

## **Cooperation framework in the area of Insurance Supervision between the Japanese Financial Services Agency and the European Insurance and Occupational Pensions Authority (as revised on 30/01/2023)**

European Insurance and Occupational Pensions Authority (EIOPA) and the Financial Services Agency (FSA) believe that constructive supervisory dialogue and effective cooperation between EIOPA and the FSA with regards to insurance companies would be mutually beneficial. EIOPA and the FSA also acknowledge that these steps are important in view of the globalisation of the insurance sector and the financial markets in which they operate.

In this context, this non-binding cooperation framework confirms our willingness to further enhance our supervisory cooperation in the interest of fulfilling our respective statutory objectives as further set out below. With this supervisory dialogue, EIOPA and the FSA can contribute to the protection of policyholders and support the stability of the financial system.

The envisaged cooperation acknowledges and complements the joint EU-Japan Financial Regulatory Forum established under the Japan-EU Economic Partnership Agreement.

EIOPA and the FSA enter into this cooperation framework for the purpose of providing a framework for supervisory co-operation in the context of their respective tasks and responsibilities. The purpose is to further increase mutual understanding and exchange information and technical assistance pertaining to the insurance sector on a reciprocal basis, to the extent permitted by the applicable laws, regulations, and requirements.

### **1. DEFINITIONS**

For the purposes of this framework, the terms set out below have the assigned meanings unless the context requires otherwise:

**Authority** means:

- EIOPA is a European Supervisory Authority and an independent advisory body to the European Parliament, the Council of the European Union and the European Commission, established under Regulation (EU) No 1094/2010<sup>1</sup> (Regulation). EIOPA's core responsibilities are as follows:
  - to support the stability of the financial system, transparency of markets and financial products as well as contribute to the protection of policyholders, pension scheme members and beneficiaries. EIOPA is commissioned to monitor and identify trends, potential risks and vulnerabilities stemming from the micro-prudential level, across borders and across sectors;
  - to ensure the orderly functioning and integrity of financial markets in the European Union, as well as to pursue constructive dialogue and effective cooperation with supervisory authorities outside the European Union; and
  - to contribute as a competent authority to colleges of supervisors (EEA Colleges), which may include third-country subsidiaries and branches, or financial groups having their headquarters in third countries and their subsidiaries or branches in the European Union.
- The FSA was originally established in 2000 and became an external organ of the Cabinet Office under the Act for Establishment of the Financial Services Agency (Establishment Act) in 2001 as a result of the reorganisation of central government ministries. Under the Establishment Act, the FSA has statutory responsibility for regulation and supervision of financial institutions, including insurance companies in Japan;

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<sup>1</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC

- EIOPA and the FSA shall be collectively referred to herein as the “**Authorities**”;

**Jurisdiction** means the country, state or other territory, as the case may be, in which EIOPA or the FSA has legal authority, power, and/or jurisdiction by laws, regulations, and requirements;

**Laws, regulations and requirements** means any laws, regulations and requirements of the European Union in force, including those applying to EIOPA and those of Japan;

**Requested Authority** means the authority to whom a request is made pursuant to this framework;

**Requesting Authority** means the authority that makes a request pursuant to this framework; and

**Insurance Company** means:

- an insurance undertaking, captive insurance undertaking, third-country insurance undertaking, reinsurance undertaking, captive reinsurance undertaking or a third-country reinsurance undertaking as defined in Article 13 of Directive 2009/138/EC (Solvency II) for EU companies;
- an insurance company, an insurance holding company, subsidiary of an insurance company or an insurance holding company, a foreign insurance company, or other legal entity that conducts insurance business or other activities related to insurance business, as stipulated in the Insurance Business Act (Act No. 105 of 1995), including those defined in Article 2, Paragraphs 2, 7, 16, and 18.

## **2. OBJECTIVES**

2.1 This framework sets forth the basis upon which EIOPA and the FSA propose to provide for supervisory co-operation, including the development and implementation of a risk-based solvency framework, the conduct of business supervision, mutual assistance, and the exchange of information. The purpose is to provide a framework for co-operation, increased mutual understanding, exchange of

information, and technical assistance to the extent permitted by the laws, regulations, and requirements that EIOPA and the FSA are subject to.

The Authorities confirm that they will continue to engage in dialogue to seek to identify areas for cooperation and may share information on regulatory developments of mutual interest and relevance, including the development of international standards. The Authorities confirm that their cooperation takes place within the broader cooperation framework of the EU-Japan Economic Partnership Agreement based on the Regulatory Cooperation on Financial Regulation under Annex 8-A.

- 2.2 The Authorities intend to use their best endeavours to ensure that the fullest mutual assistance is provided within the terms of this framework and engage in consultations, as appropriate, on mutually agreeable approaches designed to enhance the integrity and the efficiency of their respective insurance markets, and the exercise of insurance market supervisory functions within the framework set out under point 2.1.
- 2.3 This framework does not modify or supersede any laws, regulations and requirements in force in, or applying to, EIOPA, the FSA or the jurisdictions in which they are authorized to regulate or supervise the business of insurance and do not create any legally binding obligations on or confer any rights to EIOPA or the FSA. This framework is not intended to affect any framework in existence to which either of the Authorities is a participant.

### **3. SCOPE**

- 3.1 The Authorities confirm that this framework should be the basis of their co-operation concerning the exchange of information and experience in the development and implementation of the risk-based insurance supervisory framework in their respective jurisdictions. The Authorities also confirm that such enhanced cooperation should include matters related to the development of international standards in the field of insurance with an impact on insurance supervision. The co-operation

should be carried out efficiently and effectively, without imposing an unnecessary burden on the Authorities.

- 3.2 The Authorities' cooperation should, to the extent relevant, encompass dialogue and the exchange of information on the assessment and/or monitoring processes underpinning their respective jurisdictions' equivalence and deference work in the area of insurance and reinsurance.
- 3.3 The Authorities confirm that this framework should be the basis of their co-operation in view of ensuring optimal supervision for Insurance Companies with international activities in the European Union and Japan. The co-operation should be carried out efficiently and effectively, and it should not impose an unnecessary burden on insurance companies nor for the Authorities.
- 3.4 The Authorities will make all reasonable efforts to exercise the co-operation and co-ordination in a spirit of mutual trust.
- 3.5 EIOPA will support the FSA's participation in the activities of European supervisory colleges formed by the competent authorities of the European Union when a Japanese Insurance Company is involved in accordance with the relevant legal framework. The FSA is also committed to supporting EIOPA's participation in the FSA's supervisory colleges where a European Insurance Company is concerned.
- 3.6 The Authorities, as deemed appropriate by each respective Authority, may provide mutual assistance periodically, such as through formal or informal training held in the host country and ad hoc expertise in relation to issues of common interest.
- 3.7 The Authorities will attempt to meet once a year at mutually agreeable locations for supervisory dialogue to discuss ways to enhance supervisory cooperation and other topics of mutual interest. Additional meetings may be arranged.
- 3.8 The Authorities can make a request under this framework in writing to the other for assistance; and the Requested Authority endeavours to

provide a response to the Requesting Authority as soon as reasonably practicable.

- 3.9 The Authorities confirm that: (i) information requested should only be used for the purposes of a request made; and (ii) if information obtained under this framework is required to be used or disclosed for an alternate purpose (i.e., other than that originally requested), consent from the Requested Authority is required to be obtained in writing prior to such use or disclosure.
- 3.10 The Authorities recognize the need and desirability of providing mutual assistance and exchanging information; however, each Authority retains the right to deny or defer assistance for any reason.
- 3.11 The Authorities acknowledge that they may only provide information under this framework if permitted or not prevented under applicable laws, regulations and requirements, including applicable laws related to the exchange of information relating to an identified or identifiable natural person. As a European Authority, EIOPA processes personal data in line with Regulation (EU) 2018/1725.
- 3.12 The Authorities will bear their own respective expenses that may be incurred by them under this framework.

#### **4. CONFIDENTIALITY**

- 4.1 If the Authorities receive confidential information under this framework, they confirm that they will treat such information as confidential in accordance with the following principles.
- 4.2 An Authority that receives confidential information under this framework may use information for the purposes set forth in the request for information and/or assistance. Information received should not be used in criminal proceedings carried out by a court or judge, including as evidence in a criminal court. In the case that such use is legally required, the request must be made in accordance with procedures prescribed in the relevant laws, regulations, and requirements for international mutual assistance in investigation.

- 4.3 The Requesting Authority confirms that it will seek prior written consent from the Requested Authority before disclosing any confidential information that it receives under this framework to third parties.
- 4.4 Before disclosing the information obtained pursuant to this framework to third parties, the Requesting Authority will seek a commitment from them to keep the information confidential.
- 4.5 The Requesting Authority will undertake every effort to comply with any restrictions on the use or disclosure of information that is confirmed when the information is provided.
- 4.6 If the Requesting Authority is subject to a mandatory disclosure requirement or receives a legally enforceable demand for information under applicable laws, regulations, and requirements, the Requesting Authority will notify the Requested Authority of its obligation to disclose and will endeavour to seek prior written consent from the Requested Authority before making a disclosure. If the Requested Authority withholds its consent, the Requesting Authority will make its best efforts to protect the confidentiality of information obtained according to its confidentiality obligation, and if necessary, to resist disclosure, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available, for example, by advising the concerned court or relevant authority of the possible negative consequences of a disclosure on future co-operation between the Authorities.
- 4.7 The Authorities confirm that they will treat the confidential information received under this framework as confidential to the extent permitted by laws, regulations and requirements even after termination of this framework.
- 4.8 For EIOPA, all confidential information exchanged under this framework will be subject to EIOPA's obligation of professional

secrecy.<sup>2</sup> For the FSA, all confidential information exchanged under this framework will be subject to the FSA's obligation of professional secrecy.<sup>3</sup>

## 5. Other

5.1 The Authorities may jointly decide to review the present cooperation framework at any time. An Authority will give due consideration to a request for review from the other Authority.

5.2 When one of the Authorities wishes to stop cooperation under the present framework, it will notify the other Authority of its intention in writing.

This cooperation framework replaces the Exchange of Letters signed on 26 February 2021.

This cooperation framework is hereby entered into as evidenced by the signatures of the representatives of the FSA and EIOPA who have the ability to execute the framework on such Authorities' behalf:

FOR THE FINANCIAL SERVICES AGENCY

FOR THE EUROPEAN INSURANCE AND  
OCCUPATIONAL PENSIONS AUTHORITY

[signed]

[signed]

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NAKAJIMA Junichi  
Commissioner

\_\_\_\_\_  
Petra Hielkema  
Chair

\_\_\_\_\_  
20 January 2023  
Date

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30 January 2023  
Date

<sup>2</sup> For EIOPA primarily: Article 70 of Regulation (EU) No 1094/2010 and "EIOPA's Rules of Procedure on Professional Secrecy for Non-Staff" (EIOPA-MB-17-039).

<sup>3</sup> For the FSA primarily: Article 100 of National Public Service Act (Act No. 120 of October 21, 1947).