Appendix 7a - Examples of situations giving rise to cross-border transfer procedures

Example 1

IORP X from Member State A, operates a pension scheme B for the employees of company B, the relationship between company B and its members or beneficiaries being governed by the SLL of Member State B.

IORP X plans to transfer all or part of the pension scheme's liabilities, technical provisions and corresponding assets to IORP Y, operating in Member State B.
Example 2

IORP X from Member State A, operates a cross-border pension scheme B but only for the future accrual of the pension benefits of the employees of company B, the relationship between company B and its members or beneficiaries being governed by the SLL of Member State B.

IORP Y from Member State B, operates the accrued pension benefits of pension scheme B and plans to transfer the accrued benefits of pension scheme B to IORP X.
Appendix 7b - Flowchart Cross-border transfer procedure (Article 12)

If appropriate, preliminary and informal phase of preparation:

Receiving CA invites the Receiving and Transferring IORPs and Transferring CA for an informal and interactive exchange of information:

Receiving CA and Transferring CA clarify expectations with regard to information IORP must provide in order to start the authorisation procedure and expectations with regard to the assessment criteria.

If appropriate, possibility of a pre-application phase.

1. Receiving IORP submits application for authorisation (see Appendix 6a). Receiving CA checks formal completeness within 10 working days and indicates, where appropriate, which information must still be provided in accordance with Article 12(5).

2. Receiving CA forwards the application for authorisation without delay to the Transferring CA. In the case the Receiving CA requests missing information to complete the application for authorisation, it promptly forwards the missing information to the Transferring CA upon receipt.

3. Receiving CA informs the Receiving IORP of the date when the complete application for authorisation file has been received.

Max. 4 weeks from the receipt of the complete application for authorisation:

2a. Transferring CA starts assessment to determine whether or not to give its consent. If Transferring CA needs further information necessary for its assessment, it transmits the request to Receiving CA. Transferring CA communicates results of the assessment to Receiving CA within 8 weeks of receipt of the complete application for authorisation. The result of the assessment is: consent or no consent.

Max. 3 months from the receipt of the complete application for authorisation:

3.1. Authorisation granted (prior consent was given). Receiving CA communicates the granting of the authorisation to Receiving IORP within 3 months of the receipt of the complete application for authorisation and to Transferring CA, and Transferring IORP within 2 weeks of the granting date. Transfer can take place as soon as the Receiving IORP has received the authorisation.

3.2. Authorisation refused (prior consent was given or not). Receiving CA communicates the refusal of the authorisation and the reasoning for refusal to Receiving IORP within 3 months of the receipt of the complete application for authorisation and to Transferring CA, and Transferring IORP within two weeks of the refusal date. Receiving IORP has a right of appeal to the courts in its home MS.

3.3. No decision (Failure to act).

Receiving IORP has a right of appeal to the courts in its home MS.

4. Receiving IORP promptly informs Receiving CA about the execution of the transfer. This information shall be shared between CAs and EIOPA.