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Final Report on the Peer Review on Freedom to Provide Services

Publication of Outcomes

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Executive Summary

Freedom of services (FOS) in the European insurance market represents an important means to achieve an integrated market and should enable potential policyholders to have recourse to an undertaking with a head office in any Member State of the EEA, while guaranteeing adequate protection. In this context, cooperation between the home and the host competent authorities ("home NCAs" and "host NCAs") is therefore crucial in order to avoid the creation of barriers and, at the same time, to protect the interests of the policyholders. To this aim, common practices and understanding become fundamental elements of a proper supervision.

This peer review showed the need to improve the current cooperation between national competent authorities ("NCAs") at the different stages of the supervisory process, namely prior to the authorisation of the undertaking and during its on-going supervision. The need for an approach which is more focused on the consumer protection aspects in the host State has also emerged.

As a result, there are several actions recommended to EIOPA to enhance the content of the General Protocol¹. In this regard, it should be noted that currently there are considerations about the most suitable EIOPA instrument to be used.

The following areas constitute the object of the recommended actions to EIOPA in so far as issues were identified in the supervisory practices and/or in the cooperation between NCAs:

- **Data storage and record keeping:**

- a) it is recommended to look for a possible solution at the earliest opportunity aimed to make the collection of data regarding business written by way of freedom of services through branches in another host State mandatory;
- b) it is recommended to foresee in the General Protocol that every NCA should store, both as home NCA and as host NCA, at least some basic data regarding the freedom of services activity, and be able to analyse this data electronically;
- c) each notification and each change to a notification should include the LEI (legal entity identifier) or Identification code used in the local market (Specific code) where the undertaking has no LEI, so that going forward communication would use the LEI or the Specific code to ensure consistency;
- d) it is recommended to design a harmonised reporting template to be filled in by the home NCA for the exchange of statistical information between home and host NCAs, including a section for unused notifications;

¹ <https://eiopa.europa.eu/publications/protocols>

- **Exchange of information between NCAs at the moment of the authorisation:**

a) it is recommended to revise the current drafting of the General Protocol in order to make it mandatory for the home NCA to request the information on fitness and propriety regarding key persons who come from or are connected to another Member State;

b) it is recommended to revise the General Protocol in order to include a provision which foresees that, in cases of requests for an authorisation of an undertaking where the intention to operate exclusively or almost exclusively in another EEA Country on a freedom of services basis is clearly stated (e.g. in the scheme of operations), it is advisable that the Home NCA engages with the Host NCA (who is encouraged to provide input in a timely manner) in order to facilitate its understanding of the situation and the circumstances of the undertaking, before the decision on the particular application is taken by the Home Competent Authority;

- **Home supervisory approach regarding the undertakings' activity by freedom of services:**

It is recommended to take the following conclusion into account:

"It is advisable that each Home NCA takes action to identify – having regard to the proportionality principle and in cooperation with the host NCA – the potential risks linked to freedom of services activity of supervised companies as well as defines an approach of supervision adapted to the risks linked to the freedom of services activity. The approach should reflect both quantitative and qualitative criteria. The home NCA should require the company to ensure that freedom of services risks are included in its risk management process."

- **Cooperation regarding the freedom of services activity within the college meetings:** it is recommended to include in the General Protocol the guidance on the possibility for the group supervisor to consider inviting - where relevant - the host freedom of services CA for specific sessions of the college meeting;

- **Exchange of statistical information between home and host NCAs:** it is recommended to shorten the deadline for the exchange of information currently foreseen in the General Protocol;

- **Complaints handling:** it is recommended to highlight at European level - by a letter to the European Commission - the need for a consistent approach across NCAs regarding the competences to handle the complaints.

In addition, the Review Panel issued 17 individual recommended actions concerning the area of: prudential supervision, cooperation in particular cases of high volume of freedom of services business both at the authorisation stage and during the on-going activity, statistical data, complaints and host NCA supervision.

Finally it should be noted that very few best practices have emerged from this peer review.

1. Introduction

EIOPA Review Panel conducted an analysis of practical experience with freedom of services in accordance with the EIOPA methodology² for conducting peer reviews. On the basis of the replies to the questionnaire and results from the field work, the Review Panel has drafted this report, which outlines the key conclusions from the Review Panel's assessment of NCAs' practices, as well as the best practices identified and the recommended actions issued to NCAs and EIOPA.

Through this peer review, the Review Panel aims at encouraging open dialogue that helps to clarify practices, achieve common understanding and exchange experience, as well as identify best practices where possible.

The reference period for this peer review is from 01-01-2011 to 31-12-2013.

2. Approach

The self-assessment questionnaire was sent to NCAs in all 31 EEA States. The assessment is based on the information that the reviewers received from the NCAs in response to the self-assessment questionnaire. Following the results of the initial analysis of the self-assessment questionnaire, the Reviewers conducted the field work in the form of 10 visits, 16 teleconferences and 5 written procedures.

3. Key Findings

This section presents the findings of the peer review, the respective areas in which individual recommended actions were assigned to NCAs as well as the best practices identified.

3.1. Template and statistical data

3.1.1. General remarks

As a preliminary remark, it should be pointed out that a general problem regarding the comparability of the quantitative data received from the various NCAs has been noted. Reasons identified for this situation are:

- divergent procedures to register and update notifications, to record-keeping or to apply provisions of the General Protocol;

² <https://eiopa.europa.eu/Pages/Working%20Groups/ReviewPanel.aspx>

- structural changes of NCAs (e.g. mergers) in the past years allowing only access to statistical data starting from the effective dates of these changes;
- potential ongoing misunderstanding of the question(s) asked resulted in some NCAs keeping up with inconsistent answers, despite the fact that they double-checked the quantitative data provided.

The issue of consistency and comparability of quantitative data arose especially during the cross checking regarding:

- active freedom of services notifications and
- notifications of freedom of services activity by branches.

The reasons for the mismatch and the incomparability vary, depending on the individual NCA. For some NCAs, there are problems relating to record keeping (which will be further illustrated below), for others the reason could be found in the non-compliance with provisions on updating notified information according to Part III, para 2.5.2. and on the cessation of activities according to para 2.6. of the General Protocol.

These provisions read as follows:

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

"2.6 Cessation of Activities

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

3.1.2. Issue of data collection and record keeping

There is a general problem connected to data collection and record keeping. Not all NCAs were able to provide the data required. This situation could have several reasons: either the home NCA does not ask for some information or does not store it or does not store it in a way that statistics can be generated in an automated way.

- data collection

The answers given show that not all the specific statistical data asked are available in every CA. One of the reasons is that this information is not originally requested from the domestic undertakings.

In fact, while almost all NCAs could provide statistics regarding notifications of direct freedom of services activity into and from other Member States,

most NCAs were not able to provide input on the indirect freedom of services activity through branches, and in particular the breakdown of premiums between direct freedom of services activity and indirect freedom of services activity into a host Member State.

As stated by many NCAs, it is not foreseen in Part VI of the General Protocol to exchange such details with the host Member State. The home and the host NCAs are generally only informed about the intention to transact freedom of services business indirectly via a branch but they are seldom informed whether this leads to actual indirect freedom of services activity. In fact not all the NCAs are able to distinguish between gross written premium (GWP) written by a branch in the host State of the branch and by that branch in other Member States by way of freedom of services. It should be noted that this information has not been included in the Solvency II reporting template S.04.01 where information on freedom of services is provided from two perspectives:

- information by branch: for all branches of a specific undertaking information on premiums, claims and commissions have to be reported by branch, distinguishing between business in the Member State where the branch is established and freedom of services of the branch (but without identification of where the freedom of services activity of the branch is carried on);
- information by Member State: for all Member States where the undertaking performs business through freedom of services, information on premiums written in each Member State (but without identifying if the activity was carried out by the undertaking through Freedom of Services or any branch through Freedom of Services).

The majority of the NCAs do not consider relevant to receive the data regarding business written by way of freedom of services through branches in another host country from a prudential point of view. Nonetheless this issue entails an important aspect at a consumer protection level linked to the lack of a European framework regarding Insurance Guarantee Schemes. Such a framework could make it useful for host NCAs to know whether the insurance product was sold from the head office or from a branch.

Recommended actions to EIOPA:

- The Review Panel recommends EIOPA to take note of this issue and to look for a possible solution at the earliest opportunity aimed to make the collection of data regarding business written by way of freedom of services through branches in another host State mandatory.
- **record keeping**

At the moment there is no specific requirement in the General Protocol as to record keeping of freedom of services data, therefore practices may differ from Member State to Member State.

No NCA indicated having specific rules regarding the record keeping of data collected from the domestic undertakings on freedom of services activity

carried out in other Member States. It appears from the answers received that in general such data is collected by home NCAs during the general yearly/quarterly reporting applicable to all domestic insurance undertakings.

Some NCAs were not able to provide statistical input regarding the quantitative questionnaire for various reasons, such as:

- a general problem to provide data was noted, as explained in the section regarding data collection
- NCAs provided the number of notifications stored but not the number of insurance undertakings having notified freedom of services
- number of insurance undertakings having notified freedom of services stored but not the number of notifications
- specific Member States where the new notifications were made to but were not registered or specific cases of conversion of freedom of establishment to freedom of services were not registered
- NCAs do not store the data in a way that statistics can be electronically drawn
- no data available regarding the number of withdrawn notification (see section 3.1.3.
- It should be pointed out that it is not clear from the answers received whether NCAs have provided statistical information because this information is electronically stored (and therefore possible specific queries may be made thereon) or if numbers reported were "hand-counted".

As a conclusion, it can be stated that the kind of data stored depends on each individual NCA since this aspect is not streamlined by applicable Directives or the General Protocol.

It is therefore important that the General Protocol gives guidance as to which freedom of services data is essential and should be recorded and stored by each CA.

Individual Recommended Actions

- NCAs should have a data storage system allowing extracting information about the domestic undertakings having notified their intention to carry out activity by freedom of services in other EEA Member States.
- NCAs should have in place a system which provides specifically up to date data about the number of undertakings per country having notified their intention to provide services in their territory.

The recommended actions apply for at least one of the bullets (with tailored variations) to two NCAs.

Recommended Actions to EIOPA

The Review Panel recommends EIOPA to foresee in the General Protocol:

- that any NCA should
 - store at least the data needed for freedom of services and freedom of establishment notifications provided for in Part III, para 2.1.1 of the General Protocol to be submitted to other NCAs under Part III of the General Protocol (home State), including the classes of business;
 - store at least the information received as a host NCA from other NCAs under Part III of the General Protocol (host State) and
 - be able to analyse this data electronically (this means, for example, being able to extract a list of notifications per Member State, per undertaking and per period and on an individual and aggregated basis) (home and host State).
- that each notification and each change to a notification should include the LEI (legal entity identifier) or Identification code used in the local market (Specific code) where the undertaking has no LEI, and that going forward communications between NCAs would use the LEI or the Specific code to assure consistency.

3.1.3. Notifications not having resulted in freedom of services activity

Two issues arose from the answers to the self-assessment questionnaire:

- meaning of Part VI, para 2.2. of the General Protocol;
 - overloading of registers with freedom of services notifications that never gave rise to activity.
- **Interpretation of Part VI, para 2.2. of the General Protocol**

Part VI, para 2.2. of the General Protocol provides as follows:

"The Competent Authority of the Home State shall also inform the Competent Authority of the Host State if no cross-border activities through branches or free provision of services were reported."

One NCA indicated that if no information is received about an insurance undertaking having been active under freedom of services in its Member State instead of the information that the activity amounted to "zero", this host NCA presumes that no activity has taken place with regard to such insurance undertaking by way of freedom of services on its territory. It might be interesting to investigate further on this matter, taking into account that this is only one of the possible interpretations given by a NCA with regard to this provision of the General Protocol.

In addition, it is not clearly stated in Part VI, para 2.2. of the General Protocol if the information should be provided individually for each insurance undertaking or on an aggregated basis.

Recommended Actions to EIOPA:

- The Review Panel recommends to EIOPA to amend the General Protocol in order to foresee that the information of Part VI, para 2.2. of the General Protocol shall be provided on an individual basis (see also the recommended action to EIOPA on the harmonised reporting template).
 - **Overloading of registers with “inactive” freedom of services notifications**

It results from the answers from NCAs that withdrawals of freedom of services notifications are very infrequent even if insurance undertakings have not been active for a long period or have never been active in a specific Member State. One NCA specifically points out the situation where insurance undertakings cease their freedom of services business in its Member State but the NCA is never officially informed of this.

Those “inactive” notifications which have not been withdrawn bear costs for the home and the host NCA, in terms of human resources and administrative costs, as:

- information exchanged with the notification needs to be constantly updated by home and host NCAs (Part III, para 2.5. and 2.6. of the General Protocol) and
- host NCAs need to be informed each year by the home NCAs, according to Part VI, para 2.2. of the General Protocol, that there was no activity taking place in their jurisdiction.

In that respect, some NCAs came forward with the idea of notifications not having been “used” for some years should become void, in order not to “overload” the registers held by each CA; in addition this could contribute to enhance transparency in the European insurance market on the real number of undertakings which do carry out their activity by freedom of services.

Nevertheless, besides an amendment of the General Protocol, this would first of all imply an amendment of the Solvency II Directive where article 148 foresees that an insurance undertaking may start its freedom of services activity from the date on which information was sent to the insurance undertaking that a notification was made. At the moment a notification is not limited in time, no matter if the company is actually writing business or not.

It should be pointed out that neither the Solvency II Directive nor the General Protocol foresee any duty of keeping track of the status of a notification on an ongoing basis.

3.1.4. Need of additional statistical information to be sent to the host NCA

Although some NCAs indicate requesting the breakdown by freedom of services host State individually per EEA branch of their domestic undertakings and one NCA is asking for the breakdown for Non-Life business, only the data foreseen in Part VI, para 2.1. of the General Protocol is communicated to the various host MS.

Part VI, para 2.1. of the General Protocol:

"Before the end of each year, the Competent Authority of the Home State shall communicate to the Competent Authority of the Host State a summary of the following data, from the previous year,

- *on an aggregated basis:*
 - *in the case of non-life insurance: the amount of premiums, claims and commissions, without deductions for reinsurance, and the frequency and average cost of claims under motor vehicle third-party liability, without deductions for reinsurance, according to groups of classes according to Article 44 of the Third Non-Life Directive and showing separately insurance by way of establishment and insurance by way of freedom to provide services;*
 - *in the case of life assurance: the amount of premiums before deduction for reinsurance, by class and showing separately life assurance by way of establishment and life assurance by way of freedom to provide services; and*
- *on a company basis:*
 - *total premiums written, showing separately insurance by way of establishment and insurance by way of freedom to provide services. "*

Most of the NCAs did not indicate the need for any statistical information in addition to the information foreseen in Part VI, para 2 of the General Protocol (apart from the statistical data on freedom of services activity carried out by branches mentioned above). If additional information is needed, it will be exchanged on a bilateral basis.

From the suggestions made by a few NCAs on additional information needed, no trend may be identified. Suggestions were received for the following information:

- number of contracts concluded by way of freedom of services;
- further breakdown of premium compared to the premiums earned in the home State additional qualitative data on claims handling and quantitative data.

In addition, it was suggested to improve the exchange of information on changes regarding the appointed contact persons.

3.1.5. Uniform reporting template

Several NCAs pointed out that, for the time being, there is no harmonisation of the reporting format regarding the regular statistical exchange of information in accordance with the provisions of Part VI, para 2 of the General Protocol. In addition, one NCA stated that some NCAs provide the quantitative data in their local currency (not being the Euro) and/or in their national language (not being English).

The Review Panel considers it important to have comparable and understandable data provided by the home to the host Member States. Therefore it is suggested that the data should be provided in English (or any other language previously agreed between the NCAs concerned). If the amounts are expressed in the local currency of the home State, the corresponding amount in Euro should also be indicated (with the applicable currency exchange rate applied).

Recommended Actions to EIOPA:

- The Review Panel recommends to EIOPA to design a harmonised reporting template to be filled in by the home NCA in accordance with Part VI, para 2.1 of the General Protocol, where also a specific section on information on unused notifications should be included mentioning “no activity”.

3.2. Home NCA supervision (prudential supervision)

3.2.1. Supervisory approach on insurance undertakings carrying out their activity by freedom of services

As concerns prudential supervision, most of the NCAs include freedom of services supervision in their overall supervisory approach and therefore a specific supervisory approach regarding freedom of services activity has not been developed.

In fact not many NCAs have identified risks specifically related to freedom of services.

Either freedom of services activity is included in the risk based supervision especially because it is not material, or, in the specific case of Member States whose insurance activity is mainly carried on under the freedom of services the whole supervisory approach is specific to freedom of services business. In order to illustrate specific supervisory approaches, the following examples may be given:

- One NCA has identified specific risks in a dedicated working group and has also launched a questionnaire in 2013 regarding cross-border

activities to assess the undertakings' risk management regarding cross-border business. The identified risks are:

- i) legal risks: compliance risks as regards foreign law, tax law, general good requirements; ii) market risks; iii) counterpart default risks; iv) risks in connection with distribution partners; v) reputational risks.
- Another NCA states that undertakings prior to actually commencing the cross border activity are required to submit a business plan including the impact of the cross border activity on the solvency of the undertaking. Furthermore, as part of their supervisory approach, discussions with the undertaking's compliance officer take place in order to determine whether the undertaking concerned is adhering to the general good provisions applicable in the host NCA.

Nevertheless it also stated that internal controls on activities carried out under freedom of services require improvement.

- For another NCA, that applies the same risk based supervisory approach to all companies irrespective of their level of freedom of services activity, greater supervisory emphasis may be placed on certain risks, e.g. governance & monitoring controls of freedom of services activities. In fact the key risks identified in relation to freedom of services activity relate to the ability of the Head Office management to understand the local market conditions and the ability to properly price the product and comply with local legislation. Supervision plans for freedom of services activities encompass reviews with particular focus on the following risk areas:
 - i) underwriting & pricing controls; ii) claims handling; iii) compliance (complaints handling, compliance with consumer legislation); iv) reserving; v) governance controls; vi) follow up on internal audit issues relating to freedom of services activities.

In addition, one Member State has identified credit risk as a freedom of services risk, arising from the non-payment by the intermediaries of insurance premiums for the products underwritten in the host State.

Only two NCAs answered that there were differences in the products sold by the same undertakings in the domestic market and those sold under freedom of services in other Member States.

It may be concluded that there is a clear need that each home NCA takes action to identify - having regard to the proportionality principle³ and in cooperation with the host NCA - the potential risks linked to freedom of services activity of supervised companies and define a methodology of supervision adapted to the risks linked to the freedom of services activity. The methodology should reflect both quantitative and qualitative criteria.

³ The proportionality principle does not mean that potential risks will be identified having only regard to the volume of *premiums* or technical provisions, and it does not mean that any **realised** risk should not be dealt with appropriately, even though it only concerns one contract or consumer".

It is crucial that the home NCA ensures that freedom of services risks are included in the risk management process of a company.

Recommended Actions to EIOPA:

The Review Panel recommends EIOPA to take the following conclusion into account:

It is advisable that each home NCA takes action to identify – having regard to the proportionality principle and in cooperation with the host NCA – the potential risks linked to freedom of services activity of supervised companies and define an approach of supervision adapted to the risks linked to the freedom of services activity. The approach should reflect both quantitative and qualitative criteria. The home NCA should require the company to ensure that freedom of services risks are included in its risk management process.

3.2.2. On-site inspections/supervisory measures

Nine NCAs performed onsite-inspections including freedom of services. Four home NCAs were informed by a host NCA that an on-site inspection was considered necessary at the head office of an undertaking with head office in their jurisdiction operating by freedom of services in another EEA Member State for the purpose of monitoring compliance with the rules of law applying in the host State (*Part IV, article 3.4. of the General Protocol*).

Three NCAs applied supervisory measures as a home NCA to undertakings with regard to freedom of services activity.

3.3. Particular cases of free provision of services

3.3.1. Insurance undertakings converting operations through freedom of establishment into operations by way of freedom of services

NCAs were asked whether any insurance undertaking with head office in their jurisdiction had converted its operations through freedom of establishment into operations by way of freedom of services in the review period. Two broad categories of situations could be identified:

- The first situation is where an insurance undertaking has several different distribution channels through which it operates in a particular host State. According to the answers received, this is a common situation involving at least 12 NCAs. A typical example of this is where an undertaking has both a branch in the host State and also accepts business located in that host State brought to it in its home (or another) state by intermediaries. Changes in distribution channels, typically closing a branch, may give rise to an undertaking withdrawing its

passport to do business by way of freedom of establishment while retaining its passport to do business by way of freedom of services.

- The second category covers uncommon situations where operations through freedom of establishment are actually converted into operations by way of freedom of services. Although the reasons for such conversions differ from case to case, they are generally a consequence of a restructuring for economic reasons or a restructuring implied by the run-off of the undertaking, in which case the expense of maintaining a branch is no longer justified and the run-off can be administered more efficiently centrally.

In summary, no problematic issues are apparent from the answers received, and the Review Panel proposes no recommended actions.

3.3.2. High volumes of freedom of services activity

The general level of freedom of services activity of undertakings varies considerably by home State.

For many Member States, the level of freedom of services activity is low, but there are a few states where the level is considerably higher. Particularly for these states there are many cases where the volume of freedom of services activity, both direct from the head office and from branches, is high compared to other head office activity of an individual insurance undertaking. In a few cases all, or nearly all, of such an undertaking's business is by freedom of services.

Whether this is 'relatively large' may be subjective, depending on the circumstances of each undertaking concerned. For example, if an undertaking is in run-off, premium can be a poor measure of business volume.

High volumes of freedom of services activity can arise for various reasons. For some lines of business, it would not be feasible to operate unless relatively high volumes of freedom of services business are acceptable. Marine aviation and transit business is one of the more obvious examples. International business is another, where a multinational insured obtains cover for multiple jurisdictions in a single placement. However, classes that could be readily written by host State undertakings, such as Motor business, are also being written by home State undertakings through freedom of services.

In general, there are impediments other than regulatory supervision to changing a group structure, which have perpetuated the situation where insurance groups often have more than the minimum number of EEA insurance undertakings – one general insurance undertaking, one life insurance undertaking, and one reinsurance undertaking. For new entrants into the market it usually makes little sense to set up more than the minimum number of insurance undertakings. Solvency II is also playing a part in incentivising EEA insurance groups to rationalise their structures to

minimise the number of insurance undertakings within the EEA. Over time, the significance of freedom of services business can be expected to grow.

As outlined in section 3.2, it is important that the home State adopts a supervisory approach that recognises and addresses the risks inherent in carrying on freedom of services business. See the conclusion in section 3.2.1.

3.4. Cooperation between CAs with respect to freedom of services activity (home and host perspective)

3.4.1. Communication practices used between NCAs

From the replies provided it comes out that no specific additional forms of cooperation other than those foreseen by the General Protocol exist between NCAs in relation to freedom of services activity. Some exceptions regard communications when solicited by other NCAs (on ad hoc basis).

Some examples are:

- the need of supplementary information (e.g. on specific products or on compulsory insurance);
- communication on general good;
- mapping exercise for big groups;
- complaints received.

3.4.2. Cooperation at the moment of the authorisation of a new undertaking

An important moment of cooperation between NCAs, closely linked to the activity by freedom of services, is during the authorisation process, especially in the following two cases:

- a) request for an authorisation of an undertaking where it was clearly stated (e.g. in the scheme of operations) that there was the intention to operate exclusively or almost exclusively in another EEA Member State;
- b) request for an authorisation where board members, shareholders or other key members came from, or were connected to, other EEA Member States.

Referring to a), there were some cases in which the request for authorisation regarded the activity exclusively or almost exclusively to be carried out in other Member States.

In particular, in one Member State there was one case about avoiding taxes. The intention was to establish the head office in that Member State for fiscal reasons only. The relevant NCA did not agree with this intention and communicated this to the undertaking. No formal application was sent afterwards.

In another Member State there is a specific national provision which prohibits setting up on its territory companies which have as their exclusive object the pursuit of insurance business abroad.

Referring to b) it should be noted that there is a provision in the General Protocol (Part II - para 4.2) which reads as follow:

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

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

Some cases arose during the reference period where, with only one exception, the home NCA consulted the other concerned NCAs.

The exception mentioned above shows that cooperation between the NCAs concerned would have been useful to avoid problems, if the relevant Member State had been consulted beforehand.

Given the importance of ensuring that a person who does not satisfy fitness and propriety criteria in one Member State should not be able to readily operate from another state instead and given that NCAs do not always apply Part II, para 4.2 of the General Protocol, since it is only an option, it is recommended that consideration be given in the course of the revision of the General Protocol to make such a request mandatory, where relevant, at least before authorising an undertaking or approving the appointment of key persons. In relation to the cooperation between NCAs, it should be highlighted that Part II, Para 4.6 of the General Protocol provides for a contact point for the exchange of information on directors, managers and Shareholders/Members. This provision reads as follows:

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

Apart from the fact that the concerned provision in the General Protocol should be adapted by replacing "CEIOPS" with "EIOPA", the comments received by some Members show that the contact point held by EIOPA is not always updated by the NCAs and that in those cases it is not always easy to identify the right new contact person inside the concerned NCA.

Best Practice

The NCAs investigate the reasons why the authorisation is requested in a Member State while the activity is planned to be exclusively or mainly carried out in other Member States. In this context, close cooperation between the host and home NCAs is crucial, in particular with regard to any regulatory or supervisory arbitrage.

Individual Recommended Actions

- In case of a request for an authorisation of an undertaking, where the intention to operate exclusively or almost exclusively in another EEA Member State on a freedom of services basis is clearly stated (e.g. in the scheme of operations), it is advisable that the home NCA engages with the host NCA in order to facilitate its understanding of the situation and circumstances of the undertaking, before the decision on the particular application is taken.
- NCAs should make use of the provisions of Part II, para 4.2. of the General Protocol.

The recommended actions apply for at least one of the bullets (with tailored variations) to three NCAs.

Recommended Actions to EIOPA

The Review Panel recommends to EIOPA:

- to revise the current drafting of Part II, para 4.2 of the General Protocol in order to change "may" into "shall".
- to revise the General Protocol in order to include a provision which foresees that in cases of requests for an authorisation of an undertaking where the intention to operate exclusively or almost exclusively in another EEA Country on a freedom of services basis is clearly stated (e.g. in the scheme of operations), it is advisable that the Home NCA engages with the Host NCA (who is encouraged to provide input in a timely manner) in order to facilitate its understanding of the situation and the circumstances of the undertaking, before the decision on the particular application is taken by the Home Competent Authority.
- to keep the list of contact points published on the Members' Extranet area of its website updated and name the contact person, or foresee in the General Protocol that Member States should set up a general e-mail account, to which the information should be sent.

3.4.3. Requests for information about the local market and risks from the home NCA to the host NCA

The General Protocol foresees a form of cooperation between NCAs, particularly in cases where a significant part of the overall business of an undertaking is carried out by way of freedom of services in another EEA Member State. The provision of Part IV, para 7.2 of the General Protocol reads as follows:

"In cases where a significant part of an Undertaking's overall business is carried out in a Host State the allocation of tasks and responsibilities between the Competent Authorities of the Home and Host States should not prevent the Competent Authority of the Home State from utilising the knowledge of the Competent Authority of the Host State about the local market and risks in order to achieve effective supervision and adequate protection of policyholders."

It results from the replies that only one Member State used this possibility. It is not clear whether there is awareness of this provision (most of the replies were "no" and not "no cases").

Best practice

The NCA makes use of the provision of Part IV, para 7.2. of the General Protocol.

Individual Recommended Actions:

- NCAs should consider making use of the provision contained in Part IV, para 7.2 of the General Protocol when a significant part of the overall business of an undertaking with head office in their jurisdiction is carried out in another EEA Member State.

The recommended actions apply (with tailored variations) to five NCAs

3.4.4. Requests for information concerning the prudential status from the host NCA to the home

Similarly to the previous case, the General Protocol foresees a form of cooperation between NCAs, particularly in the case where a significant share of the host State's insurance market is held by an undertaking established in another EEA Member State.

The provision of Part IV, para 7.3 of the General Protocol reads as follows:

"In cases where a significant share of a Member States' insurance market is held by an undertaking located in another Member State, the allocation of tasks and responsibilities between the Competent Authorities of the Home and the Host State should not prevent the competent Authority of the Host State from utilising the knowledge of the Competent Authority of the Home State about the prudential status of the Undertaking in order to achieve effective supervision and adequate protection of policyholders."

From the replies received it comes out that 4 NCAs used this possibility.

Best practice

The NCA makes use of the provision of Part IV, para 7.3. of the General Protocol.

3.4.5. Cooperation within the colleges

A part of the questionnaire focused on the possible practice concerning some kind of involvement in a college of a freedom of services host NCA linked to a group.

In particular, the NCAs' replies show that only three NCAs being group supervisors included issues related to the activity under freedom of services in the college agenda. The focus on freedom of services business consisted, in one case, in developing a dedicated study to map this kind of activity across the group and in another requiring from the relevant home NCA more information about a particular life insurance product sold by way of freedom of services in several other European Member States. In the third case, the inclusion of this issue in specific colleges was due to the fact that the activity under freedom of services represented a significant percentage of total group activity of total GWP.

From a Host perspective, it has been asked whether host NCAs have received information from the colleges of supervisors in relation to operations by way of freedom of services in their jurisdictions. No cases were reported in the reference period.

Best practice

As a group supervisor, the NCA includes issues related to the activity under freedom of services in the college agenda, where appropriate.

In the NCAs's self-assessments no cases were reported of invitations made by the home NCA in the capacity of Group supervisor, towards a host NCA to participate in the college of supervisors in relation to the activity carried out by way of freedom of services or requests of invitation made by the host NCA to freedom of services.

However there was the situation where the host NCAs joined the college because they were also host supervisors for subsidiaries or branches.

Although the Solvency II Directive does not envisage the participation of NCAs in the college of supervisors for activity carried out in their jurisdictions by way of freedom of services, it could be useful for the group supervisor to consider to invite, on an ad hoc-basis, host supervisors of

freedom of services business to participate in college meetings in cases like, for example:

- significant freedom of services activity
- concerns/issues raised by some of the NCAs belonging to the college
- need of better understanding the risk profile of the group and its major entities.

In this regard, the Guidelines on the operational functioning of colleges already state (see the Explanatory text of GL 3) that

"in order to enhance the efficiency of group supervision, members and participants can decide jointly to cooperate on an ad-hoc basis with competent authorities which cannot be invited as participants".

Recommended Actions to EIOPA

The Review Panel recommends to EIOPA to include the following guidance in the General Protocol:

- When relevant, the group supervisor can consider inviting, for specific sessions of the college meeting, the host freedom of services CAs in the college of supervisors, in relation to the activity carried out by way of freedom of services and in accordance with the provisions set out in the college's coordination arrangement.
- Requests for invitation to participate in the college, to be properly assessed by the group supervisor, can come from either the group supervisor, a member/participant of the college or the host freedom of services CA.

3.4.6. Deadline for the communication of information on freedom of services activity to the host NCAs (Part VI, para 2.1 of the General Protocol)

As foreseen by Part VI, para 2.1. of the General Protocol, before the end of each year the home NCA should send the host NCAs a summary of specifically defined statistical information relating to the activity carried on during the preceding year under freedom of services, both on an aggregated and on a company basis.

It resulted from the answers to the questionnaire that many Member States consider that this deadline is too long and that the information received is outdated when finally received. Most of those Member States would prefer to set the deadline at 6 months after the end of the year to which the information relates, while other NCAs, whilst supporting a reduction in the deadline, were concerned that a deadline of 6 months would present significant challenges, particularly in view of the steps that would need to be taken to process the data before submission. It is worth to mention that

data related to FoS will be reported in Solvency II templates (S.04.01 and S.04.02) on a yearly basis.

Recommended Actions to EIOPA

- The Review Panel recommends to EIOPA to shorten the deadline foreseen under Part VI, para 2.1. of the General Protocol.

3.5. Consumer protection issues (home and host)

3.5.1. Complaints

The replies show that most supervisors handle policyholders' complaints although they do not have the legal power to enforce their legal opinion. In some Member States, the NCA does not have the competence to handle the complaints and policyholders can address complaints to an ombudsman which is a separate entity from the CA.

Referring specifically to the freedom of services complaints, it should be first noted that each EEA Member State regulates the competence on the handling of the freedom of services complaints according to its national provisions. There is a variety of national approaches to the complaints handling competence with no predominant approach. Simplifying, some NCAs follow the home competence, others have chosen the host competence.

9 home NCAs reported that they did receive complaints regarding freedom of services activity of their domestic undertakings operating by freedom of services, while, from the host perspective, 15 host NCAs received complaints regarding freedom of services activity carried out by undertakings coming from other EEA Member States. Reasons might include a lack of awareness about the possibility to complain at the level of the home NCA, the differences in the legal system of the foreign jurisdiction, language problems or the effective competence of the host State to handle the freedom of services complaints.

The amount of complaints reported is generally extremely low and there are also NCAs that, even though they have procedures for internally handling the complaints on freedom of services, state they did not receive, within the reference period, complaints on freedom of services activity performed by undertakings registered in their jurisdiction. Also, a significant number of NCAs stated that they did not receive, as host, complaints about freedom of services activity performed in their jurisdiction. It should be pointed out that the function of the complaints is crucial in case of freedom of services activity especially for the monitoring of the compliance with the general good rules of the host State by the undertakings carrying out activity by freedom of services in that State. Important consequences at consumer protection level are related to this issue.

It is evident that in the case of home competence (i.e. the freedom of services complaints have to be sent to the home NCA) it is not easy for the

host NCA to know whether there have been cases of infringement of the general good rules in its territory.

It should be noted that many NCAs do not differentiate between complaints against local undertakings and those deriving from freedom of services business.

Moreover, complaints are often not used as an indicator for misconduct of undertakings.

Conversely, NCAs should be informed about these cases which indicate that the undertakings' conduct of business needs to be improved.

Recommended Actions to EIOPA

- The Review Panel recommends EIOPA to send a letter to the Commission on the issue of the competence on complaints handling in the case of freedom of services in order to underline the need of solving this issue for reasons of consumer protection. In particular, the need of a consistent approach between the NCAs on this matter should be highlighted.

In relation to some "twin peaks" supervisors it is found that the prudential supervisors are not always aware of the existence of freedom of services complaints - which can show both the infringements of the general good provisions and also of the prudential rules - since this is a matter of the Market Conduct Authority. In addition, it should be noted that the Market Conduct Authority is not competent to directly receive the complaints given that a specific ombudsman is foreseen.

It is crucial that all the involved authorities or bodies cooperate in solving the individual complaints but it is also necessary that an information flow is set-up, which makes the host NCA aware of the complaints concerning the activity of other EEA undertakings by freedom of services in their jurisdictions. Especially where general good provisions are tackled, it is evident that the host NCA has to be informed in order to provide the respective input to ensure proper treatment of conduct related issues.

Generally speaking, in the case of the Twin Peaks Authorities the respect of the following principles⁴ can be considered fundamental:

1. The competences of each NCA have to be clearly identified in order to avoid gaps (or overlaps) in the application of the existing requirements (like, for example, in the case of the split of competences as a host NCA on the application of art. 40 and 46 of the third directives).

⁴ The Peer Review did investigate whether the relevant twin peaks supervisors followed the identified principles with respect to the complaints handling in respect of freedom to provide services. The Peer Review did not investigate and does not include observations on whether the relevant twin peaks supervisors do follow the above-mentioned principles from the broader perspective of supervision of insurers, as this was not within the remit of the Peer Review

2. Strong and effective cooperation is needed between the different authorities, including a proper exchange of information on complaints which might indicate misconduct of an undertaking.
3. Prudential supervisors should be aware of any market conduct risks concerning their supervised entities.

It is clear that, when complaints are handled by a third party, e.g. an Ombudsman, it is crucial that the insurance supervisors are duly informed about freedom of services complaints in order to assess whether there are specific misconduct issues.

Individual Recommended Actions

- Taking account of the crucial role of the freedom of services complaints as fundamental source of information about the market conduct of insurance undertakings and the fact that they represent an important tool for consumer protection, NCAs should find a solution for identifying the complaints related to the activity carried out under the freedom of services by undertakings having their head office in another EEA Member State.

The recommended action applies (with tailored variations) to three NCAs.

3.5.2. Insurance Guarantee Schemes

Failures of insurance undertakings may be few, but where the home State does not have arrangements to provide appropriate policyholder compensation arrangements for freedom of services business the host State policyholders suffer loss. If the level of freedom of services business in a particular host State is relatively higher than the home State activity, then the impact of the undertaking's failure on the host State can be greater than on the home State.

If home States were to have compensation schemes that covered freedom of services business, not only domestic business, that would go some way to placing the financial consequences of failure in the jurisdiction that was responsible for prudential supervision. At present, however, few jurisdictions have compensation schemes for domestic business and there appears to be no consensus amongst member states on the desirability of compensation schemes.

It is difficult to identify exactly which are the states that have an Insurance Guarantee Scheme (IGS) as the IGS sometimes covers all classes or some particular classes or only specific kinds of contracts. Given that the IGS for the MTPL is mandatory according to the MTPL directive, total (covering life and non-life) or partial IGS (covering some specific classes only) can be found in 13 Member States. Particular cases concern some other Countries where special systems are in place in relation with the protection of the policyholders.

Where an IGS exists, it either covers all contracts issued by the undertaking irrespective of where they are sold (so-called home State system), or all contracts sold in a jurisdiction (so-called host-state system). In some Member States the existing IGS covers freedom of services activity performed by the local undertakings and by undertakings registered in other Member States.

In one Member State, the law does not require an insurance undertaking carrying out its activity by freedom of services in its territory to participate in the local guarantee scheme, but the undertaking is required to inform the potential policyholders whether in the home State there is an insurance guarantee scheme which protects policyholders in the event of the insolvency of the undertaking.

Problems arise when an undertaking based in a jurisdiction with a home-state system sells insurance under freedom of services in a jurisdiction which follows the host-state principle. A possible solution could be that the host NCA exempts the undertaking from membership in an IGS when contracts are already covered in the home jurisdiction.

3.5.3. Non-Compliance with legal provisions

Most jurisdictions reported that there were no cases of a breach of general good provisions. Where concrete cases were reported it seems that they refer to a breach of harmonised law and not to general good provisions. This type of confusion corroborated with the fact that there was only one case that made use of the provisions of the article 40, para 4ff. of the 3rd Non-Life Directive and Article 46, para 4ff. of the Consolidated Life Directive (2002/83/EC), leads to the conclusion that the host NCA are not very aware of these provisions and/or tend not to apply them.

As regards the competence to apply the procedure foreseen in article 40, para 4ff. of the 3rd Non-Life Directive and article 46, para 4ff. of the Consolidated Life Directive (2002/83/EC) in case of the States with a "twin-peaks" model of supervision, the situation is different from one case to another:

- in one case, which NCA acts according to Articles 40 and 46 depends on the issue at stake: generally speaking the prudential NCA is responsible for ensuring the compliance with the general good provisions, while with respect to the conduct issues and treatment of policy holders, including provision of information to policy holders, it is the market conduct authority that will act in the first place and will contact the undertaking and its home NCA;
- in a second case this is the exclusive competence of the market conduct authority;
- in the third case the ability to intervene is available to both the prudential and the market conduct authority. It depends on which NCAs' objectives are being advanced as to which NCA takes the lead with any intervention. Accordingly, if the prudential authority needs to intervene to advance its objectives, it will have the competence to notify the home NCA. Alternatively, if the market conduct authority needs to intervene to advance its objectives, it should notify the relevant host NCA.

One Member State reported that, as host Member State it needed to take supplementary actions according to Article 40, para 4ff. of the 3rd Non-Life Directive and Article 46, para 4ff. of the Consolidated Life Directive (2002/83/EC) within the reference period. In 2012, considering the breach of the rules of general good as well as the critical situations that came to the attention of the NCA, the concerned authority issued two orders imposing the prohibition to commence new business on its territory for two companies performing activity in its jurisdiction under freedom of services. The situation was repeated in 2013 for another insurance company operating in the same Member state under freedom of services.

The General Protocol provides that, if the host NCA is of the opinion that an undertaking does not comply with the legal provisions of its jurisdiction the host NCA first contacts the undertaking to remedy this situation. If the undertaking does not act accordingly, the host NCA informs the home NCA. If the home NCA does not solve the issue, the host NCA informs the home NCA and takes all necessary measures to prevent the undertaking from issuing new contracts in the territory of the host NCA.

One NCA received several complaints in relation to insurance products from two insurance undertakings coming from another Member State offering a range of international life insurance based investment products (also known as "insurance wrappers") in its territory. Although these products were specifically designed for that Member State, the NCA has serious doubts whether they qualify as insurance products according to local law.

Three NCAs declared that they had cases, as a host NCA, where insurance undertakings operating by way of freedom of services in their jurisdiction sold products prohibited in the home jurisdiction or in their jurisdiction. A case was reported by a NCA about the selling of products with unknown underlying assets or incomplete or misleading information.

In another Member State certain provisions of a unit linked life contract were not compliant with general good provisions.

Another NCA had to deal with infringements in relation to pre-contractual information and the financial structure of the products and concerning the inability of the insured to effectively exercise the right of redemption.

Individual Recommended Action

- In order to prevent possible misconduct issues and other kind of infringement of the law applicable in the host State, NCAs should develop a system which allows them to check whether the undertakings with head office in their jurisdiction address the compliance with the general good provisions of the jurisdictions where they carry out activity by freedom of services.

The recommended action applies (with tailored variations) to three NCAs.

3.6. Host NCA supervision

3.6.1. Need for the Host NCA of Supplementary Information

The answers received show that, regardless of the existence of a college of supervisors, 9 NCAs as host NCAs are interested to acquire more information on the activity carried out in their jurisdiction and in particular on:

- remunerations and costs, coverages and behaviour on the market
- products sold and/or commercialised
- tax and special representative and statistical data on a company basis also broken down per group of classes
- operational activity of the company in some sensitive classes, details about the complaints handled directly by the company per risk class
- market developments
- distinction between freedom of services and freedom of establishment with a home office in another Member State, and also on
- the financial condition and statistical data of the company.

Due to the variety of information mentioned in the answers, it does not seem appropriate to impose too much information exchange as it might be too burdensome (cost benefit).

However a bilateral exchange at the request of the host State should always be possible.

3.6.2. Payment of additional fees and appointment of the fiscal representative

According to article 50 of the Consolidated Life Directive (2002/83/CE) and Article 46, para2 of the Third Non-Life Directive (92/49/CEE), every insurance contract shall be subject exclusively to the indirect taxes and parafiscal charges on insurance premiums in the Member State in which the risk is situated. While no taxes or charges are levied for freedom of services notifications, currently all the host NCAs are compliant with the insurance directives aforementioned.

The appointment of a tax representative depends on local tax law. It is not needed in every Member State of the EEA. When the appointment of a tax representative is mandatory, some Member States require the appointment of a tax representative at the notification, others when freedom of services activity is actually carried on. Some Member States foresee the mere possibility to appoint one, while others do not have provisions thereon.

3.6.3. Necessity of an on-site inspection at the head office of an undertaking operating in the host jurisdiction by way of

FOS (for the purposes of monitoring compliance with the law applying to it).

Part VI, para 3.4 and 3.5 of the General Protocol foresees that:

3.4 "When, for the purpose of monitoring compliance with the rules of law applying to a Branch or to operations conducted within its territory by way of freedom to provide services, an on-site inspection at the Head office of the undertaking is considered necessary, the Competent Authority of the Host State shall inform the Competent Authority of the Home State. The competent Authority of the Home State may carry out the investigation.

3.5 "The Competent Authority carrying out the inspection shall inform the other Competent Authority of the observations from the investigation."

Four NCAs as host NCAs indicate having informed the home NCAs of the necessity of an on-site inspection at the head office of an undertaking operating in the host State by way of freedom of services for the purposes of monitoring compliance with the rules of law applying to it.

No specific problems have been identified from the answers received.

3.6.4. Cases where the activity of an EEA undertaking notified as FOS by the HOME NCA, qualified in fact more as an activity carried out by way of FOE

Three NCAs have mentioned cases of insurance undertakings which were authorised to carry out activity by way of freedom of service, according to the notifications communicated by the home NCA, but in fact activity of the undertakings seemed to be carried out by freedom of establishment.

For example, the fact that the activity of an undertaking was almost exclusively carried out on the territory of one Member State and also that the head office of the undertaking did not exercise any monitoring and management of the risks taken on that territory, as well as the management of subsequent events (contract amendments, renewals, extensions, claims), led them to conclude that the features of the activity were those of freedom of establishment. The malpractice has been identified following an in-depth analysis and investigation (including on-site inspections, exchange of information and cooperation with the home NCA and other Investigation Bodies). In particular, the on-site inspections carried out in 2011 at the Fiscal Representative as well as at the 12 intermediaries operating on behalf of the undertaking, revealed that the company had established in that Member State an actual business unit, through which it carried out all the activities needed to pursue the insurance activity.

In another case, the volume of business in the Host State and the autonomy of the decision of the intermediaries were the main criteria used by the relevant NCA to come to the same conclusion.

The distinction between the activity carried out by way of freedom of services or freedom of establishment represents a difficult issue to be established in the practice by the NCAs.

In fact, according to the *interpretative communication of the Commission concerning the freedom to provide services and the general good of the insurance sector* (Official Journal C43 of 16.02.2000), there is a grey area between freedom of services and freedom of establishment. Regarding the cases where it is difficult to classify a situation as freedom of services or establishment (in particular where the undertaking uses a permanent infrastructure in the host Member State), the NCA should test three cumulative conditions on insurance intermediaries to consider the activity carried out as freedom of establishment rather than freedom of services:

- to be subject to the direction and control of the undertaking,
- to be able to commit the undertaking,
- to have received a permanent brief.

3.6.5. Irregular interaction between business by way of freedom of services and entities established in the same Member State (e.g. intermediaries)

Four NCAs indicated having observed irregular interaction between business by way of freedom of services in their jurisdiction and entities established in their jurisdiction (e.g. intermediaries). One NCA mentioned suspicions of irregular activities or non-compliance with local rules in relation to EEA insurance undertakings' activities/contracts, and upon inquiry of local intermediaries. The irregularities persisted (e.g. use of non-authorised third parties for mediation; irregular activities by the intermediary by means of abuse of the powers delegated by the undertaking; non-compliance with the undertaking's duty to provide information to policy holders and to assist the intermediary).

There is a grey area as to how much assistance insurance intermediaries may provide to insurance undertakings.

Some general guidance on this issue by the Commission would be very welcome and might help.

3.6.6. Possibility for branches of undertakings with head office in a third country, established in an EEA Member State, to notify intention to carry on business by way of freedom of services in another EEA Member State

With respect to branches of undertakings with head office in a third country established in an EEA Member State, only in one member state the law permits to carry on business by way of freedom of services in another EEA Member State, but currently there are no cases.

No specific problems have been identified from the answers received.

4. Conclusions

4.1 Impact on Common Supervisory Culture

Analysis of the responses to the self-assessment questionnaire as well as information about the supervisory practices provided via emails, teleconferences and visits to NCAs gave a sound factual basis for further consideration and discussion by the Review Panel. The debate in the Review Panel and the dialogue between the reviewers and NCAs contributed to fostering consistency within the network of financial supervisors.

Regarding practices in the supervision of the insurance undertakings' activity by way of freedom of services, the main outcome of this peer review lies in the identification of areas in which a common approach is still missing or is insufficient.

In order to foster convergence in the supervisory approach of NCAs for the sake of a better functioning of the internal market and of consumer protection, recommended actions to individual NCAs and EIOPA were issued to ensure a more consistent approach and to enhance cooperation.

Recommended actions to NCAs mainly concerned: i) requests for information about the local market and risks from the home NCA to the host NCA (5 NCAs), ii) cooperation of NCAs at the moment of authorisation of a new undertaking (3 NCAs), iii) identification of freedom of services complaints (3 NCAs), iv) improvement of actions in relation to the general good provision (2 NCAs). It is important to underline that all the recommended actions are of crucial importance at consumer protection level. As aspects of incoherence of national practice need to be addressed horizontally, recommended actions were addressed to EIOPA mainly to suggest amendments to the General Protocol.

A further positive result is that this peer review has raised collective awareness of the need to streamline practical rules. The Review Panel is of the opinion that it is most efficient to tackle this horizontally during the upcoming revision of the General Protocol. With this aim 7 specific recommended actions were therefore addressed to EIOPA aiming at fostering common practice and consistency in supervisory practices.

Moreover the best practices identified in some NCAs are clearly marked in this report and might be of benefit to other NCAs when adopted over time.

4.2 Emphasis of any follow-up measures

The scope for a peer review on freedom of services may be very wide and may touch many aspects of the supervisory process. Some of the subjects contained in the scope of this peer review did not give rise to any particular problems whereas others showed great inconsistencies, as reported in the previous sections.

Therefore the Review Panel recommends conducting the follow-up to this peer review in the form of another peer review, during which not only the current recommended actions should be verified, but also areas touched by the present peer review could be more thoroughly explored or other relevant areas should be examined.