for which an Undertaking is authorised?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 107

Not applied: If a negative answer is given to 107

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES IT PL		HU	RO	AT BE BG CY CZ DE DK EE FI FR GR IE IS LI LT LU LV MT NL NO PT SE SI SK UK
How many MS	3	0	1	1	25

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ ES IT PL		HU		AT BE BG CY DE DK EE FI FR GR IE IS LI LT LU LV MT NL NO PT RO SE SI SK UK
How many MS	4	0	1	0	25

Changes due to improved understanding/additional verification: CZ, RO

General findings – See **Recommendation 21** in Section 3.2. Issues & Recommendations.

LI – The FMA confirmed that there were no cases of withdrawal of a license during the period under review. The replies should therefore be maintained as "NC".

However, two examples of recent cases of voluntary withdrawals were presented to the reviewers to show compliance by the FMA with these articles of the General Protocol.

Provision 90

6.5.3 The Competent Authority of the Home State shall communicate the decision on withdrawal or the lapse of authorisation to the Competent Authorities of all other Member States in respect of which the Undertaking has exercised rights under the freedom of establishment or the freedom to provide services, and update its website accordingly.

There was 1 question asked in relation to this provision:

108 As the Competent Authority of the Home State, do you communicate the decision on withdrawal or the lapse of authorisation to the Competent Authorities of all other Member States in respect of which the Undertaking has exercised rights under the freedom of establishment or the freedom to provide services, and update your website accordingly?

The benchmarks for the assessment were:

Fully applied: If a positive answer is given to 108

Not applied: If a negative answer is given to 108

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ ES IE IT LI LT PL		HU	RO	BE BG CY DE DK EE FI FR GR IS LU LV MT NL NO PT SE SI SK UK
How many MS	8	0	1	1	20

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	CZ ES HU IE IT LT PL				AT BE BG CY DE DK EE FI FR GR IS LI LU LV MT NL NO PT RO SE SI SK UK
How many MS	7	0	0	0	23

Changes due to improved understanding/additional verification: AT, HU, LI, RO

CZ – The reviewers agreed that the response was changed from NC to Y. Indeed Q107 also applies in case of withdrawal of authorisation on the Undertaking's initiative, cfr. the underlying articles of the respective Directives.

Originally the understanding of the CNB was that Q 107 concerned only cases when the authorisation is withdrawn from the initiative of the Competent Authority (e.g. a sanction) while Q 108 concerned also cases when the authorisation is withdrawn at the request of the Undertaking (e.g. a business decision to terminate provision of some type of services).

The CNB had no case of withdrawal of authorisation from the initiative of the competent authority in the reference period of this Peer Review. Therefore, the response to Q 107 was NC. However, later during the peer review the CNB improved its understanding of the questionnaire regarding the fact that Q 107 also applied to withdrawal of authorisation from the initiative of the Undertaking, therefore the response was change to Y.

In case of withdrawal of authorisation from the initiative of the undertaking all competent authorities are informed before issuing a decision by the CNB (last time this practice was employed in 2008 during AIG transformation to a branch and withdrawing of the licence of the subsidiary)."

HU – PSZÁF initially answered "not applied". After the peer review PSZÁF stated that there was only 1 case during the reference period; PSZÁF stated that contrary to its initial answer, it had then informed the CAs of all member states. PSZÁF also provided the relevant excerpt of its legislation. The assessment can thus be changed into "fully applied".

LI – The FMA confirmed that there were no cases of withdrawal of a license during the period under review. The replies should therefore be maintained as "NC".

However, two examples of recent cases of voluntary withdrawals were presented to the reviewers to show compliance by the FMA with these articles of the General Protocol.

IV.6.6 Application of reorganisation measures and winding-up proceedings of an Insurance Undertaking

Provision 91

6.6.3 The Competent Authority of the Home State shall communicate, as a matter of urgency, the decision on the winding-up or adoption of reorganisation measures to all other Competent Authorities. The information shall include the possible practical effect of such measures.

There were 2 questions asked in relation to this provision:

109 As the Competent Authority of the Home State,

- a) Do you communicate, as a matter of urgency, the decision on the winding-up or adoption of reorganisation measures to all other Competent Authorities?
 b) If yes, does the information include the possible practical effect of such measures?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 109 a and b

Not applied: if a negative answer is given to 109 a or b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	GR IE IT LI SE		ES	RO	AT BE BG CY CZ DE DK EE FI FR HU IS LT LU LV MT NL NO PL PT SI SK UK
How many MS	5	0	1	1	23

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	ES GR IE				AT BE BG CY CZ DE DK EE FI FR HU IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	3	0	0	0	27

Changes due to improved understanding/additional verification: ES, IT, LI, RO, SE

ES – DGSFP also acknowledge that in the case of a decision of winding-up or reorganizing a company, it could improve the information provided on practical effects of such winding-up / reorganisation to other CAs, though it also pointed out that in a number of cases, the effects were self-obvious

IV.7. Right to warn**Provision 92**

7.1 If the Competent Authority of the Host State has reasons to consider that the activities of an Undertaking could adversely affect its financial soundness, it shall inform the Competent Authority of the Home State. If necessary, the Competent Authority of the Home State shall check that the Undertaking concerned is complying with the prudential principles defined by the Directives. It shall in any event respond to the concerns of the Competent Authority of the Host State.

There was 1 question asked in relation to this provision:

110 As the Competent Authority of the Host State, do you inform the Competent Authority of the Home State, if you have reasons to consider that the activities of an Undertaking could adversely affect its financial soundness?

The benchmarks for the assessment were:

Fully applied: if a positive answer is given to 110

Not applied: if a negative answer is given to 110

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE IT LI LT NL RO UK		ES		AT BE BG CY CZ DE DK FI FR GR HU IE IS LU LV MT NO PL PT SE SI SK
How many MS	7	0	1	0	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE IT LT UK				AT BE BG CY CZ DE DK ES FI FR GR HU IE IS LI LU LV MT NL NO PL PT RO SE SI SK
How many MS	4	0	0	0	26

Changes due to improved understanding/additional verification: ES, LI, NL, RO

Provision 93

7.1 (...) It shall in any event respond to the concerns of the Competent Authority of the Host State.

There was 1 question asked in relation to this provision:

111 As the Competent Authority of the Home State, do you in any event respond to such concerns of the Competent Authority of the Host State as mentioned under Question 38?

The benchmarks for the assessment were:

Fully applied: if a positive answer is given to 111

Not applied: if a negative answer is given to 111

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	IT LI			NL RO	AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS LT LU LV MT NO PL PT SE SI SK UK
How many MS	2	0	0	2	26

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS					AT BE BG CY CZ DE DK EE ES FI FR GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI SK UK
How many MS	0	0	0	0	30

Changes due to improved understanding/additional verification: IT, LI, LV, NL, RO

Provision 94

7.2 In cases where a significant part of an Undertaking's overall business is carried out in a Host State the allocation of tasks and responsibilities between the Competent Authorities of the Home and Host States should not prevent the Competent Authority of the Home State from utilising the knowledge of the Competent Authority of the Host State about the local market and risks in order to achieve effective supervision and adequate protection of policyholders.

There was 1 question asked for information purposes only in relation to this provision and hence there are no benchmarks:

112 As the Competent Authority of the Home State, do you utilise the knowledge of the Competent Authority of the Host State about the local market and risks in order to achieve effective supervision and adequate protection of policyholders in cases where a significant part of an Undertaking's overall business is carried out in a Host State?

Provision 95

7.3 In cases where a significant share of a Member State's insurance market is held by an Undertaking located in another Member State, the allocation of tasks and responsibilities between the Competent Authorities of the Home and Host States should not prevent the Competent Authority of the Host State from utilising the knowledge of the Competent Authority of the Home State about the prudential status of the Undertaking in order to achieve effective supervision and adequate protection of policyholders.

There was 1 question asked for information purposes only in relation to this provision and hence there are no benchmarks:

113 As the Competent Authority of the Host State, do you utilise the knowledge of the Competent Authority of the Home State about the prudential status of the Undertaking in order to achieve effective supervision an adequate protection of policyholders in cases where a significant share of a Member State's insurance market is held by an Undertaking located in another Member State?

4.4. Part V. Branches of Undertakings of Third Countries

The General Protocol dedicates its Part V to the authorisation of Branches of Undertakings of Third Countries in which case the Competent Authority of the Undertaking of the Member State where a Third Country Undertaking intends to establish a branch needs to gather all the information necessary for a rigorous examination of the application made. The Competent Authority of the Third Country and those of other Member States with particular links should be consulted and the Competent Authorities of the other Member States need to collaborate when required.

Part V.1. Authorisation of Branches of Undertakings of Third Countries

Provision 96

1.1. The Competent Authority of the Member State where a Third Country Undertaking intends to establish a Branch, shall ask the supervisory authority of the Third Country for any relevant information, in its possession, concerning at least:

- the good repute and the experience of the General Representative or other persons who effectively run the business of the Branch;
- the financial situation of the Third Country Undertaking; and
- the repute and the financial soundness of shareholders, managers and/or other persons who effectively direct the affairs of the business of the Third Country Undertaking.

1.2. In order to identify cases of possible information exchange and cooperation, the Competent Authority responsible for the licensing procedure shall request from the Undertaking applying for a licence information about already existing Branches, subsidiaries, participations pending authorisation procedures or any other links to the EU.

1.3. Where the Third Country Undertaking already has links to the EU, the Competent Authority in charge of the authorisation shall ask the Competent Authorities of the Members States in which the Undertaking has Branches, subsidiaries, participations, pending authorisations procedures or any other interest, for any information in their possession concerning the Third Country Undertaking or its Branches, subsidiaries or participations in the respective Members State, that might be relevant for the licensing procedure.

There were 6 questions asked in relation to this provision.

114 Do you – as the Competent Authority of the Member State where a Third Country Undertaking intends to establish a Branch -, ask the supervisory authority of the Third Country for any relevant information, in its possession in relation with:

- a) the good repute and the experience of the General Representative or other persons who effectively run the business of the Branch;
- b) the financial situation of the Third Country Undertaking
- c) the repute and the financial soundness of shareholders, managers and/or other persons who effectively direct the affairs of the business of the Third Country Undertaking

d) other

115 Do you require from the Undertaking that intends to establish the Branch information about the above mentioned links?

116 Do you require from the Competent Authorities of the other Member States in which you know the Undertaking has one of the above mentioned links for any information in their possession that might be relevant for the licensing procedure?

The benchmarks for the assessment were:

Fully applied: if positive answers are given to 114 a, b, c, 115 and 116

Partially applied: If positive answers are given to a combination of 114 a, b, c, 115 and 116

Not applied: If negative answers to all questions 114, 115 and 116

which gave the following results at the time of the initial self-assessment, corrected for a mistake in the original benchmark calculation:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE IT MT LI SI UK	CZ NL PT RO SK		FR	AT BE BG CY DE DK ES FI GR HU IE IS LT LU LV NO PL SE
How many MS	6	5	0	1	18

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE UK	MT		FR	AT BE BG CY CZ DE DK ES FI GR HU IE IS IT LI LT LU LV NL NO PL PT RO SE SI SK
How many MS	2	1	0	1	26

Changes due to improved understanding/additional verification: CZ, IT, LI, NL, RO, SI, SK

IT – Responses regarding the questions on licensing branches of third countries have been changed from Y to NC because there was a misinterpretation of the questions in the sense that the initial YES answer was referred to the existence of specific law provisions and not to cases actually occurred. Idem for branches of third countries.

LI – CH is treated by LI similar to an EEA country, based on a bilateral Agreement with CH (Abkommen zwischen dem Fürstentum Liechtenstein und der Schweizerischen Eidgenossenschaft betreffend die Direktversicherung sowie die Versicherungsvermittlung). A copy of this Agreement was provided to the reviewers. It intends to stipulate the conditions under which an insurance undertaking in one of the 2 countries may operate in the other via the establishment of a branch or the provision of services and foresees close cooperation and exchange of information between both countries, without any effect regarding the relation of the insurance undertakings established in Switzerland towards the countries of the EU/EEA, or vice versa.

Article 10 of the Annex to the Agreement stipulates that activities within LI of insurance undertakings with their registered office in Switzerland via the establishment of branches or the provision of services are subject to the same provisions as those established in an EEA State. The following Articles 11-15 lay down further rules. Articles 16-26 contain the provisions for the opposite case.

The reviewers discussed thoroughly what assessment would be adequate in this case. It was agreed that the fairest solution in view of the traditionally close relationship between CH and LI seemed an assessment as NC, i.e. not seeing CH as a third country in this context.

LU – During the reference period, CaA had no cases of Third Countries Undertakings intending to establish a branch in Luxembourg. However, had it been the case, CaA's answer to Q114-Q116 suggested that CaA would have applied the "proportionality principle" – that is, it might have waived the Protocol in some cases.

CaA stated that it would review its procedures, ensuring that in such cases it would liaise with every relevant supervisor in the terms provided for by the Protocol.

MT – The Reviewers understand from the explanation provided by MFSA that only the Competent Authority of the Third Country undertaking was requested to submit information and not the undertaking itself with regard to the existence of other branches, subsidiaries etc. in the EU as required by provision 1.2 of the General Protocol. Therefore the correct response to **Q 115** should be "N", which would lead to a "Partially Applied" benchmark for this provision. However, the Reviewers consider that approaching the Competent Authority is an acceptable alternative compared to approaching the undertaking and will suggest that the Review Panel takes this up in the analysis of the common issues in the General Protocol.

PT – The example given is previous to the time-reference of the questionnaire. Those consultations were not mandatory regarding the legal framework applicable to those situations." The response will be changed from partially applied to NC

Provision 97

1.4. The request Competent Authority shall endeavour to provide the information as soon as possible or inform the requesting Competent Authority that it does not have any relevant information.

There were 2 questions asked in relation to this provision.

- 117** a) When requested, do you provide as soon as possible the Competent Authority of the Member State where a Third Country Undertaking intends to establish a Branch with any relevant information in your possession?
b) In case you do not have any such information, do you inform as soon as possible the requesting Authority of this?

The benchmarks for the assessment are:

Fully applied: if positive answers are given to 117 a or b

Not applied: If negative answers to all questions 117 a and b

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	EE LI SK UK			FR	AT BE BG CY CZ DE DK ES FI GR HU IE IS IT LT LU LV MT NL

					NO PL PT RO SE SI
How many MS	4	0	0	1	25

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
--	---------------	-------------------	-------------	----------------	----------

Which MS	EE SK			FR	AT BE BG CY CZ DE DK ES FI GR HU IE IS IT LI LT LU LV MT NL NO PL PT RO SE SI UK
How many MS	2	0	0	1	27

Changes due to improved understanding/additional verification: LI, UK

LI – CH is treated by LI similar to an EEA country, based on a bilateral Agreement with CH (Abkommen zwischen dem Fürstentum Liechtenstein und der Schweizerischen Eidgenossenschaft betreffend die Direktversicherung sowie die Versicherungsvermittlung). A copy of this Agreement was provided to the reviewers. It intends to stipulate the conditions under which an insurance undertaking in one of the 2 countries may operate in the other via the establishment of a branch or the provision of services and foresees close cooperation and exchange of information between both countries, without any effect regarding the relation of the insurance undertakings established in Switzerland towards the countries of the EU/EEA, or vice versa.

Article 10 of the Annex to the Agreement stipulates that activities within LI of insurance undertakings with their registered office in Switzerland via the establishment of branches or the provision of services are subject to the same provisions as those established in an EEA State. The following Articles 11-15 lay down further rules. Articles 16-26 contain the provisions for the opposite case.

The reviewers discussed thoroughly what assessment would be adequate in this case. It was agreed that the fairest solution in view of the traditionally close relationship between CH and LI seemed an assessment as NC, i.e. not seeing CH as a third country in this context.

UK – This question concerned the exchange of information with other competent authorities within the context of the authorisation of branches of third country undertakings. The FSA's approach to disclosure in these circumstances is similar to that adopted in respect of the authorisation of an EEA Undertaking. As such, please see **Q3** for an overview of the relevant issues and the FSA response.

4.5. Part VI. Exchange of Complementary Information and Statistical Data

Besides the standardised procedures of information exchange dealt with in the other parts of the Protocol, the exchange of complementary information may be needed to ensure effective and efficient supervision of an undertaking. Part VI of the General Protocol also foresees the exchange of statistical data on a yearly basis.

Part VI.1. Exchange of information between the Competent Authorities of the Home and Host State

Provision 98

1.1 Besides the standardised procedures of supervisory cooperation, information exchange between the Competent Authorities of the Home State and the Host State(s) is essential for the effective performance of their respective obligations.

1.2 In order to ensure effective and efficient supervision of an Undertaking, the Competent Authority of the Home State may need complementary information from the Competent Authority of the Host State, in order to properly assess the risks incurred by the Undertaking, paying due consideration to local conditions under which its business activities are carried out through a Branch or under the freedom to provide services.

Information related to local markets and risks may be of particular interest to the Competent Authority of the Home State.

1.3 Conversely, the Competent Authority of the Host State may require information in respect of Undertakings writing business in its domestic market through freedom of establishment or services in order to ensure compliance with the conditions in which, for reasons of the general good, such business must be conducted in the host Member State.

1.4 Information exchange should be proportionate to the risks created by the business in order to avoid unnecessary burden on the Undertaking and the relevant Competent Authorities.

1.5 Information should be exchanged regarding any adverse developments such as complaints from policyholders, changes in the standards of the conduct of business, unsatisfactory commercial practices and any issue that can adversely influence the financial position of the Undertaking.

1.6 Relevant information should be provided as soon as possible.

There were 3 questions asked in relation to this provision.

- 118** 1. Do you exchange information on Undertakings with other Competent Authorities either as a Home or Host Competent Authority?
 2. Specifically in relation to individual Undertakings, do you exchange information regarding any adverse developments such as:
 - complaints from policyholders;
 - changes in the standards of the conduct of business;
 - unsatisfactory commercial practices; and
 - any issue that can adversely influence the financial position of the Undertaking?
 3. Do you provide the information at 2 above as soon as possible/in a timely fashion?

The benchmarks for the assessment are:

Fully applied: if positive answers are given to questions 118. 1, 2, and 3 where applicable

Partially applied: If positive answers are given to questions 118. 1 and 2 where applicable, and negative answer to question 3

Not applied: If negative answers to 118.1 or 2 where applicable.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE ES FI FR GR IE IS IT LI LU MT NL NO PL PT RO SE SI SK UK	EE	DK		BG CY HU LT LV

How many MS	23	1	1	0	5
-------------	----	---	---	---	---

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE CZ DE ES FI FR GR IE IS IT LI LU MT NL NO PL PT RO SE SI SK UK	EE			BG CY DK HU LT LV
How many MS	23	1	0	0	6

Changes due to improved understanding/additional verification: DK

FR – ACP believes that information it provides to other CAs is always provided in a timely manner. Requests from other CAs seem to always have received answers from ACP within a month. However ACP hasn't kept record of the timing to provide information. ACP will put in place tools that will permit to keep track, when relevant, of the timing to provide information, in particular when the information is provided at the request of another CA.

LI – LI exchanges important information with other supervisory authorities concerning companies belonging to a group or interesting for other countries because of other relations. If there are either an unusual number of complaints, significant changes in the standards of the conduct of business, unsatisfying practices or other important issues, the FMA provides such information to the other supervisory authorities by mail or in written form. So the standardised procedures for these information exchanges exist (fully applied).

On the other hand, the existence of the standardised procedures does not mean automatically, that all cases did already happen – so in our view, the answers "fully applied" and "no cases" are not necessarily contradictory.

Reviewers' observations: The FMA appears to be fully compliant with this part of the General Protocol. However, with respect to the issues concerning question 118.2 there have been no cases so far.

Part VI.2. Exchange of statistical information

Provision 99

2.1 Before the end of each year, the Competent Authority of the Home State shall communicate to the Competent Authority of the Host State a summary of the following data, from the previous year,

- on an aggregated basis:

- in the case of non-life insurance: the amount of premiums, claims and commissions, without deductions for reinsurance, and the frequency and average cost of claims under motor vehicle third party liability, without deductions for reinsurance, according to groups of classes according to Article 44 of the Third Non-Life Directive and showing separately insurance by way of establishment and insurance by way of freedom to provide services;

- in the case of life assurance: the amount of premiums before deduction for reinsurance, by class and showing separately life assurance by way of establishment and life assurance by way of freedom to provide services; and

- on a company basis:
 - total premiums written, showing separately insurance by way of establishment and insurance by way of freedom to provide services.

2.2 The Competent Authority of the Home State shall also inform the Competent Authority of the Host State if no cross-border activities through branches or free provision of services were reported.

There were 3 questions asked in relation to this provision.

- 119** 1. a. Do you communicate to the Competent Authorities of relevant Host States a summary of the required statistical data from the previous year, on an aggregated basis;
 1. b. Do you communicate to the Competent Authorities of relevant Host States a summary of the required statistical data from the previous year, on a company basis?
 2. Do you communicate the required data before the end of the year for the previous year?
 3. Do you inform the Competent Authority of the relevant Host States if no cross-border activities through branches or free provision of services were reported?

The benchmarks for the assessment are:

Fully applied: if positive answers are given to questions 119. 1a, 1b, 2, and 3 where applicable

Partially applied: If positive answers are given to questions 119. 1a, 1b, and 3 where applicable, and negative answer to question 119.2

Not applied: If negative answers to 119.1a, 1b or 3 where applicable.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DK FR GR IE IT LI LT LU LV MT NO PT SE SI	RO UK	CY DE EE ES FI HU IS PL SK		NL
How many MS	18	2	9	0	1

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT BE BG CZ DE DK EE ES FI IE IT LI LT LU NL NO PT SE SI UK	HU RO	CY FR GR IS LV MT PL SK		
How many MS	20	2	8	0	0

Changes due to improved understanding/additional verification: FR, GR

Changes due to enhanced compliance: EE, ES, FI, HU, UK

Comment – The "not applied" responses to the initial self-assessments are related to the fact that statistical data is only communicated on an aggregated basis, instead of on a company basis.

General findings – See **Recommendation 23** in Section 3.2. Issues & Recommendations.

DE – Bafin sent the information on a company basis for the year 2008 early 2010 whereas it was due end of 2009.

DK – Until recently the Danish CA provided annual statistical aggregate data for each CA based on art. 44(2) of the Third non-life directive and art. 49 of the consolidated life directive, but not on a company basis as stated in the General Protocol VI.2.1. So the Danish CA was compliant with the previous Siena Protocol, but not with this part of the General Protocol. The Danish CA provided an action plan to the Review Panel indicating that they will change their statistical data exchange procedure in due time in order for it to be compliant with the General Protocol by the end of the year. As a result, the annual statistical data was sent to other CAs on 22 December, 2010 containing data on both aggregated and company level. The issue is therefore settled and they are now in compliance with the Protocol.

FI – FIN-FSA provides nowadays data to other CAs on a company basis without request.

FR – The data for 2008 was provided in January 2010. Therefore, ACP would like to change its response to Q119 into "partially applied". ACP undertakes its best endeavours to shorten this timing. ACP expects 2010 data to be provided by December 2011 at the very latest, and presumably earlier.

GR – The response to 119.1b is updated to N because they provide this information currently only on an aggregated basis but PISC is currently changing the format of the report sent to the other CA's so as to include this information as well. Therefore PISC commits that the statistical information for 2010 shall also include data on a company basis.

HU – PSZÁF stated that up to now, it did not provide other CAs with insurers' individual data. It only provided aggregated data. After the peer review PSZÁF stated that as early as December 2010, it would provide other CAs with insurers' individual data.

IS – The reviewers acknowledge the readiness of FME to change its procedures in order to align them with the General Protocol provisions. Therefore the Reviewers invite FME to elaborate on an action plan and specify the timeframe for this change to take place. In particular, the reviewers would like to know whether the respective General Protocol provision will be applied for the statistical data of 2009. The FME will apply the respective General Protocol provision regarding statistical data for the year 2010, the FME has already sent data for the year 2009 on aggregated basis.

IT – The Reviewers accept the answers provided. As ISVAP states that the difficulties in its internal procedure in the end of 2008 are solved, the reviewers consider that in this respect there is no need for further action. Therefore, the Reviewers consider the affirmative ("Y") answer given originally to the initial self-assessment to be the right one thus the initial "fully applied" benchmark remains valid. ISVAP's reply to feedback report: "ISVAP communicates, before the end of each year (usually in December), to the Competent Authority of the Host State, the data from the previous year. Only for 2007 data, there were difficulties in ISVAP's internal procedures, and this data had been communicated in January 2009 instead of December 2008. These problems have been solved and ISVAP, before the end of each year, communicates to the Competent Authority of the Host States the data from the previous year. "

LV – Changes in respective internal procedures are made, information to be provided on a company basis starting with 2010 data. The reviewers acknowledge the readiness of FCMC to change its procedures in order to align them with the General Protocol provisions. To fully reflect the actual situation the reviewers consider that the response to Q 119.b should be "N", which would lead to a "Not Applied" benchmark. In the COMMENTS column it can be added that information on a company basis is for the moment only provided on request.

MT – Currently the MFSA provides this information only on an aggregated basis. The MFSA is currently reviewing its reporting procedures to include this information also on a company basis for the year 2010.

NL – Regarding the requirement to communicate to CA of relevant Member States a summary of the required statistical data from the previous year on an aggregate basis and on a company basis, DNB complied with the deadlines but only sent aggregate information. The company basis information was

only sent to the CA that asked for it, which some did. This is a non-application that was verified in more CA. The company basis information is only requested in the revised Protocol which may indicate that the departments usually responsible for this communication (statistical departments or similar) were not informed of the change in the Protocol. DNB had already changed procedures and, as from September 2010, with reference to the information of 2009, include in the regular communication the data on a company level.

PL – PFSA is recommended to bring its practice in line with the Protocol requirement, which involves providing also the names of the companies when providing the data on company basis.

In response to question Q119 the PFSA informed the Review Panel that it complies with the respective provision in Article 44 of the Third Non Life Insurance Directive 92/49/EEC and Article 49 of the Life Assurance Directive 2002/83/EC: "The Competent authority of the home Member State shall, within a reasonable time and **on an aggregate basis** forward this information to the competent authorities of each of the Member States concerned which so requests."

Due to the small number of companies conducting business outside of Poland, the aggregated data are in fact the data of individual company. So providing information about the name of the company the PFSA also shows other data (claim and commission, data divided into classes of business), which would be much more than the General Protocol requires.

The PFSA has already sent information on aggregate basis concerning activities of Polish life and non-life insurance companies outside Poland based on the 2009 data to other supervisory authorities. With regard to the data on company basis the PFSA has committed to fulfill the requirement by the end of 2010.

RO – A practice has been adopted by the competent authority according to which the statistical data is provided on company basis on request. Therefore the RP has turned to the respective CA to present an action plan to the RP and to take the necessary measures to bring its procedures in line with the General Protocol provisions.

UK – FSA initially responded 'yes' to Q119.1(a)-(b) and Q119.3 – hence partially applying the relevant provision. In respect of Q119.2, under the previous system adopted within the FSA, the data was submitted by firms in the September following the year to which the data relates. The information was processed by the FSA and then provided to EEA States by 31 January. To enable the FSA to submit the relevant data to EEA States by the end of the year following the year to which the data relates, the FSA consulted upon amendments to the FSA Handbook, intended to bring forward by several months, the date by which firms must submit the relevant data. The amendments were approved by the FSA Board on 25 June 2009. As such, the FSA is now processing the necessary statistical data to provide it to Competent EEA Host States before the year end.

Part VI.3. Exchanges of additional statistical information

Provision 100

3.1 The Competent Authority of the Home State shall make every effort to ensure that the Competent Authority of the Host State has at its disposal the elements necessary for statistical information and the analysis of its market.

3.2 In particular, at the request of the Competent Authority of the Host State, the Competent Authority of the Home State shall communicate the statistical information supplied under paragraph VI.2, for each of the Branches established within the territory of the Member State which has made the request.

There were 2 questions asked in relation to this provision.

- 120** 1. Where requested, do you provide information on the activities of Undertakings for which you are responsible as the Home State so that the Competent Authority of a Host State has the necessary information available to it for statistical and market analysis purposes?

2. Where requested, do you communicate the statistical information supplied under paragraph VI 2.1, for each of the Branches established within the territory of the Member State which has made the request?

The benchmarks for the assessment are:

Fully applied: if positive answers are given to questions 120.1 and 2 where applicable

Not applied: If negative answers to 120.1 or 2 where applicable.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE DK ES FR GR HU IE IT LV NO RO SE SK UK				BE BG CY EE FI IS LI LT LU MT NL PL PT SI
How many MS	16	0	0	0	14

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	AT CZ DE ES FR GR HU IE IT LV NO RO SE SK UK				BE BG CY DK EE FI IS LI LT LU MT NL PL PT SI
How many MS	15	0	0	0	15

Changes due to enhanced compliance: DK

Provision 101

3.3 In addition, the Competent Authority of the Host State may request from the Competent Authority of the Home State the simplified technical account presented in Annex IV for each of the Branches established on the territory of the Member State which has made the request, and for Undertakings engaging in business by way of freedom to provide services within that Member State.

There was 1 question asked in relation to this provision.

121 Where requested, do you provide the Competent Authority of a Host State with the simplified technical account presented in Annex IV of the Protocol for each of the Branches established on the territory of the Member State which has made the request, and for Undertakings engaging in business by way of freedom to provide services within that Member State?

The benchmarks for the assessment are:

Fully applied: if a positive answer is given to 121 where applicable

Not applied: If a negative answer is given to 121 where applicable.

which gave the following results at the time of the initial self-assessment:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE DK ES FR IE RO SE UK				AT BE BG CY CZ EE FI GR HU IS IT LI LT LU LV MT NL NO PL PT SI SK
How many MS	8	0	0	0	22

The final results, after the latest changes (updates) to the self-assessments are as follows:

	Fully applied	Partially applied	Not applied	Not applicable	No cases
Which MS	DE ES FR IE RO SE UK				AT BE BG CY CZ DK EE FI GR HU IS IT LI LT LU LV MT NL NO PL PT SI SK
How many MS	7	0	0	0	23

Changes due to enhanced compliance: DK

5. Individual Member's Comments

As foreseen by Art. 47 of the CEIOPS Methodology for Peer Reviews, Members will have the opportunity to request that their comments, if not included in the Report, are published alongside the Report. The Review Panel provides the Members the possibility until the end of June 2011 to post their comments in this section of the Report, which will, for practical reasons, be made available as a separate document on CEIOPS' website <https://eiopa.europa.eu/review-panel/index.html>. Members will also have the possibility to update their self-assessment till end of June 2011 as well.

Annexes

I. Tables and Graphs

See <https://eiopa.europa.eu/publications/reports/index.html>

II. Overview of Replies

See <https://eiopa.europa.eu/publications/reports/index.html>

III. Member States Codes and Acronyms of CEIOPS Members and Observers

AT	Austria	Finanzmarktaufsichtsbehörde (FMA)
BE	Belgium	Banking, Finance and Insurance Commission (CBFA)
BG	Bulgaria	Financial Supervision Commission
CY	Cyprus	Insurance Companies Control Service (ICCS) Supervisory Authority of Occupational Retirement Benefits Funds
CZ	Czech Republic	Czech National Bank
DE	Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
DK	Denmark	Finanstilsynet
EE	Estonia	Financial Supervision Authority/FINANTSINSPEKTSIOON
ES	Spain	Dirección General de Seguros y Fondos de Pensiones, Ministerio de Economía y Hacienda
FI	Finland	Financial Supervisory Authority
FR	France	Autorité de Contrôle Prudentiel (ACP)
GR	Greece	Bank of Greece - Department of Private Insurance Supervision Private Insurance Supervisory Committee (PISC)
HU	Hungary	Pénzügyi Szervezetek Állami Felügyelete Hungarian Financial Supervisory Authority
IE	Ireland	Insurance Supervision Department in the Central Bank of Ireland The Pensions Board (PB)
IS	Iceland	Financial Supervisory Authority (FME) (Fjármálaeftirlitid)
IT	Italy	Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo (ISVAP) Commissione di Vigilanza sui Fondi Pensione (COVIP)
LI	Liechtenstein	Financial Market Authority (FMA)
LT	Lithuania	Insurance Supervisory Commission of the Republic of Lithuania
LU	Luxembourg	Commissariat aux Assurances (CAA) Commission de Surveillance du Secteur Financier (CSSF)
LV	Latvia	Financial and Capital Market Commission
MT	Malta	Malta Financial Services Authority
NL	The Netherlands	De Nederlandsche Bank (DNB)
NO	Norway	Kredittilsynet (The Financial Supervisory Authority of Norway)

PL	Poland	Polish Financial Supervision Authority
PT	Portugal	Instituto de Seguros de Portugal
RO	Romania	Insurance Supervisory Commission (CSA)
		Romanian Private Pension System Supervision Commission (RSCPPS)
SE	Sweden	Financial Supervisory Authority
SI	Slovenia	Insurance Supervision Agency
SK	Slovakia	National Bank of Slovakia
UK	United Kingdom	Financial Services Authority (FSA)
		The Pensions Regulator (TPR)

IV. List of persons who have participated in the Review Panel meetings and in the Review by Peers

This list is not exhaustive as many persons who worked offsite from their offices have also greatly contributed to the work of the Review Panel for the finalisation of the peer review exercises and this report.

Adina Dragomir (RO)	Iwona Kraśniewska (PL)
Agnė Vaitkevičiūtė (LT)	Jan Dezort (CZ)
Alexander Warzilek (AT)	Janice Lambert (UK)
Ana María Aznar (ES)	Jiří Kalivoda (CZ)
Ana Teresa Mutiño (PT)	John Kok (NL)
Angèle Grech (MT)	Jos Kleverlaan (NL)
Ann Devos (BE)	Jovita Burlėgienė (LT)
Anthony Kruizinga (NL)	Jurij Gorisek (SI)
Anu Kõve (EE)	Maarten Gelderman (NL)
Athénė Leskó (HU)	Maciej Hajewski (PL)
Axel Oster (DE)	Maike Grau (DE)
Carina Andersson (SE)	Markku Sorvari (FI)
Catherine Coucke (CEIOPS Secretariat)	Michel Flamée (BE)
Chris Clark (UK)	Michèle Osweiler (LU)
Christina Panagiotopoulou (GR)	Noël Guibert (FR)
Ciaran Nugent (IE)	Pat O'Sullivan (IE)
Danielle Hoscheid (LU)	Patricia Ballantine (IE)
Dora Iltcheva (CEIOPS Secretariat)	Peter Braumueller (AT)
Edward Forshaw (UK)	Petra Hielkema (NL)
Elena Barra Caracciolo (IT)	Raffaele Capuano (IT)
Elena Moiraghi (IT)	Rick Hoogendoorn (NL)
Erika Žalytė (LT)	Rodica Popescu (RO)
Evert Haaksma (NL)	Seppo Juutilainen (FI)
Fausto Parente (IT)	Stefan Stoilkov (BG)
Federica Cameli (IT)	Tadas Antanaitis (LT)
Fiona Rogers (UK)	Thijs van Woerden (NL)
François Témpe (FR)	Tomáš Tureček (SK)
Gerlinde Taurer (AT)	Tony Jeffery (IE)
Gorazd Čibej (SI)	Truus Stadt (NL)
Gudrun Bolek (AT)	Victor Rod (LU)
Fiona Rogers (UK)	
Hannah King (UK)	