



EIOPA-BoS/16-310

MEMORANDUM OF UNDERSTANDING

Between the Bermuda Monetary Authority (BMA) and the European Insurance and Occupational Pensions Authority (EIOPA)

The Bermuda Monetary Authority and the European Insurance and Occupational Pensions Authority recognising the increasing international activity in insurance markets and the corresponding benefits of increasing continued mutual cooperation between the relevant supervisory authorities as a means for improving their effectiveness in administering and enforcing the insurance laws of their respective jurisdictions, have reached the following understanding:

1. DEFINITIONS

For the purposes of this Memorandum of Understanding (**MoU**), the terms set out below have the assigned meanings unless the context requires otherwise:

Authority means:

- The Bermuda Monetary Authority (**BMA**) is an independent statutory authority established under the Bermuda Monetary Authority Act 1969. The BMA has statutory responsibility for the supervision and regulation of financial institutions including insurance companies and insurance intermediaries in Bermuda.
- The European Insurance and Occupational Pensions Authority (**EIOPA**) is a European Supervisory Authority and an independent advisory body to the European Parliament, the Council of the European Union and the European Commission, established under Regulation (EU) No 1094/2010. EIOPA's core responsibilities are to support the stability of the financial system, transparency of markets and financial products as well as contribute to the protection of policyholders, pension scheme members and beneficiaries. EIOPA is commissioned to monitor and identify trends, potential risks and vulnerabilities stemming from the micro-prudential level, across borders and across sectors.
- The BMA and EIOPA shall be collectively referred to herein as 'the **Authorities**'.
- **Laws, regulations and requirements** mean the provisions of the laws, or the regulations and requirements enacted in Bermuda and any laws, regulations and requirements of the European Union in force in, or applying to EIOPA.

2. OBJECTIVES

- 2.1 This MoU sets forth the basis upon which the EIOPA and the BMA propose to provide for supervisory cooperation, mutual assistance and the exchange of information. The purpose of the MoU is to provide a framework for cooperation, increased mutual understanding, exchange of information and technical assistance to the extent permitted by laws, regulations and requirements which the BMA and EIOPA are subject to.
- 2.2 The Authorities agree to continue to engage in dialogue to seek to identify areas for cooperation and may share information on regulatory, supervisory and macro-prudential developments of mutual interest.
- 2.3 The Authorities intend to use their best endeavours to ensure that the fullest mutual assistance is provided within the terms of the MoU and engage in consultations, as appropriate, on mutually agreeable approaches designed to enhance the integrity and efficiency of their respective insurance markets and the exercise of insurance market supervisory functions within the framework set out under clause 2.1.
- 2.4 This MoU does not modify or supersede any laws, regulations and requirements in force in, or applying to, BMA or EIOPA or the jurisdictions in which they are authorised to regulate the business of insurance, and does not create any legally binding obligations on or confer any rights to EIOPA or Bermuda. This MoU is not intended to affect any arrangements under any other MoUs in existence to which either of the Authorities is a party.

3. SCOPE

- 3.1 The Authorities agree that this MoU should be the basis of their cooperation in view of ensuring optimal supervision for insurance or reinsurance groups with international activities in the European Union and Bermuda. The cooperation should be carried out efficiently and effectively, and should not impose unnecessary burden for the supervised groups or for the Authorities.
- 3.2 The Authorities will make all reasonable efforts to exercise the cooperation and coordination in a spirit of mutual trust.
- 3.3 EIOPA will support BMA's participation in the activities of European supervisory colleges formed by the competent authorities of the European Union when a Bermudian insurance or reinsurance undertaking is concerned. BMA is also committed to support EIOPA's participation in BMA's supervisory colleges where European insurance or reinsurance undertakings are concerned.

4. REQUEST FOR ASSISTANCE – PROCEDURE

- 4.1 Authorities may make a request under this MoU in writing to the other for assistance; and the disclosing Authority endeavours to provide a response to the requesting Authority as soon as reasonably practicable.
- 4.2 The Authorities agree that: (i) information requested should only be used for the purposes of a request made; and (ii) if information obtained under the MoU is required to be used or disclosed for an alternate purpose (i.e., other than originally requested), consent from the disclosing Authority is required to be obtained in writing prior to such use or disclosure.

- 4.3 The Authorities recognise the need and desirability of providing mutual assistance and exchanging information; however each Authority retains the right to deny or defer assistance for any reason.
- 4.4. In relation to all information exchanged under this MoU, the Authorities shall be subject to obligations of confidentiality and professional secrecy under their respective laws, and the requirements of clause 7 below.

5. COSTS

The Authorities will bear their own respective expenses that may be incurred by them under the MoU. However, where the cost of fulfilling a request is deemed substantial, the responding Authority may, on a case-by-case basis, request the requesting Authority to bear some or all of such costs.

6. VOLUNTARY DISCLOSURE BETWEEN AUTHORITIES

The Authorities acknowledge that they may voluntarily provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.

7. CONFIDENTIALITY

- 7.1 If the Authorities receive confidential information under this MoU, they agree to treat such information as confidential in accordance with the provisions of this MoU.
- 7.2 An Authority that receives confidential information under this MoU may use that information for the purposes set forth in the request for information or assistance.
- 7.3 The requesting Authority confirms that it will seek consent from the requested Authority before disclosing any confidential information it receives under this MoU to third parties.
- 7.4 Before disclosing the information obtained pursuant to this MoU to third parties, the requesting Authority will seek a commitment from them to keep the information confidential.
- 7.5 The recipient Authority will undertake every effort to comply with any restrictions on the use or disclosure of information that are agreed when the information is provided.
- 7.6 If the requesting Authority is subject to a mandatory disclosure requirement or receives a legally enforceable demand for information under applicable laws, regulations and requirements, the requesting Authority will notify the requested Authority of its obligation to disclose and will endeavour to seek consent from the requested Authority before making a disclosure. If the requested Authority withholds its consent, the requesting Authority will make its best efforts to protect the confidentiality of information obtained according to its confidentiality obligations and, if necessary, to resist disclosure, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available, for example by advising the concerned court or requesting party of the possible negative consequences of a disclosure on future cooperation between the Authorities.
- 7.7 The Authorities agree to treat the confidential information received under this MoU as confidential to the extent permitted by law even after termination of this MoU.

8. AMENDMENT TO MOU

Where required, the Authorities may agree to alter the terms of this MoU and such changes shall be made and agreed in writing by the Authorities.

9. ANNUAL MEETING

The Authorities will attempt to meet once a year at mutually agreeable locations to discuss regulatory developments, ways to enhance cooperation and other topics of mutual interest. Additional meetings may be arranged by mutual agreement.

10. TRAINING

The Authorities, as deemed appropriate by each respective Authority, may provide mutual assistance periodically such as through formal or informal training held in the host country and provision of ad hoc expertise in relation to issues of common interest.

11. TERMINATION

This MoU will continue to have effect unless terminated by either of the Authorities by giving 10 days’ advance written notice to the other Authority.

12. ENTRY INTO EFFECT

This MoU will be effective from the date of its signature by the BMA and EIOPA.

This MoU is hereby entered into as evidenced by the signatures of the following representatives of the BMA and EIOPA, who have the ability to execute the MoU on such Authorities behalf:

FOR THE BERMUDA MONETARY
AUTHORITY

FOR THE EUROPEAN INSURANCE AND
OCCUPATIONAL PENSIONS AUTHORITY

[signed]

[signed]

Craig Swan (Managing Director,
Supervision)

Gabriel Bernardino (Chair)

La Jolla, 16.01.2017

La Jolla, 16.01.2017

Date

Date