

ANNEX I COLLABORATION OF THE INSURANCE SUPERVISORY AUTHORITIES UNDER SOLVENCY II DIRECTIVE

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1. GENERAL PROVISIONS

1.1. INTRODUCTION

1. This Decision applies to the authorities of the Member States of the European Economic Area (EEA) competent for the supervision of insurance and reinsurance undertakings (“Supervisory Authorities”) on the basis of Directive 2009/138/EC¹ (“Solvency II Directive”).
2. This Decision should be read together with the relevant provisions of the Solvency II Directive.
3. The Supervisory Authorities and the European Insurance and Occupational Pensions Authority (“EIOPA”) have a long tradition of cooperation and exchange of information. It is recognised that the on-going development of the internal market and the growing internationalisation of business activities require increased collaboration between supervisors.
4. The Supervisory Authorities endeavour to cooperate and use, as effectively as possible, all information available for supervisory purposes in order to achieve the objectives of insurance supervision, namely the protection of policyholders and beneficiaries and financial stability.
5. Nothing in this Decision should affect internal communication arrangements within a Member State. However, such arrangements should not hinder effective cross-border cooperation between the Supervisory Authorities.
6. Nothing in this Decision should diminish the responsibilities of Supervisory Authorities under the Solvency II Directive and in particular the duty vested in the Supervisory Authority(ies) of the Home Member State to authorise and to exercise prudential supervision over the undertaking for which it has sole responsibility.

1.2. PRINCIPLES OF COOPERATION

7. The Supervisory Authorities, whilst recognising the principles in the Solvency II Directive regarding the distribution of responsibilities between Home and Host Member State Supervisory Authorities (“Home NSA” and “Host NSA” respectively) acknowledge the importance of effective cooperation to facilitate the carrying out of their respective duties.
8. Effective cooperation between Supervisory Authorities should extend beyond prudential concerns and it should also encompass conduct of business aspects, where relevant, particularly with regard to non-compliance with product oversight and governance requirements that often arise in cross-border contexts, and for which the undertaking is responsible pursuant to Article 25

¹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the pursuit of the business of insurance and reinsurance (Solvency II) (OJ L 335, 17.12.2009, p.1)

of the Directive (EU) 2016/97² ‘on insurance distribution’ (“IDD”) and Commission Delegated Regulation (EU) 2017/2358³ supplementing IDD with regard to product oversight and governance requirements (“POG”). The Supervisory Authorities responsible for prudential and conduct of business supervision should cooperate in a coordinated manner having regard to the availability, nature and scope of the information concerned, as well as their respective mandates.

9. The procedures and information described in this Decision constitute minimum requirements and provide considerations on the communication of additional information. Nothing in this Decision should be interpreted in such a way as to hinder exchange of further information and extended collaboration between the Supervisory Authorities.

10. The information exchange requirements described in this Decision should be proportionate to the nature, scale and complexity of the risks inherent in the business of the insurance or reinsurance undertaking. The Supervisory Authorities should give adequate consideration to the specific nature of captive insurance and captive reinsurance undertakings, and to undertakings classified as small and non-complex undertakings.

11. The information exchange requirements described in this Decision should take into account prospective and risk-based supervision, which includes the verification on a continuous basis of the proper operation of the insurance and reinsurance business and of the compliance with supervisory provisions by insurance and reinsurance undertakings.

12. In the case of undertakings in difficulty and other emergency situations, the Supervisory Authorities concerned endeavour to make every effort to remedy the problems in a timely and coordinated manner while minimising the negative impacts on policyholders and financial stability.

13. In the case of divergent views in terms of application of this Decision, the relevant Supervisory Authorities should strive to a mutually agreed solution; in cases where they are unable to reach a common solution, the relevant Supervisory Authorities should refer the matter to EIOPA for mediation.

14. Without prejudice to the Home and Host NSA’s responsibilities, in order to enhance the quality of information exchange, to allow the identification of potential and actual risks in a timely manner, and to foster proactive supervision and timely supervisory actions, EIOPA should facilitate the exchange of information between the Home and Host NSA.

² Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, pp. 19–59)

³ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, pp. 1–7)

1.3. RULES ON PROFESSIONAL SECRECY

15. The Supervisory Authorities agree to exchange confidential information whenever possible, within the limits of the rules laid down in Articles 64 to 71 of the Solvency II Directive in order to improve the effectiveness of insurance and reinsurance supervision in the EEA.

16. Personal data shall be processed in accordance with Regulation (EU) 2018/1725⁴, and shall not be used for any purposes other than the performance of the activities specified in this Decision.

1.4. IT TOOLS SUPPORTING THE EXCHANGE OF INFORMATION AND NOTIFICATIONS

1.4.1. CROSS-BORDER NOTIFICATION TOOL

17. To allow the identification of potential risks as soon as possible, the exchange of information and notifications prescribed in this Decision in relation to undertakings pursuing cross-border activity under the freedom to provide services ("FoS") and freedom of establishment ("FoE") shall be performed by the Home and the Host NSA by using a dedicated IT tool – the Cross-Border Notification tool ("CBN tool").

18. Without prejudice to the responsibilities of the Home and the Host NSA, EIOPA has automatic access to all communication between the Home and Host NSA through the CBN Tool. Annex III to this Decision describes the information flows between the Supervisory Authorities foreseen by this Decision, including specific cases when EIOPA needs to be an addressee.

19. The CBN Tool, including relevant templates, is provided and hosted by EIOPA and it is made available to each Supervisory Authority. The CBN tool is used:

- a) as platform to share information between the Home and the Host NSAs and EIOPA;
- b) as data storage system to enable structured storage and extraction of the information shared on an individual and aggregated basis (database).

20. EIOPA operates the CBN tool in accordance with applicable data transmission and data protection rules.

21. With the aim to continuously improve the processes of information and notification exchange between Supervisory Authorities, including the time and the quality of information exchanged, EIOPA may conduct reviews of the process and of the information exchanged through the CBN tool. The Supervisory Authorities should report to EIOPA any opportunities they detect to improve both the process and the information exchanged.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, pp. 39–98)

1.4.2. FIT & PROPER TOOL

22. In order to enhance the efficiency of fit and proper assessments, EIOPA, in cooperation with the other European Supervisory Authorities (ESAs), has established a digital platform – the ESAs Information System for the exchange of information relevant to the assessment, by competent authorities, of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions and financial market participants⁵ (F&P tool).

23. The F&P tool includes relevant information to identify a person of interest (both natural and legal persons) already assessed for the purposes of fitness and propriety by the Supervisory Authorities. Where there is an additional or a new assessment of an already assessed person of interest, a new entry in the F&P tool shall be created.

24. The Supervisory Authorities shall designate, and keep up to date, contact points for receiving and responding to requests and make this information available in the F&P tool.

1.5. TIMEFRAME AND LANGUAGE OF INFORMATION REQUESTS

Article 153 of the Solvency II Directive

25. The Host NSA may request information concerning the business of an undertaking operating in the territory of that Member State from the Home NSA of that undertaking. That information shall be supplied within 20 working days of the date of receipt of the request.

26. By way of derogation, in duly justified cases, where the information requested is not readily available to the Home NSA and it is complex to collect, the deadline may be extended by 20 working days. The Home NSA shall inform the Host NSA on the delay.

27. Where the Home NSA fails to provide the information within the deadline prescribed above, the Host NSA may address the request to the undertaking directly. In that case, it shall inform the Home NSA about the information request before addressing the request to the undertaking, preferably three working days before sending the request. The undertaking shall be required to provide that information without delay. The Home NSA shall be kept in copy in all correspondence for information and possible action.

28. All information exchanged between Supervisory Authorities in respect of notifications and changes to cross-border activity, shall be written in a language which is acceptable by the Supervisory Authorities in accordance with paragraph 31 b) where the Supervisory Authorities have not agreed bilaterally on other language for the exchange. The Supervisory Authorities shall make every effort to be as flexible as possible in respect of languages in which they accept notifications.

⁵ Joint Guidelines on the exchange of information relevant to fit and proper assessments

1.6. COMMUNICATION MEANS AND CONTACT POINTS

29. In case of information exchange outside the CBN tool, each Supervisory Authority shall transmit the required information by electronic means where possible and in a format acceptable to the relevant Supervisory Authorities. The Supervisory Authorities shall agree on any applicable requirements (e.g. requirement on electronic signatures of authorised persons) and the security of data transmission.

30. Each Supervisory Authority shall establish a contact point or set up a general email account for all questions, requests and problems arising out from the notifications and changes to cross-border business activities. This contact point shall be used for all queries regarding cross-border business in order to avoid unintended delays.

31. Each Supervisory Authority shall keep the following information up to date on EIOPA's extranet and on the CNB tool:

- a) details of the contact point for all questions, requests and problems arising from the notification and changes to cross-border business activities, including name, email address and phone number. The contact point may be a general e-mail account, to which information shall be sent;
- b) the language(s) in which the Supervisory Authority accepts documents in respect of the notification of cross-border activities.

1.7. INFORMATION TO BE PROVIDED ON THE NSAS/EIOPA'S WEBSITE

1.7.1. REGISTERS

32. The Home NSA shall upload on its website a list of all insurance and reinsurance undertakings licensed in that Member State as well as third country branches, including at least, the name, postal address, legal form and authorised insurance classes. The information shall be updated as necessary.

33. The Host NSAs shall upload on its website a list of all insurance undertakings which have notified their intention to establish a branch or provide business on a FoS basis in its territory once the information is communicated by the Home NSA.

1.7.2. GENERAL GOOD AND HEALTH INSURANCE

34. Each Supervisory Authority shall publish an up-to-date list of the general good provisions of the respective jurisdiction on its website or communicate that no provisions are imposed, in its own language(s) and/or in English.

35. The Supervisory Authorities shall provide EIOPA with the links to where the general good provisions are published on the relevant websites in their jurisdiction.

36. The Supervisory Authorities shall provide EIOPA with the link to the websites where the insurance classes and/or insurance products are listed in relation to health insurance as an alternative to social security, for which policy conditions have to be presented to the Host NSA in accordance with Article 206(1) of the Solvency II Directive.

1.7.3. COMPLAINTS HANDLING SYSTEM

37. In relation to Chapter 14 of this Decision, the Supervisory Authorities shall through their public website make available the following information⁶ about their national complaints handling system as necessary:

- a) Authority(ies)/body(ies) competent to handle policyholder⁷ complaints, indicating in particular whether it is a supervisory authority, an ombudsman or another dispute-resolution body);
- b) Contact details of the authority(ies)/body(ies) competent to handle policyholder complaints (name, postal address, phone number, e-mail address and website address);
- c) Organisation of the authority(ies)/body(ies) competent to handle policyholder complaints (e.g. whether it is a statutory/voluntary system, any charges payable by the complainant);
- d) Information on the scope of coverage of the authority(ies)/body(ies) competent to handle policyholder complaints (e.g. insurers/intermediaries covered, insurance products covered);
- e) Information on the competence and powers of the authority(ies)/body(ies) competent to handle policyholder complaints (e.g. out of court settlement/system that does not issue decisions; information on whether the decision is binding or not);
- f) Any preconditions of the authority(ies)/body(ies) competent to handle policyholder complaints (e.g. whether the undertaking must first be given the opportunity to resolve the complaint);
- g) Any restrictions on the jurisdiction or admissibility of complaints before the authority(ies)/body(ies) competent to handle policyholder complaints (e.g. monetary limits time limits for submitting complaints, eligibility criteria regarding who may lodge a complaint, such as consumers, professional clients, consumer associations or other third parties);
- h) information on the typical amount of time required for handling complaints.

⁶ This paragraph does not impose a requirement on the Supervisory Authority to provide the information in a particular format.

⁷ The term 'policyholder' shall be understood in a broad sense, including all persons that file an insurance-related complaint.

38. Where the information referred to in paragraph 37 is already made available on the website of the competent authority/body handling policyholder complaints, the Supervisory Authorities may fulfil the obligation referred in that paragraph by providing on their public website a direct and clearly identifiable link to that website, provided that such link gives access to information that is complete, up to date and equivalent to the information required under paragraph 37 of this Decision.

39. The Supervisory Authorities shall ensure that the information mentioned in this Section remains up to date on their website. EIOPA shall publish the relevant links mentioned in this Section on its website.

2. INFORMATION EXCHANGE DURING THE AUTHORISATION PROCESS

Article 15 of the Solvency II Directive

40. In accordance with the principle of single authorisation, the decision to issue authorisation, which is valid for the whole of the EEA, shall be the sole responsibility of the Home NSA.

41. Within the context of the single market and with due regard to the single license principle, the Supervisory Authorities recognise the importance of conducting a rigorous examination of the authorisation information, and of seeking to ensure the uniform application of the criteria relating to the supervision of access to, and pursuit of, insurance and reinsurance activity.

2.1. EXCHANGE OF INFORMATION ON PERSONS WHO EFFECTIVELY RUN THE UNDERTAKING OR HOLD OTHER KEY FUNCTIONS, SHAREHOLDERS AND MEMBERS WITH QUALIFYING HOLDINGS

Article 26 (1) to (3) of the Solvency II Directive

42. With regard to the supervision of:

- a) the fitness and propriety assessment of all persons who effectively run the undertaking or hold other key functions, if these persons are involved or have been involved in the management of another entity in the same group; and
- b) the suitability and the financial soundness of the shareholders and members with qualifying holdings;

both during the process of authorisation and on an on-going basis, the Supervisory Authorities shall use the F&P tool.

43. Before a Supervisory Authority conducts a fitness and propriety assessment of a person of interest in accordance with Union law, it shall first verify in the F&P tool whether any other Supervisory Authority(ies) already holds relevant information on the person of interest.

44. Where the search in the F&P tool indicates that relevant information for the purposes of an assessment is available, the Supervisory Authority shall, before making the assessment, submit a request for information through the F&P tool to the Supervisory Authority concerned.

45. The exchange of information that is relevant for the assessment of the fitness and propriety of a person of interest shall take place bilaterally, between the requesting and requested Supervisory Authorities, outside the F&P tool.

2.2. EXCHANGE OF AUTHORISATION INFORMATION WITH OTHER INSURANCE SUPERVISORY AUTHORITIES

Article 26(1) and (4) of the Solvency II Directive

46. This Section is applicable when the undertaking requesting the authorisation is:

- a) a subsidiary of an insurance or reinsurance undertaking authorised in another Member State;
- b) a subsidiary of the parent undertaking of an insurance or reinsurance undertaking authorised in another Member State;
- c) an undertaking controlled by the same person, whether natural or legal, who controls an insurance or reinsurance undertaking authorised in another Member State.

47. The Supervisory Authority responsible for granting authorisation prior to the authorisation shall ask for the information defined in paragraph 48 from:

- a) the Supervisory Authority of the direct parent undertaking referred in 46 a) and, if applicable, of the ultimate parent undertaking at EEA level;
- b) the Supervisory Authority of the insurance or reinsurance undertaking under the same parent undertaking and the group supervisor under the Solvency II Directive;
- c) the Supervisory Authority of the undertaking controlled by the same person, whether natural or legal, in the other Member State.

48. The Supervisory Authority responsible for granting authorisation shall ask for any relevant information relating to:

- a) the structure of the group;
- b) deteriorating financial conditions and instances of non-compliance with technical provisions, Solvency Capital Requirement ("SCR") and Minimum Capital Requirement

- (“MCR”) of the relevant insurance or reinsurance undertakings and measures taken in accordance with Articles 136a, 137, 138, 139 and 141 of the Solvency II Directive;
- c) significant concerns in terms of the system of governance including risk management of the relevant insurance or reinsurance undertakings;
- d) supervisory measures taken under Articles 36 and 37 of the Solvency II Directive to address deficiencies related to the system of governance of the relevant insurance or reinsurance undertakings;
- e) possible conflicts of interest;
- f) other relevant licensing criteria, as appropriate.

49. If the ultimate parent of the undertaking seeking authorisation is not a regulated undertaking, or is a regulated undertaking located in a third country, the Supervisory Authority of the ultimate parent undertaking at EEA level or, if applicable, the group supervisor of the EEA group, shall be asked to provide the requesting Supervisory Authority with the information listed in paragraph 48 of this Decision.

50. The Supervisory Authority to whom the request has been made shall as soon as possible and preferably within 2 weeks upon receipt of a request, provide the Supervisory Authority responsible for granting the authorisation with any relevant information in its possession or inform the requesting authority that it does not have any such information.

2.2.1. JOINT AUTHORISATION ASSESSMENT

51. Where several Supervisory Authorities⁸ need to be consulted pursuant to Article 26(1) of the Solvency II Directive, any Supervisory Authority concerned may request the Home NSA of the undertaking seeking authorisation to jointly assess the application for authorisation.

52. Supervisory Authority concerned may submit a request as referred to in paragraph 51 within one month of the date of receipt of the request for authorisation.

53. The Home NSA of the undertaking seeking authorisation shall take into consideration the conclusions of the joint assessment when making its final decision.

2.3. EXCHANGE OF AUTHORISATION INFORMATION WITH FINANCIAL SUPERVISORY AUTHORITIES WHICH ARE NOT INSURANCE SUPERVISORY AUTHORITIES

Article 26(2) of the Solvency II Directive

⁸ The possibility to request a joint assessment applies explicitly only in cases where it is necessary to consult more than one supervisory authority. If it is necessary to consult only one Supervisory Authority, the standard consultation procedure set out in paragraphs 1, 2 and 3 of Article 26 should apply.

54. This Section is applicable when the undertaking requesting the authorisation is:

- a) a subsidiary of a credit institution or investment firm authorised in another Member State;
- b) a subsidiary of the parent undertaking of a credit institution or investment firm authorised in another Member State;
- c) an undertaking controlled by the same person, whether natural or legal, who controls a credit institution or investment firm authorised in another Member State.

55. The Supervisory Authority responsible for granting authorisation prior to the authorisation shall ask the information defined in paragraph 56 respectively from:

- a) the Supervisory Authority of the direct parent undertaking and, if applicable, of the group supervisor of the EEA group;
- b) the Supervisory Authority of the credit institution or investment firm under the same parent undertaking;
- c) the Supervisory Authority of the undertaking controlled by the same person, whether natural or legal, in the other Member State.

56. The Supervisory Authority responsible for granting authorisation shall ask for any relevant information relating to:

- a) the structure of the group;
- b) deteriorating financial conditions and instances of non-compliance with quantitative sectoral requirements by the relevant credit institutions or investment firms;
- c) significant concerns in terms of the system of governance of the relevant credit institutions or investment firms including risk management;
- d) supervisory measures taken in the case described in point d) and to address deficiencies related to the system of governance of the relevant credit institutions or investment firms;
- e) possible conflicts of interest;
- f) other relevant licensing criteria, as appropriate.

57. 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 parent undertaking at EEA level or, if applicable, the group supervisor of the EEA group, shall be asked to provide the requesting Supervisory Authority with the information listed in paragraph 56 of this Decision.

2.4. EXCHANGE ON AUTHORISATION INFORMATION SOUGHT IN OTHER MEMBER STATES AND EIOPA'S DATABASE

Article 18(1)(i) of the Solvency II Directive

58. The Home NSA shall request the applicant to declare if there had been a formal or informal request for an authorisation, by its shareholders or members with qualifying holdings, to establish

an insurance or reinsurance undertaking, in another Member State or third country, that had been rejected or withdrawn. The Home NSA shall ask the applicant for the reasons why the application was rejected or withdrawn.

59. Where appropriate, the Home NSA shall engage with the Supervisory Authority(ies) from whom the application has been sought in order to understand the circumstances of the rejected or withdrawn application, before making a decision on the authorisation.

60. The Supervisory Authorities shall provide input in a timely manner, preferably within 2 weeks upon receipt of a request, with a view to exchanging information before the decision on the particular application is taken by the Home NSA.

2.4.1. EIOPA DATABASE ON REJECTED/WITHDRAWN AUTHORISATIONS

Article 25 of the Solvency II Directive

61. The Supervisory Authorities shall provide EIOPA with information on each rejected or withdrawn authorisation request, including the identification of the applicant undertaking and the reasons for rejected or withdrawn requests.

62. EIOPA shall keep an updated database with that information and grant access to the database to the Supervisory Authorities.

2.5. NOTIFICATION ON CROSS-BORDER ACTIVITY

Article 152a (1) of the Solvency II Directive

63. This Section is applicable when the scheme of operations of the undertaking requesting the authorisation indicates that:

- a) a part of its activities will be based on FoS, in case of insurance undertakings, or FoE, in case of insurance and reinsurance undertakings, in another Member State; and
- b) those activities are likely to be of relevance with respect to the host Member State's market.

64. For the purpose of point b) of the paragraph 63, the activities of an undertaking are considered likely to be of relevance with respect to the host Member State's market when the scheme of operations indicate that:

- a) the gross written premiums in the host Member State are higher than EUR 0; and
- b) it is likely that the undertaking will not be classified as a small and non-complex undertaking or captive undertaking.

65. The Home NSA is not obliged to perform a systematic notification to all Host NSAs when criteria from paragraph 64 are met, and may decide on a case by case basis that certain activities are likely not to be of relevance for one or more Host NSA, by using the criteria and conditions set in Article

152aa of the Solvency II Directive supplemented by the regulatory technical standards specifying the factors to be considered to identify undertakings that are under dominant or significant influence and undertakings that are managed on a unified basis, and the conditions and criteria to be used to determine which activities carried out by insurance and reinsurance undertakings under the right of establishment or under the freedom to provide services are of relevance with respect to the host Member State's market ("RTS on the relevance for the host market"), and/or other practical information already available in this matter.

Such information may include:

- a) Figures indicated in the scheme of operations, such as the fact that the activity will be very limited in the specific host market, or other elements stemming from bilateral contacts on the specifics of national market;
- b) Elements contained in the list of undertakings performing significant activities that may give an indication which activities the Host NSA may consider as relevant or not relevant for the host market.

66. The Supervisory Authority responsible for granting authorisation shall, prior to granting the authorisation, notify the information defined in paragraph 67 to:

- a) EIOPA;
- b) the Supervisory Authorities in charge of prudential and/or conduct of business supervision in the host Member State.

67. When the undertaking states its intention to start cross-border activity in the future⁹, the notification shall contain the following information:

- a) the name, address, e-mail address and the legal entity identifier (LEI) of the undertaking;
- b) where applicable, the information referred to in point a) of the establishments (other than the head office of the insurance undertaking) situated in the Member States from which the undertaking intends to provide services;
- c) the classes of insurance according to Annexes I and II to the Solvency II Directive and/or the type of reinsurance activity, according to Article 15(5) of the Solvency II Directive which the insurance undertaking is applying for authorisation;
- d) a summary of the undertaking scheme of operations indicating:
 - (i) the nature of the risks or commitments which the undertaking proposes to cover in the Host Member State(s), including indication when undertaking plans to start new business in the Host Member State(s);

⁹ The undertaking plans to start cross-border activity within the first three financial years in accordance with the scheme of operations.

- (ii) if available, the projected gross written premiums, estimates of management expenses, general expenses and commissions; guiding principles of the reinsurance retrocession of the business, projected loss ratio of the portfolio and other projected technical indicators if available, for each Host Member State;
 - (iii) if available, any information regarding local service provider involved in the underwriting activities in the Host Member State ¹⁰ including but not limited to potential distribution partners in the host Member State;
- e) where the undertaking has clearly indicated its intention to carry out significant cross-border activities in the Host Member State(s) above the threshold of EUR 15 000 000 gross written premiums determined in Article 152aa (1)(a) of the Solvency II Directive or intention to concentrate its activities in one or more Host Member State(s):
 - (i) identification, through for example nomination document(s) of the persons who effectively run the undertaking or are responsible for the key functions;
 - (ii) a summary of the undertaking's system of governance, including the risk management system in place;
 - (iii) any available information resulting from the discussions with the undertaking of its business strategy and how the activities in the host Member State fits into that strategy.

68. When the undertaking notifies the Supervisory Authority in its application for authorisation of its intention to start cross-border activity under Article 145 or Article 147 of the Solvency II Directive¹¹, the notification shall contain the information described in paragraph 67 complemented with the information to be notified by the Home NSA to the Host NSA in case of establishment of a branch and of starting FoS business, paragraphs 82 and 109 respectively.

69. The Host NSA(s) may, as soon as possible and preferably within one month upon receipt of the notification, provide the Home NSA with feedback on the content of the notification. Such feedback can include, for example: views of the Host NSA(s) regarding the potential relevance of the undertaking's activities for the host Member State's market, the risk management measures to be put in place by the undertaking regarding risks on the distribution partners, risks on the specific products to be and additional fitness and propriety considerations.

70. In cases where an insurance undertaking applying for an authorisation has clearly indicated its intention to carry out significant cross-border activities in the Host Member State(s) above the

¹⁰ This information may be derived from the review carried out by the Home NSA concerning the notification provided by the undertaking and from the ongoing supervisory review process, including the review of the outsourcing arrangements.

¹¹ The undertaking plans to start cross-border activity immediately after having been granted the authorisation referred to in Article 14 of Solvency II Directive.

threshold determined in Article 152aa(1)(a) of the Solvency II Directive, or intention to concentrate¹² its activities in one or more Host Member State(s), the Host NSA(s) feedback shall provide input to facilitate the understanding of the situation and the circumstances of the undertaking by the Home NSA.

71. Where appropriate, taking into account the risk profile of the undertaking and/or the type of cross-border business EIOPA may provide the Home NSA with a feedback on the contents of the notification. In this case, such feedback shall be provided as soon as possible and preferably within 1 month upon receipt of the notification.

72. Without prejudice to its responsibility for authorisation, the Home NSA may take into account the Host NSA's and EIOPA's feedback when deciding to grant authorisation to the undertaking.

73. The Home NSA shall, within one month after the end of the authorisation process, inform the Host NSA(s) and EIOPA about the outcome of that process, specifying if authorisation has been approved or rejected/withdrawn.

74. In case of rejected or withdrawn authorisation request, paragraph 61 of this Decision shall apply.

75. In case of approval of authorisation, when the business model of the undertaking is based on cross-border activities and therefore envisages immediate start of FoS or FoE activities, the communication on the approval of authorisation may substitute the notifications sent under Section 3.1 or Section 4.1. of this Decision.

76. Such notification shall include:

- a) a confirmation of starting of FoS or FoE activities in the Host Member State(s);
- b) all information to be communicated by the Home NSA to the Host NSA and EIOPA in case of start of FoE activity (Section 3.1) or start of FoS activity (Section 4.1), in case they differ from the information provided in the notification of cross-border activity during authorisation phase (Section 2.5).

2.6. ACQUISITIONS AND INCREASE OF SHAREHOLDINGS IN UNDERTAKINGS

Article 60 of the Solvency II Directive

77. The relevant Supervisory Authorities shall, as soon as possible, preferably within 2 weeks upon receipt of a request, provide each other with any information which they deem essential or relevant,

¹² Concentration of insurance or reinsurance undertaking's activities to be assessed in regard to criteria and conditions foreseen in the Article 5(1)(a)(i) of the RTS on the relevance for the host market, the share of the undertaking's activities in the Host Member State(s), measured as the annual gross written premium corresponding to the activities carried out by that undertaking in the host Member State(s), compared to that undertaking's total annual gross written premium, as indicated in the scheme of operations.

either at the request of another authority or on its own initiative, if the proposed acquirer of an undertaking is any of the following:

- a) a credit institution, insurance or reinsurance undertaking, investment firm or UCITS management company authorised in another Member State;
- b) the parent undertaking of a credit institution, insurance or reinsurance undertaking, investment firm or UCITS management company authorised in another Member State;
- c) a natural or legal person controlling a credit institution, insurance or reinsurance undertaking, investment firm or UCITS management company in another Member State.

78. The paragraph 77 (c) is applicable if a natural or legal person or such persons acting in concert (the proposed acquirer) have taken a decision to further increase, directly or indirectly, a qualifying holding in an insurance or reinsurance undertaking as a result of which the proportion of the voting rights or of the capital held would reach or exceed 20%, 30%¹³ or 50% or so that the insurance or reinsurance undertaking would become its subsidiary.

79. A decision by the Supervisory Authority that has authorised the insurance or reinsurance undertaking in which the acquisition is proposed shall indicate any views or reservations expressed by the Supervisory Authority responsible for the proposed acquirer, in accordance with Article 60(2) of the Solvency II Directive.

80. The Supervisory Authorities shall provide upon request information on changes in qualifying holdings in the supervised undertakings to other Supervisory Authorities.

3. INFORMATION EXCHANGE IN CASE OF STARTING OF FOE ACTIVITY

Articles 145 and 146 of the Solvency II Directive

3.1. INFORMATION TO BE PROVIDED BY THE HOME NSA TO THE HOST NSA AND EIOPA IN CASE OF INSURANCE BRANCH ESTABLISHMENT

81. This Section defines the information that the Home NSA shall communicate to the Host NSA and EIOPA on the notification by an insurance undertaking to establish a branch in the Member State of the Host NSA, in particular:

- a) Paragraph 82 lists the information pursuant to Articles 145 and 146 of the Solvency II Directive;

¹³ Member States need not apply the 30% threshold where, in accordance with Article 9(3)(a) of Directive 2004/109/EC, they apply a threshold of one-third.

- b) Paragraph 83 includes a non-exhaustive list of information to be communicated by the Home NSA to the Host NSA so that the latter can support the Home NSA in the supervision of the insurance undertaking's activities under the freedom of establishment;
- c) Paragraph 84 lists the information to be communicated by the Home NSA to the Host NSA on a non-systematic basis in order to allow the Host NSA to have a deeper understanding of the FoE activity and to facilitate awareness for the ongoing supervision.

82. Where it does not oppose the establishment of a branch in another Member State, the Home NSA shall communicate the following non-exhaustive list of information to the Host NSA (communication of notification) and EIOPA:

- a) the name, address, e-mail address of the head office of the insurance undertaking, and LEI of the undertaking notifying the intention to establish a branch;
- b) the address of the branch in the Host Member State, from which documents, including all communications to the authorised agent, may be obtained or delivered to;
- c) the classes of insurance (in direct insurance and/or reinsurance, when applicable) according to the Annexes I and II to the Solvency II Directive, into which the planned business falls;
- d) the scheme of operations setting out, at least, the following¹⁴:
 - (i) the nature of the risks or commitments which the undertaking is proposing to cover through the FoE activity, including indication when the undertaking plans to start new business in the Host Member State(s);
 - (ii) if available, the guiding principles as to reinsurance and to retrocession with respect to the branch operations;
 - (iii) if available, cost estimates for setting up the administrative services and organisation for securing business of the branch; the financial resources set aside for this purpose and, if the risks to be covered fall within class n°18 in Part A of Annex I to the Solvency II Directive, the company taking over assistance services or the resources available to the insurance undertaking to provide the promised assistance;
 - (iv) the organisational structure of the branch;
 - (v) if available, for the first three financial years of the branch estimates of management expenses, other than installation costs (in particular, general expenses and commissions); and estimates of premiums or contributions and claims;
- e) information if the undertaking has indicated its intention to carry out significant cross-border activities in the Host Member State(s) above the threshold of EUR 15 000 000 gross

¹⁴ The items below are consistent with Article 23 of the Solvency II Directive. Some items may be influenced by the local accounting framework. When necessary, the Host NSA may ask clarifications from the Home NSA with regard to the components of those items.

written premiums determined in Article 152aa (1)(a) of the Solvency II Directive or intention to concentrate its FoE activities in one or more Host Member State(s);

- f) identification, through for example nomination document(s) and the e-mail address of a person who possesses sufficient powers to bind, in relation to third parties, the insurance undertaking;
- g) if the insurance undertaking is to cover risks in class 10 in Part A of Annex I to the Solvency II Directive, not including carrier's liability, a declaration that the undertaking has become a member of the national bureau and the national guarantee fund of the Host Member State;
- h) in cases where the insurance undertaking intends to cover risks relating to legal expenses insurance, the option chosen from those described in Article 200 of the Solvency II Directive;
- i) a certificate attesting that the insurance undertaking covers the SCR and MCR as calculated in accordance with Articles 100 to 129 of the Solvency II Directive in the form provided for in Appendix hereto.

83. The Home NSA shall be able to make use of the knowledge of the Host NSAs about the specificities of their markets and conduct of business in their territories. In order to provide a proper context for this exchange of information (see Section 3.2 on the information requested from the Host NSA) the following information shall be communicated by the Home NSA together with the information listed in paragraph 82 to the Host NSA and EIOPA:

- a) if available, identification of the person(s) who effectively run the branch¹⁵ or are responsible for key functions for the branch, through for example nomination document(s), and if so required by the host Member State legislation: email address, date of birth, country of birth, nationality, address of residence in the Host Member State;
- b) if the undertaking belongs to a cross-border group, the name of the group supervisor and the structure of the group as included in the coordination arrangement's annex, together with the last reported group solvency position;
- c) any available information regarding the planned distribution channel(s), relevant outsourcing contracts and partners that will be used in the Host Member State¹⁶;
- d) if available the results of the assessment of the undertaking's compliance with the POG requirements (e.g. material findings regarding design of the product, monitoring of distributors, target market identification and product testing);

¹⁵ Persons responsible for the activities of the branch within the undertaking (Home Member State).

¹⁶ This information may be derived from the review carried out by the Home NSA concerning the notification provided by the undertaking including the scheme of operations. Information may also be obtained from the review of the outsourcing requirements laid down in the Solvency II Directive, its implementing measures and EIOPA's Guidelines on System of Governance.

- e) a description of the relevant policyholder guarantee schemes in the Home Member State, where applicable, including the scope in case of cross-border business.

84. Where the undertaking intends to carry out significant cross-border activities in the Host Member State(s) above the threshold of EUR 15 000 000 gross written premiums determined in Article 152aa (1)(a) of the Solvency II Directive, or to concentrate its activities in other EEA Member State(s) on FoE basis, without prejudice to the proportionality principle and the principle of risk-based supervision, the Home NSA shall consider communicating additional information to allow the Host NSA to have a deeper knowledge of the FoE activity and facilitate awareness for the ongoing supervision. See below examples of additional information that can be provided by the Home NSA to the Host NSA and EIOPA:

- a) a summary of the undertaking's system of governance, including the risk management system in place, which provides for the proper management of the business of the branch;
- b) any available information resulting from the discussions with the undertaking of its business strategy and how the branch fits into that strategy.

85. The Host NSA may ask, on an ad-hoc basis, the Home NSA for information in addition to that specified in paragraphs 82 and 83 and provided under paragraph 84, before the undertaking establishes the branch preferably within one month upon receipt of the communication of the notification. Any such request shall be proportionate to the type of business, risks or commitments that the undertaking intends to cover in the Host NSA's territory. The Host NSA shall indicate the rationale supporting that ad-hoc request. In this case, the Home NSA shall inform the insurance undertaking of the request. The additional information requested, where possible, shall be included in an updated communication. If the insurance undertaking is not in a position to provide the additional information, the Home NSA shall inform the Host NSA.

86. The information above shall be communicated by the Home NSA to the Host NSA and EIOPA, as soon as possible, and in any event within three months from receiving the complete notification from the insurance undertaking which intends to establish a branch. The Home NSA shall ensure that the Host NSA and EIOPA receives the complete notification information. Immediately upon receiving the communication from the Home NSA, the Host NSA shall acknowledge its receipt.

87. The Home NSA may, where appropriate, have an informal exchange of information with the Host NSA before sending the complete notification. This may allow an exchange of information before the formal start of the FoE activity.

3.2. INFORMATION TO BE PROVIDED BY THE HOST NSA TO THE HOME NSA AND EIOPA IN CASE OF INSURANCE BRANCH ESTABLISHMENT

88. The Host NSA shall communicate to the Home NSA and EIOPA:

- a) any conditions under which, in the interest of the general good¹⁷, the activity must be pursued within the territory of the Host Member State or confirm that no conditions have been imposed in accordance with Article 146(3) of the Solvency II Directive, by providing the link to the website where the general good conditions are published;
- b) irregularities known to the Host NSA about the planned outsourcing activities, distribution partners, claims representatives, key persons as well as any relevant information following the analysis of the notification received from the Home NSA;
- c) if the insurance undertaking or its parent undertaking tried to establish an insurance undertaking in the Host Member State. Where an application for authorisation had been declined, the Host NSA shall provide additional information;
- d) if a related insurance undertaking (within the meaning of Article 212 of the Solvency II Directive) of the undertaking or its parent undertaking previously established in the Host NSA had its authorisation revoked or withdrawn and the reasons supporting such a decision;
- e) description of relevant policyholder guarantee schemes in the Host Member State that would be applicable to the branch.

89. If the Host NSA considers the information contained within the communication by the Home NSA to be incomplete, the Host NSA shall without delay inform the Home NSA. The Host NSA shall provide details of those areas where the information is considered to be incomplete and request the outstanding information.

90. All the information referred to in this Section shall be communicated as soon as possible by the Host NSA to the Home NSA and EIOPA and within two months of receipt of the communication of the notification. The Home NSA shall acknowledge receipt of all information received.

91. Without prejudice to the responsibilities of the Home and the Host NSA, where appropriate on a risk-based approach, EIOPA may provide its views to the Home NSA and/or the Host NSA(s) on the communication of notification.

3.3. INFORMATION TO BE PROVIDED BY THE HOME NSA TO THE INSURANCE UNDERTAKING IN CASE OF INSURANCE BRANCH ESTABLISHMENT

92. Upon receipt of a notification from an insurance undertaking, the Home NSA shall assess the completeness and accuracy of the information provided. Where the information provided is incomplete or incorrect, the Home NSA shall inform the insurance undertaking in writing without delay, indicating where the information is incomplete or incorrect.

¹⁷ A Supervisory Authority are not be expected to provide information on general good provisions which extend beyond those directly relating to the area of financial services.

93. Within three months of receiving the complete notification from the insurance undertaking, the Home NSA shall inform the insurance undertaking concerned that the information has been communicated to the Host NSA¹⁸. FoE activity shall not start in the Host State until the occurrence of one of the events referred to in paragraph 96. This communication shall be done preferably after receiving the acknowledgement of receipt from the Host NSA.

94. The Home NSA shall communicate to the insurance undertaking the information received from the Host NSA about the conditions under which, in the interest of the general good, the activity must be pursued within the territory of the Host State or communicate that no conditions were communicated as being imposed.

95. In case of the Home NSA's refusal to communicate the information referred to in Article 145(2) of the Solvency II Directive to the Host NSA, the Home NSA shall state the reasons for the refusal to the insurance undertaking within three months of receiving all the information in question.

3.4. STARTING OF THE INSURANCE BRANCH ACTIVITY

96. In accordance with Article 146(3) of the Solvency II Directive, the branch may start at the earliest of either of the following:

- a) the date upon which the Home NSA has received the communication pursuant to paragraph 88. a) of this Decision; or
- b) if no such communication is received, on the expiry of the two months period from the date when the Host NSA received the notification from the Home NSA.

3.5. CHANGE OF INFORMATION CONCERNING THE INSURANCE BRANCH

97. In the event of a change in any of the particulars communicated under Article 145(2) (b), (c) or (d) of the Solvency II Directive, an insurance undertaking shall give written notice of the change to the Home and Host NSAs at least one month before making the change. This is to allow the Home and Host NSAs to fulfil their obligations under Article 146 of the Solvency II Directive.

98. If the Home NSA does not object to the proposed change(s) as notified by the insurance undertaking, it shall communicate the information, including an attestation that the insurance undertaking covers the SCR and the MCR. This shall be sent to the Host NSA and EIOPA as soon as possible and in any event no later than one month after it has received the information from the insurance undertaking.

¹⁸ The three-month period shall be considered as having commenced on the date of receipt of the complete notification by the Home NSA.

99. In case an insurance undertaking deviates from its planning in relation to starting of new business in the Host Member State(s) as indicated in its scheme of operations, in order to facilitate the assessment by the Host NSA on the relevance for the Host Member State's market, the Home NSA shall inform the Host NSA(s) and EIOPA about the date when the insurance undertaking is actually starting its FoE activities in the Host Member State.

3.6. INSURANCE BRANCH CLOSURE

100. The Home NSA shall notify the Host NSA and EIOPA if business activities will no longer be continued due to the proposed closure of the branch as soon as possible and in any case before the discontinuation of the insurance activities by the branch. When applicable, such notification shall contain information on the management of the run-off portfolio, for example when the run off portfolio is managed by the undertaking's head office. If applicable, the Home NSA shall ensure that the undertaking complies with the notification's requirement for FoS.

101. In the event of the closure of the branch the Home NSA shall inform, before the closure, the Host NSA how the policies underwritten by the branch will be managed. The Home NSA shall, before the closure, closely cooperate with the Host NSA in order to address any issue that policyholder protection and/or the local law applicable to the insurance contracts could raise. The management of the policies underwritten by the branch shall take into consideration the protection of policyholders established in the jurisdiction of the Host NSA.

102. The procedure mentioned in paragraph 100 shall apply whenever a branch no longer accepts new business and the undertaking no longer administers its portfolio of contracts via this branch.

103. After the closure of the branch, as soon as possible and preferably within 1 month after the completion of the closure activities, the Home NSA shall notify the Host NSA and EIOPA. Such notification is to be performed to ensure consistency of the information available to the Host NSA and EIOPA and shall contain, when applicable, information on the management of the run-off portfolio. If applicable, the Home NSA shall ensure that the undertaking comply with the notification's requirement for FoS.

3.7. ESTABLISHMENT, CHANGE OF INFORMATION AND CLOSURE OF A BRANCH BY A REINSURANCE UNDERTAKING

104. Where a reinsurance undertaking intends to establish a branch in another Member State, the Home NSA shall, if available according to the laws of the Home Member State, communicate in writing the following information to the Host NSA and EIOPA:

- a) the name and address of the head office of the reinsurance undertaking, including e-mail address;
- b) the address of the branch, which shall also be that of the authorised agent;

- c) the name and powers of the authorised agent;
- d) the type of reinsurance activity, according to Article 15(5) of the Solvency II Directive, into which the planned business falls;
- e) a certificate attesting that the reinsurance undertaking covers the SCR and MCR as calculated in accordance with Articles 100 to 129 of the Solvency II Directive, in the form provided for in Appendix hereto.

105. The information shall be communicated by the Home NSA to the Host NSA and EIOPA within one month after having received information from the reinsurance undertaking in respect of its intention to establish a branch in the territory of another Member State.

106. Any proposed change to the information submitted pursuant to paragraph 104 shall be, as far as possible, communicated by the Home NSA to the Host NSA and EIOPA as soon as possible and in any event no later than one month after having received the information from the reinsurance undertaking.

107. The Home NSA shall notify, as soon as possible and in any case before the closure, the Host NSA and EIOPA if business activities will no longer be continued due to the proposed closure of the branch.

108. After the closure of the branch, as soon as possible and within one month after the completion of the closure activities, the Home NSA shall notify the Host NSA and EIOPA.

4. INFORMATION EXCHANGE IN CASE OF STARTING OF FOS ACTIVITY

Articles 147 to 149 of the Solvency II Directive

4.1. INFORMATION TO BE COMMUNICATED BY THE HOME NSA TO THE HOST NSA AND EIOPA IN CASE OF STARTING OF FOS ACTIVITY

109. This Section defines the information that the Home NSA shall communicate to the Host NSA within the territory of which the insurance undertaking intends to pursue business under FoS¹⁹ and EIOPA in particular:

- a) Paragraph 110 lists the information pursuant to Articles 147 and 148 of the Solvency II Directive;

¹⁹ Notification on the FoS activity should not take place in case of relocation of the insured risk from the Home Member State to any Host Member State after the insurance contract has been concluded, as the undertaking did not have intention to operate on a cross-border basis. However, change should be reflected in the Solvency II reporting.

- b) Paragraph 111 includes a non-exhaustive list of information to be communicated by the Home NSA to the Host NSA so that the latter can support the Home NSA in the supervision of the insurance undertaking's activities under the FoS;
- c) Paragraph 112 lists the information to be provided by the Home NSA to the Host NSA on a non-systematic basis in order to allow the Host NSA to have a deeper understanding of the FoS activity and to facilitate awareness for the ongoing supervision.

110. If the Home NSA has no reasons to refuse to communicate the notification provided by the insurance undertaking to the Host NSA, it shall communicate the following non-exhaustive list of information to the Host NSA (communication of notification) and EIOPA:

- a) the name, address and e-mail address of the head office of the insurance undertaking²⁰, including the LEI of the undertaking intending to pursue business under FoS;
- b) where applicable, the name, address and if available e-mail address of the establishments (other than the head office of the insurance undertaking), situated in the Member States, from which it plans to provide services;
- c) the classes of insurance (in the direct insurance and /or reinsurance, when applicable) according to the Annexes I and II to the Solvency II Directive which the insurance undertaking has been authorised to offer;
- d) the nature of the risks or commitments which the insurance undertaking proposes to cover in the Host Member State, including indication when the undertaking plans to start new business in the Host Member State(s);
- e) information if the undertaking has indicated its intention to carry out significant cross-border activities in the Host Member State(s) above the threshold of EUR 15 000 000 gross written premiums determined in Article 152aa (1)(a) of the Solvency II Directive or intention to concentrate its activities in one or more Host Member State(s);
- f) if the insurance undertaking intends to cover risks in class 10 in Part A of Annex I to the Solvency II Directive not including carrier's liability:
 - (i) the name and address of the claims representative as referred to in Article 152(1) of the Solvency II Directive;
 - (ii) a declaration that it has become a member of the national bureau and national guarantee fund of the Host Member State;
- g) if the insurance undertaking intends to cover risks relating to legal expenses insurance, the option chosen from those described in Article 200 of the Solvency II Directive;

²⁰ If available, it shall be indicated the email details of the head office of the insurance undertaking allowing the Host NSA to send the information referred on 3.2. by electronic means.

- h) a certificate attesting that the insurance undertaking covers the SCR and MCR calculated in accordance with Articles 100 and 129 of the Solvency II Directive, in the form provided in Appendix hereto.

111. The Home NSA shall be able to make use of the knowledge of the Host NSAs about the specificities of their markets and conduct of business in their territories. In order to provide a proper context for this exchange of information (see Section 4.2 on the information requested from the Host NSA) the following additional information shall be communicated by the Home NSA to the Host NSA and EIOPA:

- a) if the undertaking belongs to a cross-border group, the name of the group supervisor and the structure of the group as included in the coordination arrangement's annex, together with the last reported group solvency position;
- b) any available information regarding expected local third or related parties involved in the underwriting activities, including but not limited to the foreseen distribution partners in the Host Member State²¹ ;
- c) if available, identification, through for example nomination document(s) and an e-mail address of the person who is responsible within the insurance undertaking for handling of complaints in relation to the FoS activities;
- d) if available, the results of the assessment of the undertaking's compliance with the POG requirements (e.g. material findings regarding design of the product, monitoring of distributors, target market identification and product testing);
- e) description of the relevant policyholder guarantee schemes in the Home Member State, where applicable, including the scope in case of cross-border business.

112. Where the undertaking intends to carry out significant cross-border activities in the Host Member State(s) above the threshold of EUR 15 000 000 gross written premiums determined in Article 152aa (1)(a) of the Solvency II Directive or to concentrate its activities in other EEA Member State(s) on FoS basis, without prejudice to the proportionality principle and the principle of risk-based supervision, the Home NSA shall consider communicating additional information to allow the Host NSA to have a deeper knowledge of the FoS activity and facilitate awareness for ongoing supervision. See below examples of additional information that could be provided by the Home NSA to the Host NSA and EIOPA:

²¹ This information may be derived from the review carried out by the Home NSA concerning the notification provided by the undertaking and from ongoing supervisory review process (SRP). Information may also be obtained from the review of the outsourcing requirements laid down in the Solvency II Directive, its implementing measures and EIOPA's Guidelines on System of Governance.

- a) identification, through for example nomination document(s), of the persons who effectively run the undertaking or are responsible for the key functions. This information shall be communicated in all applicable cases;
- b) a summary of the undertaking's system of governance, including the risk management system in place;
- c) any available information resulting from the discussions with the undertaking of its business strategy and how the FoS fits into that strategy.

113. The Host NSA may ask for ad-hoc information from the Home NSA in addition to that specified in paragraphs 110, 111 and 112²² of this Decision. Any such request shall be proportionate to the type of business, risks or commitments that the undertaking intends to cover in the Host NSA's territory. The Host NSA shall indicate the rationale supporting that ad-hoc request. The Home NSA shall inform the insurance undertaking of the request. If the insurance undertaking is not in a position to provide additional information, the Home NSA shall inform the Host NSA.

114. The information above shall be communicated by the Home NSA to the Host NSA and EIOPA, as soon as possible, and in any event within one month from receiving the complete notification from the insurance undertaking which intends to carry on business by way of FoS in the territory of another Member State. The Home NSA shall ensure that the Host NSA receives the complete notification. Immediately upon receiving the communication of notification from the Home NSA, the Host NSA shall acknowledge its receipt.

115. Where the undertaking intends to carry out significant cross-border activities in the Host Member State(s) above the threshold determined in Article 152aa(1)(a) of the Solvency II Directive or to concentrate its activities) in other EEA Member State(s) on FoS basis, the Home NSA shall evaluate whether to have an informal exchange of information with the Host NSA before sending the complete notification. This should allow an exchange of information before the formal start of the activity by FoS.

116. In the other cases, the Home NSA may, on a case-by-case approach, have an informal exchange of information with the Host NSA before sending the complete notification.

4.2. INFORMATION TO BE PROVIDED BY THE HOST NSA TO THE HOME NSA AND EIOPA IN CASE OF STARTING OF FOS ACTIVITY

117. The Host NSA shall communicate to the Home NSA and EIOPA:

²² For instance, if the Host NSA has doubts as to the precise conditions under which the activity is to be pursued, in which case it may ask the Home NSA about the specific resources which the insurance undertaking proposes to use in marketing its products in the host Member State.

- a) any conditions under which, in the interest of the general good²³, the activity must be pursued within the territory of the Host Member State or confirm that no conditions have been imposed by providing the link to the website where the general good conditions are published;
- b) any irregularities known to the Host NSA, about the local third or related parties involved in the underwriting activities in the Host Member State, about claims representatives, about key persons as well as any relevant information following the analysis of the notification received from the Home NSA;
- c) if the insurance undertaking or its parent undertaking tried to establish an insurance undertaking in the Host Member State. Where an application for authorisation had been declined, the Host NSA shall provide additional information;
- d) if a related insurance undertaking of the undertaking or its parent, within the meaning of Article 212 of the Solvency II Directive, previously established in the Host NSA had its authorisation revoked or withdrawn and the reasons supporting such a decision;
- e) description of relevant policyholder guarantee schemes in the Host Member State that would be applicable to the FoS.

118. If the Host NSA considers the information contained within the communication by the Home NSA to be incomplete, the Host NSA shall without delay inform the Home NSA. The Host NSA shall provide details of those areas where the information is considered to be incomplete and request the outstanding information.

119. All the information referred in this Section shall be communicated as soon as possible by the Host NSA to the Home NSA and EIOPA. The Home NSA shall acknowledge receipt of all information received.

120. Without prejudice to the responsibilities of the Home and the Host NSA, were appropriate on a risk-based approach, EIOPA may provide its views to the Home NSA and/or the Host NSA(s) on the communication of notification.

4.3. INFORMATION TO BE PROVIDED BY THE HOME TO THE INSURANCE UNDERTAKING IN CASE OF STARTING OF FOS ACTIVITY

121. Upon receipt of a notification from an insurance undertaking, the Home NSA shall assess the completeness and accuracy of the information provided. Where the information provided is incomplete or incorrect, the Home NSA shall inform the insurance undertaking in writing without delay, indicating in which respect the information is incomplete or incorrect.

²³ A Supervisory Authority will not be expected to provide information on general good provisions which extend beyond those directly relating to the area of financial services.

122. The Home NSA shall inform the concerned insurance undertaking that the notification information has been sent to the Host State (see paragraph 124).

123. In case of the Home NSA's refusal to communicate the information referred to in Article 148(1) of the Solvency II Directive to the Host NSA, the Home NSA shall state the reasons for the refusal to the insurance undertaking within one month of receiving all the information in question.

4.4. STARTING OF FOS ACTIVITY

124. In accordance with Article 148(4) of the Solvency II Directive, the insurance undertaking may start insurance business as from the date on which it is informed by the Home NSA that the communication of notification provided for in Article 147 to the Host NSAs has been made²⁴.

4.5. CHANGE OF INFORMATION CONCERNING THE FOS ACTIVITY

125. In the event of a change in any of the particulars communicated under Articles 147 of the Solvency II Directive, the insurance undertaking shall give written notice of the change to the Home NSA.

126. The Home NSA shall communicate the information to the Host NSA and EIOPA as soon as possible, but in any event, no later than one month after it has received the information from the insurance undertaking.

127. Where there is a change in the business pursued by the insurance undertaking under the FoS that is materially affecting its risk profile or materially influencing the insurance activities in one or more Host Member States, the insurance undertaking shall inform the Home NSA immediately. The Home NSA shall inform the Host NSA(s) concerned without delay.

128. In case an insurance undertaking deviates from its planning in relation to starting of new business in the Host Member State(s) as indicated in its scheme of operations in order to facilitate the assessment by the Host NSA on the relevance for the Host Member State's market, the Home NSA shall inform the Host NSA(s) and EIOPA about the date when the insurance undertaking is actually starting its FoS activities in the Host Member State.

4.6 DISCONTINUATION OF FOS ACTIVITY

129. The Home NSA shall notify the Host NSA and EIOPA, if the information is available, if business activities will no longer be provided by FoS in the Host Member State, as soon as possible and before

²⁴ As a result, the feedback from the Host NSA (4.2) shall be expected to occur after the starting of the FoS activity by the insurance undertaking

the discontinuation of the insurance activities. This shall include stop of writing new business, termination of the existing policies and settlement of the outstanding claims.

130. As soon as possible and preferably within one month after the effective discontinuation of the insurance activities, the Home NSA shall notify the Host NSA and EIOPA. Such notification is to be performed to ensure consistency of the information available to the Host NSA and EIOPA and shall contain, where applicable, information on the management of the run-off portfolio.

5. INFORMATION EXCHANGE IN CASE OF STARTING OF SIGNIFICANT CROSS-BORDER ACTIVITY

Article 152aa of the Solvency II Directive and the RTS on the relevance for the host market

5.1. NOTIFICATION FROM THE HOST NSA ON THE SIGNIFICANT CROSS-BORDER ACTIVITY

131. The Host NSA shall notify the Home NSA and EIOPA of the fact that it considers the activities carried out on its territory under the FoE or FoS to be of relevance with respect to its market, and therefore considered significant cross-border activity, stating the reasons therefor.

132. In order to substantiate why the activities are considered relevant for the Host Member State's market, the notification by the Host NSA shall be properly documented with reference to the selected conditions and criteria set out in Article 5 of the RTS on the relevance for the host market, as considered appropriate by the Host NSA, by indicating whether such activities:

- a) are concentrated having regard to:
 - (i) the share of the undertaking's activities in the host Member State;
 - (ii) the market share held by the undertaking in the host Member State's market; or
- b) have a material impact on:
 - (i) the specific lines of business, insurance risks or insurance products considered important by the Host NSA due to specificities of the national insurance market, including compulsory insurance;
 - (ii) the protection of policyholders and beneficiaries in the host Member State.

133. In case that the Host NSA considers the activities carried out on its territory under the FoE or FoS are not anymore of relevance with respect to its market, it shall notify the Home NSA and EIOPA of that fact.

5.2. NOTIFICATION FROM THE HOME NSA ON THE SIGNIFICANT CROSS-BORDER ACTIVITY

134. The Home NSA shall notify EIOPA and the Host NSA(s) when the total annual gross written premium corresponding to the activities carried out by the undertaking in the host Member State

(s) under the FoS or FoE exceeds EUR 15 000 000, in accordance with Article 152aa(1) of Solvency II Directive. For the purposes of the assessment on the significant cross-border activity, the Home NSA shall notify EIOPA and the Host NSA(s) when the undertaking is classified as small and non-complex undertaking as of the end of the two-month period for the Home NSA to oppose to such classification, or if relevant, as of the decision confirming compliance with the criteria set out in Article 29a of Solvency II Directive²⁵. Same applies in case the undertaking is not anymore classified as small and non-complex undertaking. These notifications shall, where relevant, supplement information received through Solvency II quantitative reporting templates, to avoid potential gaps in information flows.

135. The Home NSA shall notify EIOPA and the Host NSA within one month in case it disagrees on the classification of the relevance of cross-border activity by the Host NSA, stating the reasons thereof, in accordance with Article 152aa(4) of Solvency II Directive.

5.3. ROLE OF EIOPA

136. In the event of a disagreement on the relevance of the activities carried out under the FoS or FoE, the Supervisory Authorities may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010²⁶ ("EIOPA Regulation").

137. EIOPA shall keep database of all undertakings performing significant cross-border activities on EIOPA's extranet²⁷:

- a) based on the Solvency II quantitative reporting templates received, and based on the notifications made by Home NSA in accordance with paragraph 134 of this Decision; and
- b) based on notifications by the Host NSA in accordance with paragraph 131 of this Decision.

6. OTHER PROVISIONS COMMON TO FOS AND FOE ACTIVITIES

²⁵ Undertakings complying with the criteria set out in Article 29a may notify the supervisory authority of such compliance with a view to being classified as small and non-complex undertaking. The supervisory authority may oppose the classification as a small and non-complex undertaking within two months of receipt of the complete notification. In the absence of an objection decision, the undertaking shall be classified as a small and non-complex undertaking as of the end of the two-month objection period. Where the supervisory authority has issued a decision confirming compliance with the criteria, the undertaking shall be classified as a small and non-complex undertaking as of the date of such decision.

²⁶ 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 (OJ L 331, 15.12.2010, pp. 48–83)

²⁷ All relevant information on the undertakings performing significant cross-border activities will be shared on annual basis with relevant Supervisory Authorities in accordance with Chapter 13 of this Decision.

6.1. SUBMISSION OF POLICY CONDITIONS TO THE HOST NSA (HEALTH INSURANCE AS AN ALTERNATIVE TO SOCIAL SECURITY)

Article 206 (1) of the Solvency II Directive

138. The Host NSA shall inform the relevant Supervisory Authorities of instances of contracts covering the risks under class 2 in Part A of Annex I of the Solvency II Directive, where these contracts may serve as a partial or complete alternative to health cover provided by the statutory social security system, and the general and specific conditions of such policies must be provided to the Host NSA before they are applied by providing the link to the relevant website of the Host NSA. This information shall be updated as soon as existing legislation is changed or new legislation is introduced.

139. The Home NSAs, who receives the information mentioned above, shall transmit it to the insurance undertakings wishing to perform FoE or FoS activity in the Member State concerned. The Home NSA shall advise that such contracts may not be concluded before the general and special conditions of that insurance are communicated to the Host NSA in the language(s) specified by the Host Member State's national law.

6.2. REPRESENTATIVE FOR THE HANDLING OF CLAIMS (MOTOR VEHICLE LIABILITY)

140. In the area of motor vehicle liability insurance, and preferably prior to the notification from the Home NSA to the Host NSA, Supervisory Authorities shall co-operate with the Home NSA in case the Home NSA performs a check of the reliability and the professional qualification of the representatives mentioned in Article 152 of the Solvency II Directive, including the claims representative appointed pursuant to Article 4 of Directive 2000/26/EC.

141. The requested Supervisory Authority shall, as far as possible, endeavour to promptly supply the information requested by the Home NSA or confirm that they have no such information.

7. ONGOING COOPERATION AND INFORMATION EXCHANGE BETWEEN HOME AND HOST NSAS IN RELATION TO (SIGNIFICANT) CROSS-BORDER ACTIVITIES

Articles 29, 30, 33, 152a, 152aa, 152ab and 152b of the Solvency II Directive

142. The on-going collaboration between Home and Host NSAs is crucial to ensure the proper functioning of the single market by maintaining a level playing field for undertakings and ensuring the same level of consumer protection for policyholders.

143. The financial supervision of the activities of insurance and reinsurance undertakings, both off-site and on-site, shall be the sole responsibility of the Home NSA in accordance with Article 30 of the Solvency II Directive. It shall encompass the supervision of the business pursued either through FoE or FoS but without prejudice to the powers of the Host NSA as recognised by Article 155 of that Directive.

144. The Home NSA shall consider increasing its cooperation with the Host NSAs to understand, within its continuous supervisory review process whether the insurance and reinsurance undertaking has a clear understanding of the risks that it faces, or may face, in the host territories. This cooperation shall be commensurate to the risks entailed by the cross-border activities, having regard to the proportionality principle and the risk-based approach to supervision.

7.1. GENERAL PROVISIONS ON THE TWO-LAYER NOTIFICATIONS

145. Home and Host NSAs shall establish enhanced supervisory cooperation and information exchange in relation to cross-border activities considering the following two-layer notifications:

- a) the Home and Host NSAs shall make notifications in relation to all cross-border activities, both significant and non-significant, pursuant to Article 152a of the Solvency II Directive;
- b) in addition, the Home and Host NSAs shall make notifications in relation to significant cross-border activities pursuant to Article 152ab of the Solvency II Directive.

146. Without prejudice to Article 152a, in case the insurance or reinsurance undertaking or the captive insurance or captive reinsurance undertaking is classified as small and non-complex undertaking, the Home NSA is not required to perform the notification under Article 152ab of the Solvency II Directive.

147. In order to achieve supervisory convergence in the notification practices, a set of criteria for notifications from the Home and Host NSA have been defined in Sections 7.2 and 7.3, with regard to the two-layer notifications. The Home and Host NSA shall consider those criteria as 'de minimis' thresholds. The Home NSA and Host NSA may perform the notifications for both significant and non-significant cross-border activities applying lower criteria, where deemed necessary.

7.2. NOTIFICATIONS FROM THE HOME NSA

All cross-border activities

148. In accordance with Article 152a (2) of the Solvency II Directive, the Home NSA shall notify EIOPA and the Host NSA(s) when an undertaking carrying out cross-border activity under FoE or FoS shows deteriorating financial conditions or other emerging risks, including those concerning consumer protection, which may have cross-border effects.

Significant cross-border activities

149. In accordance with Article 152ab (2) of the Solvency II Directive, the Home NSA shall make the notifications in relation to significant cross-border activities when one of the following conditions has been met:

- a) the total annual gross written premium corresponding to the activities carried out by the undertaking in that host Member State under the FoS or FoE exceeds EUR 15 000 000, according to the latest information at the Home NSA's disposal;
- b) the Host NSA notified the Home NSA that the activities carried out under the FoS or FoE are considered to be of relevance with respect to the host Member State's market pursuant to the conditions and criteria set by Article 5 of the RTS on the relevance for the host market.

7.2.1. CRITERIA IN CASE OF DETERIORATING FINANCIAL CONDITIONS OR OTHER EMERGING RISKS WITH CROSS-BORDER EFFECTS (ALL CROSS-BORDER ACTIVITIES)

150. The Home NSA shall consider if an undertaking is showing deteriorating financial conditions, or other emerging risks with cross-border effects by the application of the criteria specified in paragraphs 151 and 152. of this Decision.

151. When one of the following criteria is met, the Home NSA shall make a notification:

- a) the Home NSA has identified/been informed on a MCR/SCR breach²⁸;
- b) the Home NSA intends to take one of the supervisory measures referred to in Sections 8.1. to 8.5. of this Decision, including any relevant updates in relation to any of measures referred to in Chapter 8 of this Decision;
- c) the Home NSA has identified/been informed on a risk of non-compliance with SCR/MCR within the next three months²⁹;
- d) the Home NSA intends to request the undertaking to materially increase the technical provisions.

In case of non-significant cross-border activity, the notifications referred in c) and d) shall be performed if the undertaking does not increase the SCR/MCR coverage or technical provisions as requested by the Home NSA. In that case, if the undertaking increases the SCR/MCR coverage or technical provisions, the Home NSA shall evaluate on a case-by-case basis whether to perform the notification.

²⁸ Please refer to the EIOPA Statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement for the approach to define the date of observation of non-compliance by an undertaking with the SCR

²⁹ A near non-compliance of SCR refers to the situation where the solvency position of an insurer starts to deteriorate and where it is likely that it will continue to deteriorate and fall below the SCR if no remedial action is taken.

152. When one of the following criteria is met, the Home NSA shall evaluate whether to make a notification:

- a) the Home NSA has classified the undertaking as “intensive monitoring/high risk” as result of its own risk assessment framework in accordance with Section III of EIOPA Guidelines on supervisory review process (EIOPA- BoS-25/660);
- b) the Home NSA has taken enforcement measures/actions³⁰ against person(s) who effectively run the undertaking or hold other key functions³¹, or against its shareholders and members with qualifying holdings;
- c) the Home NSA has imposed any administrative sanctions or other measures against the undertaking in accordance with the Solvency II Directive which may affect the cross-border activities, in particular any of the measures referred to in Chapter 8 of this Decision.

7.2.2. CRITERIA FOR THE INFORMATION EXCHANGE ON THE OUTCOME OF SUPERVISORY REVIEW PROCESS (SIGNIFICANT CROSS-BORDER ACTIVITIES)

153. The Home NSA shall inform EIOPA and the Host NSA(s) about the outcome of its supervisory review process related to the significant cross-border activities on any issues identified that affect or are likely to affect the cross-border activities in the host Member State, in particular:

- a) potential concerns regarding the calculation of technical provisions by the insurance or reinsurance undertaking;
- b) potential concerns regarding the calculation of SCR/MCR and the amounts of eligible own funds to cover SCR/MCR, respectively, as reported by the insurance or reinsurance undertaking;
- c) potential issues of compliance with the legislative and administrative provisions applicable in the host or the home Member State;
- d) material issues in relation to the following aspects:
 - (i) the system of governance including the ability of the AMSB to understand the cross-border market specificities, risk management tools, internal controls in place and compliance procedures for the cross-border business;
 - (ii) outsourcing and distribution partnerships;
 - (iii) business strategy and claims handling;
 - (iv) consumer protection.

³⁰ The notion of “measure/action” shall cover not only administrative measures but also misdemeanours and criminal proceedings if applicable such as when the Supervisory Authority is the e.g. authorized prosecutor.

³¹ For example, in case the Home NSA has the intention to request the undertaking to replace a Board member, key function holder, or person who effectively run the undertaking because they are unfit or because convicted of financial crime.

154. The following non-exhaustive list of supervisory findings could be considered by the Home NSA when assessing in accordance with paragraph 153, if identified issues affect or are likely to affect the exercise of significant cross-border activities in the host Member State:

- a) finding that the SCR/MCR ratio of the undertaking breaches the SCR/MCR ratio limit according to the Risk Appetite Framework of the undertaking;
- b) finding that the SCR/MCR ratio of the undertaking breaches the SCR/MCR ratio limit considered by the NSA to assess situations of risk of non-compliance with SCR/MCR, when applicable;
- c) findings that the undertaking has materially breached one or more of other key operational triggers set by the undertaking itself (e.g. capital buffer, liquidity triggers, combined ratio, surrenders ratio etc.);
- d) findings related to the external auditor's opinion (if any) on the undertaking Solvency II balance sheet (or Solvency II reporting) or information shared by the statutory auditors, in the context of the dialogue with NSAs³², that is expected to impact the solvency position of the concerned undertaking;
- e) findings on an unexpected increase/decrease in the undertaking key risk or performance indicators (for example, an unexpected increase of life contracts surrenders which have a material impact on the balance sheet of the undertaking);
- f) findings of an unexpected loss of AMSB member or key staff who have not been replaced;
- g) findings on the portfolio of the undertaking in the Host member state(s) (e.g. underserving, material flaws in the underwriting, claims and complaints processes);
- h) findings related to the data quality of the reporting materially impairing the reliability of the undertaking's financial and prudential reporting;
- i) the Home NSA has detected the occurrence of operational risk events on the undertaking (e.g. data breach, IT risk event, frauds, sanctions on non-insurance related regulations – e.g. privacy, AML/CTF).

7.2.3. CRITERIA IN CASE OF EMERGING RISKS CONCERNING CONSUMER PROTECTION (ALL CROSS-BORDER ACTIVITIES)

155. The Home NSA shall identify an undertaking posing emerging risks concerning consumer protection which may have a cross-border effects, by the application of the following criteria. When one of the following criteria is met, the Home NSA shall evaluate whether to make a notification.

³² Please refer to EIOPA's Guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those undertakings

- a) the Home NSA has imposed administrative sanctions or other measures in accordance with Chapter VII of IDD towards the undertaking or its intermediaries which may affect the cross-border activities;
- b) the Home NSA has identified breaches – either product specific or relating to the processes in general – of POG requirements for insurance undertakings and insurance distributors, including breaches vis-à-vis the requirements to have an adequate product approval process;
- c) the Home NSA has identified findings in relation to the undertaking's compliance with the POG requirements which concluded that one or more products manufactured by the undertaking:
 - (i) are particularly complex or which carry significant risk for the consumer of the host Member State;
 - (ii) pose a particular risk because of specific requirements in the Host NSA or because of the specific local target market to whom they are marketed (e.g., vulnerable consumers);
 - (iii) pose a risk relating to the distributors chosen in the local market;
 - (iv) do not offer value for money (i.e. as a result of EIOPA's value for money benchmarks exercise³³ and retail risk indicators work, the Home NSA has carried out further assessment and identified that one or more products do not offer value for money);
- d) the Home NSA has imposed administrative sanctions or other measures in accordance with Chapter V of Regulation (EU) 1286/2014 'on key information documents for packaged retail and insurance-based investment products ("PRIIPs Regulation") towards the undertaking or its intermediaries, which may affect the cross-border activities.

7.2.4. CONTENT OF THE NOTIFICATIONS BY THE HOME NSA

156. The notifications performed by the Home NSA to EIOPA and the Host NSA(s) shall contain the following information:

- a) the name and address of the head office of the undertaking;
- b) a description of the event(s) which have occurred to the undertaking and a summary of the first Home NSA assessment, including where appropriate detailed documentation to understand the context;
- c) the supervisory measures requested by the Home NSA from the undertaking and the timeline for such measures to be completed;

³³ EIOPA's BoS approved methodology on setting value-for-money benchmarks for unit-linked and hybrid insurance products.

- d) when available, an overview of the undertaking financial and solvency position, including where appropriate, a forward-looking projection of the impacts of the supervisory measures requested by the Home NSA;
- e) where appropriate, the Home NSA's reasoned request to the Host NSA(s) to set up collaboration platform and/or to EIOPA to consider setting up of collaboration platform;
- f) the Home NSA's request of information to the Host NSA(s) needed to perform its supervisory activities on the undertaking;
- g) other additional information as deemed necessary by the Home NSA.

7.2.5. PROCESS OF THE NOTIFICATIONS BY THE HOME NSA

157. The Home NSA shall notify the Host NSA in which the undertaking carries out significant cross-border activities:

- a) without delay, where it identifies deteriorating financial conditions or a risk of non-compliance with the SCR or MCR within the next three months, in accordance with paragraph 151 of this Decision;
- b) at least annually, or more frequently in case of a request by the Host NCA, on any indication of potential concerns regarding the calculation by the undertaking's technical provisions, as well as regarding the SCR and MCR, and amount of eligible own funds to cover SCR/MCR, in accordance with paragraph 153 points a) and b) of this Decision.

158. In all other cases applicable for significant and non-significant cross-border activities , the Home NSA shall notify the Host NSA and EIOPA when the criteria are met or the Home NSA deems it appropriate, as soon as possible, in accordance with the criticality of the risk observed and preferably within one month.

159. Immediately upon receiving the notification from the Home NSA, the Host NSA(s) and EIOPA shall acknowledge their receipt.

160. Upon receipt of the notification, the Host NSA and EIOPA shall assess the content of the notification. Where appropriate, the Host NSA and EIOPA may request the Home NSA to provide further information. The Home NSA shall respond as soon as possible and preferably within one month. If the Home NSA requests information from the Host NSA(s), the same rule shall apply.

161. The Home NSA, where appropriate and as the information becomes available, shall within one month, provide updates to the Host NSA(s) and EIOPA of the financial and solvency position of the undertaking and progress regarding the implementation of the required supervisory measures.

162. The Home NSA shall also inform the Host NSA(s) and EIOPA when the undertaking resolved its difficulties.

7.2.6. OTHER INFORMATION EXCHANGE FROM THE HOME NSA

163. In order to allow and facilitate the exercise of the relevant supervisory tasks the Home NSA shall provide the affected Host NSA(s) and EIOPA with the following information in a timely manner:

- a) material concerns on the assessment of the suitability of shareholders and members with qualifying holdings, as well as to the assessment of the fitness and propriety of all persons who effectively run the undertaking or hold other key functions, which are connected to other member States, in line with Section 2.4;
- b) in case of cessation of the activities (FoE or FoS), details as to how the cross-border policies covering risks or commitments situated in the territory of the Host Member State are managed (see 100-103, 107. and 129-130-);
- c) follow-up on inspection requests from the Host NSA following paragraph 210 and measures taken following paragraphs 164 and 223³⁴;
- d) all information related to the solvency, the system of governance or the business model of the undertaking carrying out significant cross-border activities in the territory of the Host Member State, upon a duly justified request by the Host NSA.

164. Where the Home NSA is informed in accordance with Section 7.3 about an insurance or reinsurance undertaking's failure to take actions to comply with the legal provisions applicable to it in the Host NSA, it shall, at the earliest opportunity, take all appropriate actions to ensure that the insurance undertaking remedies the irregular situation. The Home NSA shall inform the Host NSA about the actions taken by the Home NSA and the insurance undertaking. Any deviation from measures proposed by the Host NSA shall be properly explained to the Host NSA. Furthermore, the Home NSA shall provide information in cases where the Host NSA has already raised concerns.

7.3. NOTIFICATION FROM THE HOST NSA

All cross-border activities

165. Pursuant to Article 152a (2) of Solvency II Directive, the Host NSA may notify the Home NSA and EIOPA where it has serious and reasoned concerns with regard to consumer protection regarding an undertaking carrying out cross-border activity under FoE or FoS in its Member State.

³⁴ If the Home NSA is unable to reply within the time indicated in the request, it shall inform the other Supervisory Authority of the time by which it will provide feedback. If the information is not available, it shall inform the other Supervisory Authority accordingly.

7.3.1. CRITERIA IN CASE OF SERIOUS AND REASONED CONCERNS WITH REGARD TO CONSUMER PROTECTION

166. The Host NSA shall consider the following criteria to identify undertakings potentially posing serious concerns with regard to consumer protection:

- a) the Host NSA has received or has been notified by the relevant statutory authority a considerable number of complaints given the relevant market share of the undertaking, taking into account the overall number of complaints for the relevant products/line of business vis-à-vis the share of the undertaking's business for that product/line of business;
- b) the Host NSA has imposed administrative sanctions or other measures in accordance with Chapter V of PRIIPs Regulation towards the undertaking or its intermediaries;
- c) the Host NSA has detected a non-compliance of the undertaking with the legal provisions of the Host Member State with impacts on consumers;
- d) the Host NSA has other, specific concerns of material relevance to the Home NSA or to EIOPA on the undertaking or its intermediaries conduct of business (e.g. persistent delays or unfair practices in claims settlement, evidence of mis-selling or unsuitable advice, misconduct by intermediaries or distribution partners, misleading marketing or disclosure practices, failure/crime of business partner/distributor, frauds in the product/line of business, delays in paying claims, whistleblowing, etc.);
- e) the Host NSA has detected any other non-compliance of material relevance with rules relating to activities of insurance distribution in accordance with POG requirements;
- f) the Host NSA has taken emergency measures to prevent irregularities committed by the undertaking on its territory. The measures may, in particular, include a prohibition on the undertaking from continuing to conclude new contracts in the territory of the Member State concerned, or any other measure provided for by national legislation.

7.3.2. CONTENT OF THE NOTIFICATIONS BY THE HOST NSA

167. The notifications performed by the Host NSA to EIOPA and the Home NSA(s) for the purpose of Section 7.3 shall contain the following information:

- a) the name and address of the head office of the insurance undertaking;
- b) where applicable, the name and address of the establishments (other than the head office of the insurance undertaking), or of the branch situated in the Host Member State;
- c) a description of the event(s) occurred to the undertaking and a summary of the Host NSA assessment of the situation, including where appropriate any documentation that can clarify the issue;
- d) the supervisory measures requested by the Host NSA from the undertaking including their timeline of application;

- e) where appropriate, the Host NSA's reasoned request to the Home NSA to set up collaboration platform and/or to EIOPA to consider setting up of collaboration platform;
- f) the Host NSA's request of information to the Home NSA needed to perform its supervisory activities on the undertaking;
- g) other additional information as deemed necessary and proportionate by the Host NSA.

7.3.3. PROCESS OF THE NOTIFICATIONS BY THE HOST NSA

168. The Host NSA may notify the Home NSA for the purpose of Section 7.3 as soon as possible and preferably within one month after the Host NSA identified an undertaking posing serious and reasoned concerns with regard to consumer protection. When appropriate, the Host NSA may include other Host NSAs in the notification.

169. Where the Host NSA decides to notify a cross-border issue related to consumer protection to Home NSA, EIOPA and the other Host NSAs (when applicable), the Home NSA, EIOPA and the other Host NSA (when applicable) shall acknowledge their receipt of the notification immediately.

170. Upon receipt of the notification, the Home NSA and EIOPA shall assess the content of the notification. When appropriate, the Home NSA and EIOPA may request the Host NSA to provide further information. The Host NSA shall respond as soon as possible and preferably within one month. If the Host NSA requests information from the Home NSA, the same rule shall apply.

171. The Host NSA, where appropriate and as the information becomes available, shall inform in a timely manner the Home NSA, the other Host NSA(s) and EIOPA of developments in relation to the matters raised. The Host NSA shall also inform the Home NSA when the undertaking resolved its difficulties.

7.3.4. OTHER INFORMATION EXCHANGE FROM THE HOST NSA

172. The Host NSA shall inform in accordance with Article 30(3) of the Solvency II Directive the Home NSA if it has reasons to consider that the activities of an insurance or reinsurance undertaking might affect its financial soundness. The following are examples of information that shall be communicated by the Host NSA to the Home NSA at the earliest opportunity:

- a) situations that can influence the Home NSA's assessment of the suitability of shareholders and members with qualifying holdings as well as, of the fitness and propriety of all persons who effectively run the undertaking or hold other key functions, in line with Section 2.4 of this Decision;
- b) vulnerabilities discovered during the monitoring of compliance with the legal provisions of the Host Member State (paragraphs 173 and 208) through the notification described in Section 7.3 in case they raise concerns to consumer protection;

- c) vulnerabilities discovered following conduct of business supervision through the notification described in Section 7.3 in case they raise concerns to consumer protection;
- d) potential irregularities including cases where the undertaking is pursuing an activity that has not been notified or has violated the legal provisions in force in the host Member State (paragraph 222);
- e) undertakings' lack of action and proposed supervisory measures (paragraph 172) through the notification described in Section 7.3 in case they raise concerns to consumer protection;
- f) measures taken by the Host NSA (paragraph 225) through the notification described in Section 7.3 in case they generate concerns to consumer protection;
- g) other adverse developments such as significant increase of policyholders' complaints together with the complaints' topic(s), change of standards of the conduct of business, unsatisfactory commercial practices and any other issue that can significantly influence the Home NSA's assessment of the undertaking.

173. In order to investigate compliance with the legal provisions of the Host Member State also applicable to cross-border activities, any insurance or reinsurance undertaking operating through a FoE or FoS, shall be requested to communicate to the Host NSA any documents the provision of which would have been compulsory if requested from an undertaking with its head office in that Host Member State.

174. Refusal to communicate such documents shall be treated as an irregularity within the meaning of Article 155 of the Solvency II Directive.

8. SUPERVISORY MEASURES

175. This Decision focuses on the supervisory measures adopted by Supervisory Authorities under the Solvency II Directive and it shall be read without prejudice to the application of Directive (EU) 2025/1 for the recovery and resolution of insurance and reinsurance undertakings.

176. The Home NSA shall perform the notifications, including any relevant updates, described in this Chapter through the CBN tool as a part of the process of notification described in Section 7.2. of this Decision where appropriate³⁵.

8.1. MEASURES TO REMEDY THE DETERIORATION OF SOLVENCY POSITION

Articles 136a and 141 of the Solvency II Directive

³⁵ Home NSA shall also consider if type 1 collaboration platform has been established, in the light of requirement from paragraph 235 of this Decision.

177. Where the solvency position of an undertaking deteriorates, the Home NSA shall take the necessary measures to remedy that deterioration in accordance with Article 136a of the Solvency Directive or all measures which are necessary to safeguard the interests of policyholders in the case of insurance contracts, or the obligations arising out of reinsurance contracts, in accordance with Article 141 of Solvency Directive.

178. The Home NSA shall inform the Host NSA and EIOPA of its intention to take any such measure(s). It shall inform the Host NSA about the measures taken and expected timelines to remedy the deterioration of solvency position, together with any information which it considers appropriate in the circumstances.

8.2. SUSPENSION OF REDEMPTION RIGHTS OF LIFE INSURANCE POLICY HOLDERS

Article 144b(3)(e) of the Solvency II Directive

179. Where an undertaking is facing material liquidity risks that may cause an imminent threat to the protection of policy holders or to the stability of the financial system, the Home NSA shall determine whether to suspend redemption rights of life insurance policy holders. This measure shall only be exercised in exceptional circumstances which affect the undertaking, as a last resort measure, and where that is in the collective interest of policy holders and beneficiaries of the undertaking.

180. Before exercising that power, the Home NSA shall take into account potential unintended effects on financial markets and on the rights of policy holders and beneficiaries of the undertaking, including in a cross-border context and inform the Host NSA and EIOPA of its intention to initiate any such measure(s). It shall inform the Host NSA about the measures taken and expected timelines, including in the case of renewal of renewal of any such measure.

8.3. RESTRICTION OR PROHIBITION OF FREE DISPOSAL OF ASSETS

Articles 137, 138, 139 and 140 of the Solvency II Directive

181. The Home NSA shall determine whether to initiate any measure(s) to restrict or prohibit the free disposal of the assets of an insurance or reinsurance undertaking. The Home NSA shall inform the Host NSA and EIOPA of its intention to initiate any such measure(s). The notification and the measure may happen simultaneously where immediate action is required.

182. The Home NSA shall, in writing, inform the Supervisory Authorities of the relevant Member States where the assets are located, whose disposal must be restricted or prohibited.

183. Insofar as it lies within their possibilities, the Supervisory Authorities of the Member States concerned shall check the existence or the location of the assets previously identified by the Home NSA, on the basis of information provided by the latter, and on its request.

184. The Supervisory Authority to which the request has been made shall restrict or prohibit the disposal of the assets and inform the Home NSA of the measures taken. It shall endeavour to provide any assistance required by the Home NSA.

8.4. RECOVERY PLAN

Articles 138, 141 and 142 of the Solvency II Directive

185. When an undertaking submits a recovery plan to the Home NSA, the Home NSA shall assume responsibility for approving and ensuring the implementation of the recovery plan.

186. The Home NSA shall inform the Host NSA and EIOPA that the undertaking is required to submit a recovery plan. It shall inform the Host NSA about the measures referred in Article 138(3) of the Solvency II Directive to achieve, within six months from the observation of non-compliance with the SCR, the re-establishment of the level of eligible own funds covering the SCR or the reduction of its risk profile to ensure compliance with the SCR, together with any information which it considers appropriate in the circumstances, on the request of the Host NSA.

187. If Supervisory Authorities from more than one Member State consider that an exceptional adverse situation, as referred to in the second sub-paragraph of Article 138 (4), of the Solvency II Directive, exists in their markets, that affects or may affect undertakings in their markets, those Supervisory Authorities shall share information and shall cooperate, where appropriate, to submit³⁶, a joint request to EIOPA to declare such an exceptional situation to exist in their respective markets.

8.5. SHORT-TERM FINANCE SCHEME

Articles 139, 141 and 142 of the Solvency II Directive

188. When an insurance or reinsurance undertaking is required to provide the Home NSA with the short-term realistic financial scheme, the Home NSA shall assume responsibility for approving and ensuring the implementation of the plan.

189. The Home NSA shall inform the Host NSA and EIOPA that the insurance or reinsurance undertaking submitted a short-term finance scheme. It shall inform the Host NSA about the measures to restore, within three months of that observation, the eligible basic own funds, at least to the level of the MCR or to reduce its risk profile to ensure compliance with the MCR, together with any information which it considers appropriate in the circumstances, on the request of the Host NSA.

³⁶ In the meaning of paragraph 24 of Processes for declaring exceptional adverse situation for the purposes of Article 138 of Solvency II (Extension of the Recovery Period) (EIOPA-BoS-16/158-rev1 8 August 2016).

8.6. WITHDRAWAL OR LAPSE OF AUTHORISATION

Article 144 of the Solvency II Directive

190. The Home NSA shall assume sole responsibility for terminating the activity of an undertaking. This shall be without prejudice to the competences of Host NSA.

191. Except under special circumstances and before withdrawing authorisation in respect of one, several or all the classes for which the undertaking is authorised, the Home NSA shall inform the Supervisory Authorities of all affected Host States of its intention.

192. The Home NSA shall communicate the decision on withdrawal or the lapse of authorisation to the Supervisory Authorities of all other Member States in respect of which the undertaking has exercised rights under FoE or FoS and EIOPA, and update its website accordingly. Where applicable, communication shall be made when the Home NSA issues decision on the withdrawal of the authorisation, and in the case of appeal, when that decision is final and when winding up procedure has been initiated.

193. The Supervisory Authorities shall, throughout the process relating to the withdrawal or lapse of authorisation, collaborate in good faith and in mutual recognition of the competence of each Supervisory Authority. Where applicable, the Home NSA shall in collaboration with the liquidator or any other person appointed by the competent authorities, inform the Host NSA and EIOPA on the discontinuation of FoE or FoS activities as soon as the last outstanding claim of a policyholder resident in the relevant Host Member State has been settled or the winding-up proceedings have been concluded.

194. The Supervisory Authorities shall act collectively and collaboratively, to ensure a coordinated response to the consequences of the withdrawal or the lapse of authorisation.

8.7. OTHER MEASURES TO REMEDY LIQUIDITY VULNERABILITIES IN EXCEPTIONAL CIRCUMSTANCES OR PRESERVE THE FINANCIAL POSITION OF UNDERTAKINGS DURING EXCEPTIONAL SECTOR-WIDE SHOCKS

Articles 144b and 144c of the Solvency II Directive

195. In exceptional circumstances, where an undertaking is facing material liquidity risks that may cause an imminent threat to the protection of policy holders or to the stability of the financial system, the Home NSA shall take the necessary measures to remedy liquidity vulnerabilities in accordance with Article 144b of Solvency Directive. During periods of exceptional sector-wide shocks that have the potential to threaten the financial position of the undertaking concerned or the stability of the financial system, the Home NSA shall take the necessary measures to require undertakings to preserve the financial position of individual insurance or reinsurance undertakings. in accordance with Article 144c of Solvency Directive

196. Where such circumstance may have implications for cross-border activities or policyholders in other Member States, without prejudice to information exchange requested in those articles, the Home NSA shall inform the Host NSA and EIOPA of its intention to initiate any such measure(s). It shall inform the Host NSA about the measures taken and expected timelines, including in the case of renewal of any such measure(s).

8.8. REORGANISATION MEASURES AND WINDING-UP PROCEEDINGS OF AN INSURANCE UNDERTAKING

Articles 269, 270, 273 and 296 of the Solvency II Directive

197. A decision adopted according to the Home Member State's legislation concerning reorganisation measures or the opening of winding-up proceedings of an insurance or reinsurance undertaking, including its branches in other Member States, shall be recognised without any further formalities within the territory of all other Member States and shall be effective there as soon as the decision is effective in the Member State in which the proceedings are opened.

198. The Supervisory Authority of the Home State shall assume sole responsibility for reorganising or terminating the activity of an (re)insurance undertaking.

199. The Home NSA shall communicate, as a matter of urgency, where possible before the adoption of such a measure and failing that immediately thereafter, the decision on the winding-up or adoption of reorganisation measures to all other Supervisory Authorities and EIOPA. The information shall include the possible practical effect of such measures.

200. When an insurance or reinsurance undertaking, whose head office is situated outside EEA, has branches established in more than one Member State, each branch shall be treated independently with regard to the application of Title IV of the Solvency II Directive (Reorganisation and winding-up of insurance undertakings).

201. The Supervisory Authorities of the relevant Member States shall endeavour to coordinate their actions.

9. ON-SITE INSPECTIONS

Articles 33, 152ab and 152b of the Solvency II Directive

9.1. ON-SITE INSPECTIONS INITIATED BY THE HOME NSA

202. Where in accordance with Article 33 of the Solvency II Directive, the Home NSA decides to carry out on-site inspections in a branch of an insurance or reinsurance undertaking situated in

another Member State, it shall communicate it to the Host NSA in advance, preferably 8 weeks before the on-site inspection date, indicating the:

- a) name and position of the persons responsible for the investigation;
- b) dates planned for the action;
- c) reason(s) for the investigation; and
- d) programme for the proposed investigation.

203. On-site inspections of branches of an insurance or reinsurance undertaking shall enable the Supervisory Authorities to assess the situation of each establishment and the standard of its business activities. To this end, the Home NSA shall ask the insurance or reinsurance undertaking to place at its disposal, locally, any documents, books, registers, contracts, statements of claims, accounting documents, etc. which may be required, and personnel qualified to provide it with the information required.

204. Paragraph 202. shall not restrict the power of the Home NSA to extend its investigations beyond the initial programme. In such case, the Home NSA shall inform the Host NSA of such an extension.

205. The Host NSA may take part in the on-site inspection in accordance with Article 33 of the Solvency II Directive. If it chooses to do so, the Home NSA shall be informed without delay by the Host NSA which shall indicate the name and position of the persons who participate in the inspection. In accordance with Article 21 of EIOPA Regulation, EIOPA may participate in on-site inspections where they are carried out jointly by two or more Supervisory Authorities. Section 9.3 of this Decision shall apply.

206. After concluding the on-site inspection, the Home NSA shall communicate to the Host NSA the findings from the inspection, and whether it has adopted or intends to adopt any supervisory measure.

207. If, at the express request of the Home NSA, the Host NSA carries out an on-site inspection alone, on behalf of the Home NSA, the Home NSA shall place at the disposal of the persons empowered to carry out that investigation any accounts, documents and information which they may need in the performance of their duties.

9.2. ON-SITE INSPECTIONS INITIATED BY THE HOST NSA

208. Where in order to verify compliance with the legal provisions applicable in the Host Member State it is considered necessary to carry out an on-site inspection at the branch or an on-site inspection of an outsourced services provider (e.g. a managing general agent) where business is being carried out on an FoS basis, the Host NSA may carry out such an inspection on its own initiative.

209. In case of an inspection referred to in paragraph 208, the Host NSA shall inform the Home NSA of its decision as soon as possible, preferably 8 weeks before the on-site inspection date, communicating the following:

- a) name and position of the persons responsible for the investigation;
- b) dates planned for the action;
- c) reason for the inspection; and
- d) proposed programme.

210. The Home NSA may participate in the on-site inspection. If it chooses to do so, the Host NSA shall be informed without delay by the Home NSA which shall indicate the name and position of the persons who will participate in the inspection. EIOPA may participate in on-site inspections where they are carried out jointly by two or more Supervisory Authorities. Section 9.3 of this Decision shall apply accordingly.

211. After concluding the on-site inspection, the Host NSA shall communicate to the Home NSA the findings from the inspection, and whether it has adopted or intends to adopt any supervisory measure.

212. When, for the purposes of monitoring compliance with the legal provisions applying to a branch or to operations conducted within its territory by way of FoS, an on-site inspection at the head office of the insurance or reinsurance undertaking is considered necessary, the Host NSA shall inform the Home NSA. The Home NSA may carry out the inspection and the Host NSA can participate. Paragraph 204 and Section 9.3 of this Decision shall apply accordingly.

213. Where the Home NSA would experience difficulties exercising its right to carry out an on-site inspection at the branch in the Host Member State or where the Host NSA would experience difficulties exercising its right to participate in the on-site inspection of such a branch, the Supervisory Authorities may refer the matter to EIOPA for mediation.

214. After concluding the on-site inspection, the Home NSA shall communicate to the Host NSA the findings from the inspection, and whether it has adopted or intends to adopt any supervisory measure.

9.3. PROCEDURAL PROVISIONS ON THE JOINT ON-SITE INSPECTIONS

215. Joint on-site inspections are inspections carried out by a joint on-site inspection team composed of two or more supervisory authorities and EIOPA, where relevant, in the context of supervision of cross-border activities and group supervision.

216. After the conclusion of the joint on-site inspection, the Home NSA, the Host NSA and EIOPA shall cooperate to summarise the findings of the on-site inspection. The Home NSA and the Host

NSA should reach joint conclusions in writing. The joint conclusions shall include findings, as well as the most appropriate supervisory action, if relevant.

217. The Home NSA shall draft a report taking into account those joint conclusions, and adopt the appropriate supervisory measures. In case the Home NSA does not take into account all or part of the joint conclusions, it shall inform Host NSA, EIOPA and any other participating NSA, and state the reasons.

218. The Home NSA shall inform the Host NSA, EIOPA and any other participating NSA, about the outcome of the consultation with the supervised entity in relation to the report (right-to-be-heard) and about any additional evidence.

219. The joint conclusions may be used by the Host NSA and any other participating NSA to take supervisory measures within their mandate. In case the joint conclusions are relevant to multiple jurisdictions, the supervisory measures shall be taken in a coordinated manner, if feasible.

220. This Section applies *mutatis mutandis* to the joint on-site inspections concerning significant cross-border activities pursuant to Article 152ab (5) to (6) of the Solvency II Directive, and in the context of the collaboration platforms pursuant to Article 152b (6) of the Solvency II Directive.

10. INFORMATION EXCHANGE IN CASE OF NON-COMPLIANCE WITH LEGAL PROVISIONS

Articles 155, 158 and 152b of the Solvency II Directive

221. Where the Host NSA ascertains that an insurance or reinsurance undertaking pursuing business under FoE or FoS is not complying with the legal provisions applicable in the Host State, it shall require the insurance or reinsurance to remedy such irregularity.

222. The Host NSA shall communicate in writing to the head office of the insurance or reinsurance undertaking, stating the type of infringement(s) observed and the measures to be taken. A copy of this communication shall also be sent to the Home NSA. Where the operations are engaged in by a branch, a copy of this communication shall also be sent to the authorised agent of the branch.

223. If the insurance or reinsurance undertaking concerned fails to take the necessary action, the Host NSA shall inform the Home NSA and submit to the latter all relevant information, including an assessment of the situation and the supervisory measures proposed. The Home NSA shall acknowledge receipt of this information. The Home NSA shall communicate to the Host NSA, preferably within 30 days of receipt, the actions it intends to take and shall implement, at the earliest opportunity, appropriate measures to ensure that the insurance undertaking concerned remedies that irregularity.

224. Where despite the measures taken by the Home NSA or because those measures prove to be inadequate or are lacking in the Home Member State, and the insurance or reinsurance undertaking persists in violating the legal provisions in force in the Host NSA, the Host NSA may:

- a) take appropriate measures, after informing the Home NSA, to prevent or penalise further irregularities, including, in so far as is strictly necessary, preventing the insurance or reinsurance undertaking from continuing to conclude new (re)insurance contracts with the territory of the Host Member State;
- b) refer the matter to EIOPA for binding mediation.

225. Notwithstanding the procedure defined above, in emergency situations, the Host NSA may take appropriate emergency measures to prevent or penalise irregularities committed on its territory.

In this case, the Host NSA shall without delay inform the Home NSA and EIOPA of its intention to take action. If due to the urgency of the matter an action has already been taken, the Host NSA shall inform the Home NSA and EIOPA as soon as possible after that action.

226. These measures shall be notified in writing 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 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.

227. Following the notification of the Host NSA and in the existence of justified concerns about negative effects on policyholders, EIOPA may on its own initiative set up a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant Supervisory Authorities.

228. In the collaboration platform, the Home NSA, the Host NSA and EIOPA shall collaborate to reach conclusions on appropriate supervisory measures to remedy the irregularities which shall be taken by the Home NSA.

229. The Board of Supervisors of EIOPA may adopt a decision to request the Home NSA to take action to remedy the irregularities, and to ensure coordinated actions by the relevant Host NSAs where such action has not been taken by the Home NSA.

11. COLLEGE OF SUPERVISORS AND COLLABORATION PLATFORM

11.1. COLLEGE OF SUPERVISORS

230. Upon its own initiative or following a reasoned request from the Supervisory Authority responsible for the supervision of a branch, where the branch meets at least one of the conditions in points (a) or (b) of Article 354(1) of Commission Delegated Regulation (EU) 2015/35³⁷, the group supervisor shall invite that supervisory authority to participate in any relevant activity of the college of supervisors.

231. The group supervisor shall consider, where relevant, inviting Host NSAs where the undertaking pursues business under FoS to specific sessions where activity carried out by way of FoS are being discussed.

232. Requests to participate in the meetings of a college of supervisors may come from the group supervisor, a member or participant of the college or by the Host NSA where the undertaking pursues business under FoS. These requests shall be assessed by the group supervisor.

11.2. COLLABORATION PLATFORM

Article 152 b of Solvency II Directive

11.2.1. TYPE 1 COLLABORATION PLATFORM

233. EIOPA may, in the case of justified concerns about negative effects on policy holders, on its own initiative or at the request of one or more of the relevant supervisory authorities, set up and coordinate a collaboration platform in accordance with Article 152b(1) of the Solvency II Directive (Type 1 collaboration platform) to strengthen the exchange of information and to enhance collaboration between the relevant supervisory authorities where an insurance or reinsurance undertaking carries out, or intends to carry out, activities which are based on the FoS or FoE and where:

- a) Such activities are of relevance with respect to the host Member State's market;
- b) A notification by the Home NSA of deteriorating financial conditions or other emerging risks which may have a cross-border effect has been made to EIOPA under Article 152a (2) of Solvency II Directive in accordance with Section 7.2; or
- c) The matter has been referred to EIOPA under Article 152a (2) of Solvency II Directive in case where the Host NSA(s) notifies the relevant Home NSA of serious and reasoned concerns

³⁷ Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.01.2015. p.1)

with regard to consumer protection in accordance with Section 7.3 and where no bilateral solution can be found.

234. Cooperation and coordination in a Type 1 collaboration platform shall include at least the following:

- a) regular meetings and teleconferences with the involvement of the Home NSA all relevant Host NSAs and EIOPA;
- b) regular exchange of information as follows, covering both prudential and conduct of business aspects:
 - (i) the Home NSA to provide to the Host NSA and EIOPA the conclusions drawn by the Supervisory Review Process (SRP) carried out at the level of the undertaking, including information about the financial strength and performance of the undertaking;
 - (ii) the Home NSA to provide to the Host NSA and EIOPA when appropriate information about the performance of the branch;
 - (iii) the Host NSAs to provide information on the local markets, their developments and competitive situation as well as on the performance of the industry;
 - (iv) exchange of any other information necessary for the identification and monitoring of risks originating from the cross-border business model;
- c) meetings of the Home NSA, the Host NSA and EIOPA with representatives of the undertaking, when necessary;
- d) sharing and delegation of tasks between Home and Host NSAs;
- e) taking any coordinated supervisory actions in a timely manner, where appropriate;
- f) performing joint on-site inspections covering both prudential and conduct of business aspects, where appropriate.

235. EIOPA shall coordinate effective and efficient supervisory activities of the Type 1 collaboration platforms and as such, shall be able to initiate and participate in the activities of the collaboration platforms, including on-site inspections, carried out jointly by two or more Supervisory Authorities. However, supervision and enforcement decisions are and remain within the competence of the Home NSA.

236. In case of Type 1 collaboration platform where the enhanced collaboration and intensive exchange of information already exist, Supervisory Authorities that are members of collaboration platform are not required to perform notifications via the CBN tool. Supervisory Authorities that are not members of the collaboration platform shall be informed in the relevant updates to the Board of Supervisors.

11.2.2. TYPE 2 COLLABORATION PLATFORM

237. In the absence of a college of supervisors the Home and Host NSAs shall consider agreeing on setting up collaboration platform in accordance with Article 152b (2) of the Solvency II Directive (Type 2 collaboration platform) in order to enhance efficiency of monitoring the activity carried out in the Host Member State(s) by way of FoS or FoE.

238. Home NSA shall inform EIOPA on setting up of Type 2 collaboration platform in order to have an overview of ongoing collaboration platforms.

239. Home NSA shall coordinate effective and efficient supervisory activities of the Type 2 collaboration platform (unless agreed differently), and update EIOPA on the important developments in order to decide on its participation in the Type 2 collaboration platform, and in case of need to be able to coordinate the work therein. Paragraph 234 on the cooperation and coordination applies *mutandis mutatis*.

11.2.3. COMMON PROVISIONS FOR COLLABORATION PLATFORMS

240. The setting up of a collaboration platform is without prejudice to the supervisory mandate of the Home NSA and Host NSA while the allocation of tasks and responsibilities between the Home NSA and Host NSA shall not prevent respectively:

- a) the Host NSA from utilising the knowledge of the Home NSA about the prudential status of the undertaking in order to achieve effective supervision and adequate protection of policyholders;
- b) the Home NSA from utilising the knowledge of the Host NSA about the local market and risks in order to achieve effective supervision and adequate protection of policyholders.

241. At the request of EIOPA or any Supervisory Authority, the relevant supervisory authorities shall provide all necessary information in a timely manner to allow for the proper functioning of the collaboration platform.

242. Where two or more relevant authorities of a collaboration platform face a disagreement about information sharing or about the procedure or content of an action to be taken, or inaction, in relation to an insurance or reinsurance undertaking, and where there are serious concerns about negative effects on policyholders, EIOPA may assist them in reaching an agreement in accordance with Article 19(1) of EIOPA Regulation at the request of any relevant authority.

12. PORTFOLIO TRANSFER

12.1. TRANSFER OF PORTFOLIO OF CONTRACTS OF INSURANCE UNDERTAKINGS

Article 39 of the Solvency II Directive

243. 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 concluded under the FoE or FoS to an accepting insurance undertaking established within the EEA, the Home NSA of the transferring insurance undertaking shall:

- a) consult the Host NSA of the branch whose portfolio is to be transferred;
- b) obtain the agreement of the Supervisory Authority(ies) of the Member State(s) where the contracts were concluded, including the agreement of the Host NSA of the Member State of the branch, in case of risks or commitments in that Member State; and
- c) assess the potential impact that the portfolio transfer may have on policyholders, including but not limited to service continuity, claims handling, changes in product features and communication with policyholders.

244. In view of protection of policyholders and ensuring convergence in supervisory practices, the Supervisory Authorities concerned shall consider the application of the rules laid down in this Chapter by analogy in cases which result in portfolio transfer but not explicitly covered in Article 39 of the Solvency II Directive (i.e. portfolio transfers not proposed by insurance and reinsurance undertakings).

245. These opinions and consents 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 Host NSA shall acknowledge receipt if so requested.³⁸ The Host NSA shall make every effort to provide its opinion or consent as a matter of urgency upon the specific request of the Home NSA where the case at hand justifies this urgency. Once the three-month period has expired, if no response was received, the opinion shall be considered positive, or consent shall be deemed to have been given.

246. When the head office of the accepting insurance undertaking and that of the transferring insurance undertaking are not in the same Member State the Home NSA of the transferring insurance undertaking, shall also obtain a certificate of solvency from the Home NSA of the accepting insurance undertaking, stating that the accepting insurance undertaking covers the SCR as calculated in accordance with Article 100 of the Solvency II Directive, taking account of the transfer. This certificate shall be issued as soon as possible and, in any event, no later than three months after receipt of the request.

³⁸ Evidence of receipt may assume the form of communications between Supervisory Authorities which take place during the usual course of the portfolio transfer process.

247. In order to facilitate these measures as a whole, the Home NSA of the transferring insurance undertaking having regard to the proportionality principle and the risk-based approach to supervision, shall provide the following minimum information:

- a) to the Home NSA of the accepting insurance undertaking:
 - (i) 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, the insurance classes and the details of the nature of the risks or commitments to be transferred;
 - (ii) the volume of gross and net technical provisions, established on the basis of the contracts to be transferred;
 - (iii) the volume of gross and net written premiums;
 - (iv) the volume of the gross and net burden of claims in non-life insurance;
 - (v) details of assets transferred;
 - (vi) 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
 - (vii) name(s) of the country or countries of the risks or commitments;
- b) to the Host NSA of the branch whose portfolio is to be transferred:
 - (i) 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);
 - (ii) arrangements for the settlement of claims in the event of the closure of the branch following the transfer;
- c) to the Supervisory Authority of the Member State of the risks or commitments:
 - (i) 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.

248. If the Home NSA of the accepting insurance undertaking has serious concerns about how that insurance undertaking will perform in the future, it shall inform the Home NSA 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.

249. Where the accepting insurance undertaking:

- a) has not previously taken up the business of direct insurance and therefore requires authorisation from the Home NSA or requires an extension of its authorisation; and/or

- 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 State of the branch; and/or
- c) will cover the risks or commitments through the provision of services where it has not previously done so;

the relevant Supervisory Authorities shall cooperate 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. As part of this cooperation, the Home NSA of the accepting insurance undertaking shall ensure that the undertaking performs, as deemed necessary, the notifications to establish a branch or to start FoS. The Home NSA of the accepting insurance undertaking shall ensure that the latter notification is performed regardless of the accepting undertaking's intention to write new business in the Host member state(s).

250. The Home NSA of the transferring insurance undertaking shall communicate its decision to the Supervisory Authority of the country or countries where the contracts were concluded and the other authorities which were consulted.

251. The Supervisory Authorities of the Member States of risks or commitments shall assist the Home NSA 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 Member States of risks or commitments. The Supervisory Authorities shall inform each other about the method of publication of the transfer of portfolio provided by their national law.

252. In case of merger of insurance or reinsurance undertakings, the Supervisory 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, particularly the validity of existing notifications of cross-border business.

253. In case of merger of insurance or reinsurance undertakings, existing notifications, authorisations or other supervisory approvals are expected to be taken into account, and it is expected that any new notification or application for authorisation and supervisory approval is assessed by the Home NSA in a proportionate manner. The changes in existing notifications, authorisations or other supervisory approvals triggered by the merger shall be registered by the Home NSA.

254. The authorisation of a transfer under this Section shall not affect the right of Member States to give policyholders the option of cancelling contracts within a fixed period. The Supervisory Authorities shall inform each other of the circumstances and the period within which contracts may be cancelled according to the provisions of their national law.

255. Paragraphs 242 to 253 shall apply to the reinsurance business of insurance undertakings.

12.2. TRANSFER OF PORTFOLIO OF CONTRACTS OF REINSURANCE UNDERTAKINGS

Article 39 of the Solvency II Directive

256. Before a portfolio transfer is authorised, when the head office of the transferring reinsurance undertaking and that of the accepting undertaking are not in the same Member State, the Home NSA of the transferring reinsurance undertaking shall obtain a certificate of solvency from the Home NSA of the accepting undertaking, stating that the accepting insurance or reinsurance undertaking covers the SCR, taking the transfer into account, as calculated in accordance with Article 100 of the Solvency II Directive. The certificate of solvency shall, wherever possible, be provided within three months from the date of receipt of the request.

257. The Supervisory 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.

258. In order to facilitate these measures as a whole, the Home NSA of the transferring reinsurance undertaking shall, wherever possible, provide the following minimum information to the Home NSA of the accepting undertaking within three months from the date of receipt of the request:

- 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 15 (5) of the Solvency II 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.

259. If the Home NSA of the accepting undertaking has serious concerns about how that accepting undertaking will perform in the future, it shall inform the Home NSA of the transferring reinsurance 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.

260. Where the accepting undertaking:

- a) has not previously taken up the business of reinsurance and therefore requires authorisation from the Home NSA or requires an extension of its authorisation; and/or
- 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 relevant Supervisory 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.

261. In the case of a merger of reinsurance undertakings, the Supervisory Authorities shall consult each other in accordance with the procedure laid down for portfolio transfers.

12.3. TRANSFER OF PORTFOLIO OF CONTRACTS OF THIRD COUNTRY INSURANCE BRANCHES

Article 164 of the Solvency II Directive

262. Under the conditions provided for by national law, a Supervisory Authority shall authorise the transfer of the portfolio of contracts from a branch of a third country established in its territory ('Transferor') to an accepting Office established in a Member State of the EEA ('Accepting Office'), subject to the following conditions:

- a) the Supervisory Authorities of the Home State of the Accepting Office attest that the Accepting Office possesses the necessary solvency;
- b) if the Accepting Office is a branch of a third country established in the Transferor's Member State, the Supervisory Authority responsible for supervising its overall solvency, shall certify that the Accepting Office possesses the necessary solvency, taking account of the transfer;
- c) if the Accepting Office is a branch of a third country established in a Member State other than that of the Transferor and where this is authorised in the country of establishment of the Transferor, the Supervisory Authorities of the country of establishment of the Accepting Office or those in charge of supervising its solvency, must certify that the Accepting Office possesses the necessary solvency, taking account of the transfer;
- d) the Supervisory Authorities of the Member State of establishment of the Accepting Office must certify that the law of that Member State permits such a transfer, and that the Member State has agreed to the transfer;
- e) that the Supervisory Authorities of the Member State of the risks and those of the Member State of the commitment, shall give their agreement within a period of three months from the request for an opinion from the Competent Authority of the Home State of the transferring Undertaking. If the Supervisory Authorities have not responded at the expiry of the three-month period, agreement will be assumed.

13. REGULAR EXCHANGE OF QUANTITATIVE DATA

Article 159 of the Solvency II Directive

263. The following information, extracted from the Solvency II quantitative reporting templates ("QRTs"), shall be derived from EIOPA Central Repository and made available by undertaking to each concerned Host NSA following the deadlines established for this tool:

- a) information on the underwriting entity (name of the underwriting entity, type of underwriting entity, LEI and country of establishment);
- b) total gross written premiums of the reporting entity (head office and all branches);
- c) premiums written by line of business ("LoB"), split by:
 - (i) business underwritten in the country of establishment of any underwriting entity located in the host country;
 - (ii) business underwritten through FoS by any branch established in the host country;
 - (iii) business underwritten in the host country through FoS by any underwriting entity;
- d) premium written (gross) by LoB, split by:
 - (i) total business of any underwriting entity located in the host country;
 - (ii) business which risk is located in the Host country by any underwriting entity;
 - (iii) business which risk is located in any other host country by any branch located in the host country;
- e) premiums earned (gross), claims incurred (gross), expenses incurred (gross) split by d) (i) to (iii);
- f) claims incurred, acquisition expenses and commissions by LoB, split by c) (i) to (iii);
- g) frequency of claims for motor vehicle liability (except carrier's liability), split by c) (i) and (ii);
- h) average cost of claims for motor vehicle liability (except carrier's liability), split by c) (i) and (ii).

264. In addition to the paragraph 263, to keep Host NSAs informed of which notifications are active and which are inactive, EIOPA shall include in the report developed in accordance with the first subparagraph, a table for each individual country all entries from the register on "FoS", "Branch" and "FoS by Branches", where the country is the host country. In addition to the pure extraction from the EIOPA register, EIOPA to add a flag on "active/inactive" based on Solvency II reporting data.

265. Furthermore, EIOPA shall make available to the NSA, following the deadlines established for this tool, a table with aggregated data on gross written premiums grouped at the level of LoB per each Member State.

266. Host NSAs may ask the Home NSA whether the information for the Host NSA is included in other cross-border QRTs templates reported by the undertaking to the Home NSA and ask to be

made available specific information from those templates together with the information identified in paragraph 263.

267. The undertaking that carries out significant cross-border activities in one or more countries shall be identified based on information of EIOPA Central Repository and/or notifications by the Home NSA when threshold determined in Article 152aa(1)(a) of the Solvency II Directive is met, and based on notifications by the Host NCA in accordance with Article 152aa (3) of the Solvency II Directive and this Decision.

268. For undertakings identified in accordance with paragraph 267, the following information will be extracted from QRTs:

- a) Names, LEI codes, licence types, home country and host country(ies) in which those undertakings carry out significant cross-border activities;
- b) Information on own funds (MCR, SCR, own funds to cover MCR, own funds to cover SCR, MCR and SCR ratio);

and shared with the relevant Home and Host NSAs in a following manner:

- a) Home NSA shall receive the list of undertakings (including data specified in paragraph 267 a) and b)) and the list of host country(ies) in which each undertaking carries out significant cross-border activities;
- b) Host NSA shall receive the list of undertakings (including data specified in paragraph 267 a) and b)) that carry out significant cross-border activities in their respective market.

269. In order to support enhanced supervisory exchange, EIOPA may share aggregates of cross-border business at EEA level based on the gross written premiums, covering both home and host perspective of each country.

270. In order to improve the quality of the information exchanged and on a 'need to know' basis, EIOPA may add to the standard report described in this Chapter additional information or more granular data where appropriate.

271. This Chapter does not prevent Supervisory Authorities from exchanging more granular data on a more regular basis or upon request.

14. HANDLING OF POLICYHOLDER COMPLAINTS

14.1. COMPLAINTS HANDLING SYSTEMS IN MEMBER STATES

Articles 183 and 185 (3) (I) of the Solvency II Directive

272. In the context of the development of the single market in insurance, it is important that all complaints received by Supervisory Authorities from policyholders are dealt with by the relevant complaints handling body, irrespective of whether the complaint involves policyholders and insurers in different Member States.

273. The insurance undertaking shall inform the policy holder of the arrangements for handling complaints of policy holders concerning contracts including, where appropriate, the existence of a complaints body, without prejudice to the right of the policy holder to take legal proceedings.

274. The way complaints handling received by Supervisory Authorities³⁹ is organised within a jurisdiction is a matter for each jurisdiction and therefore not subject to this Decision. There are a wide variety of complaints handling systems in Member States. In some Member States, complaints are dealt with by Supervisory Authorities, whilst others have developed Ombudsman services or other systems, or have a combination of both. The ways in which these systems operate vary considerably across the Member States.

275. Where complaints have a cross-border component, it is important for individual policyholders and for consumer confidence generally, that the differences in complaints handling systems do not prevent or deter complaints from being directed to the relevant bodies and subsequently dealt with.

276. The procedures outlined in this Decision are intended to facilitate the process of identifying the relevant complaints handling body and ensure that complaints filed with a Supervisory Authority are addressed and arrive at the body that is competent to deal with the complaint.

277. It is recognised that the Commission has set up a network (FIN-NET)⁴⁰ to facilitate the out-of-court resolution of consumer complaints where the service provider is established in a Member State other than the Member State where the consumer is domiciled. Nothing in this Decision is intended to interfere with this agreement or the process developed under FIN-NET.

14.2. COMPLAINTS HANDLING PROCEDURES

278. A complaint shall be assessed by the Supervisory Authority which initially receives it, to establish which body is competent to deal with the complaint. Where possible, the Supervisory Authority shall keep the complainant informed about further handling of the complaint.

³⁹ This Decision focuses on complaints received by Supervisory Authorities and does not concern consumer complaints received by the undertakings or intermediaries, which are covered by the relevant EIOPA guidelines.

⁴⁰ <http://ec.europa.eu/fin-net>

279. In cases where the Supervisory Authority that receives the complaint is competent to deal with the complaint, it shall inform the complainant, as soon as possible, of applicable national procedures.

280. In cases where the Supervisory Authority that receives the complaint is not competent to deal with the complaint, but another body in the same jurisdiction is, the Supervisory Authority shall, as soon as possible:

- a) if legally possible, pass the complaint directly to the body competent to deal with the complaint and inform the complainant of the referral;
- b) if legally not possible, provide the complainant with any relevant information about the body competent to deal with the complaint, to facilitate the referral of the complaint by the complainant.

281. In cases where the Supervisory Authority that receives the complaint is not competent to deal with the complaint, but a Supervisory Authority or a competent body in another jurisdiction is, the Supervisory Authority that receives the complaint shall, as soon as possible:

- a) if legally possible, pass the complaint directly to the Supervisory Authority or competent body in the other jurisdiction and inform the complainant of the referral;
- b) if legally not possible, provide the complainant with any relevant information about the Supervisory Authority or competent body in the other jurisdiction, in order to facilitate the referral of the complaint by the complainant;
- c) in case that the complaint was passed to a competent body other than the Supervisory Authority, inform, if legally possible, the Supervisory Authority of the other jurisdiction of the complaint.

282. If a complaint contains issues relevant to the supervision of an undertaking, which operates under the freedom of establishment or FoS, the Supervisory Authority that deals with the complaint shall, as soon as possible, and if legally possible, provide the Supervisory Authority of the Home State with relevant information on the complaint.

283. In the cases referred to in paragraphs 276 to 277, the Supervisory Authority that initially receives the complaint shall explain to the complainant why it considers itself not to be competent to deal with the complaint, and why it considers the other Supervisory Authority or body to be competent.

14.3. DISPUTE OVER RESPONSIBILITIES

284. A complaint shall not be passed to another Supervisory Authority or competent body, if the Supervisory Authority or competent body has already declined responsibility for dealing with the complaint.

285. Where differences of opinion exist as to who assumes responsibility for the complaint, every best endeavour shall be made to resolve the issue in good faith within four weeks from the date on which the complaint was initially received from the complainant.

286. If the question of responsibility cannot be settled, the Supervisory Authority which initially received the complaint from the complainant may refer the matter to EIOPA for the purpose of settling the disagreement through non-binding mediation.

15. COLLABORATION IN TERMS OF CLASS 18 - ASSISTANCE

Article 197 of the Solvency II Directive

287. When an undertaking is authorised in class 18 in Part A of Annex I of the Solvency II Directive the Host NSA shall collaborate with the Home NSA, to verify the resources available to the undertaking to successfully carry out assistance operations, in so far as national legislation provides for supervision of these resources.

288. In order to carry out this supervision, the Supervisory Authorities of the Home State and the Host State shall exchange, on request, any information relating to assistance resources available to the undertaking, and communicate to each other the necessary documents and information for the exercise of the supervision.

APPENDIX: CERTIFICATE OF SOLVENCY

CERTIFICATE OF SOLVENCY

ISSUED BY THE SUPERVISORY AUTHORITY OF THE HOME STATE

relating to

(registered name of the Undertaking, legal form⁴¹, head office)

issued by

(Supervisory Authority)

PART I

The issuing Supervisory Authority certifies that the above-mentioned undertaking is entitled to carry on the following classes or groups of classes:

A. Life assurance

Classes (according to Article 15(2) and as set out in Annex II to the Solvency II Directive):

.....

(N°) (Name)

since (*) authorisation limited to (**)

A. Non-life insurance

1. Classes (according to Article 15(2) and (3) and as set out in point A of Annex I to the Solvency II Directive):

⁴¹ As per Annex III to the Solvency II Directive

.....

(No) (Name)

since (*) authorisation limited to (**) (subdivision)

(*) Indicate the date of authorisation or the date on which the undertaking began carrying on the class if this preceded compulsory authorisation. When dates are five years and more previously, mention only this fact.

(**) Indicate, where appropriate, the part of the risk to which authorisation is limited, as provided for in the second paragraph of Article 15(3) of the Solvency II Directive.

2. Groups of classes (according to Article 15(2) and (3) and as set out in point B of Annex I to the Solvency II Directive):

.....

(letter) (Name) since (*) authorisation limited to

(**)

C. Reinsurance

Type of authorisation granted in accordance with Article 15(5) of the Solvency II Directive:

.....

(Name)

since (*) authorisation limited to (**)

[if applicable, statement that reinsurance is included in the direct-business could be included]

PART II

The issuing Supervisory Authority certifies that the above-mentioned undertaking covers the Solvency Capital Requirement [stating SCR ratio in % on a specific date] and Minimum Capital

Requirement [stating MCR ratio in % on a specific date] calculated in accordance with Articles 100 and 129 of the Solvency II Directive. (***)

The undertaking possesses the necessary Solvency Capital Requirement [stating SCR ratio in % on a specific date] and Minimum Capital Requirement [stating MCR ratio in % on a specific date], taking into account the portfolio transfer. (****)

The above attestations and information are valid at the date of issuance of this certificate of solvency.

.....
(date, signature, position)

(*) Indicate the date of authorisation or the date on which the Undertaking began carrying on the class if this preceded compulsory authorisation. When dates are five years and more previously, mention only this fact.

(**) Indicate, where appropriate, the part of the risk to which authorisation is limited, as provided for in the second paragraph of Article 15(3) of the Solvency II Directive.

(***) SCR/MCR ratio based on recent available supervisory information.

(****) Delete as appropriate.

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