

**MEMORANDUM  
OF  
UNDERSTANDING**

**Between**

**Fjármálaeftirlitið of Iceland  
(Financial Supervisory Authority)**

**and**

**Tryggingareftirlitið in the Faroe Islands**

**September 2008**

**regarding cooperation concerning supervision of insurance companies, following the implementation of the Hoyvíkur agreement between Iceland and Faroe Islands.**

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## I. INTRODUCTION

1. The Financial Supervisory Authority in Iceland and Tryggingareftirlitið in the Faroe Islands hereby agree to base their cooperation regarding notification procedure of cross border services of insurance companies and the supervision of insurance companies and the exchange of confidential information on the principles and procedures laid down in this agreement and the Hoyvíkur agreement between Iceland and Faroe Island signed 31 August 2005.
2. The Financial Supervisory Authority (FME) is an independent institution established under the Act on Official Supervision on Financial Operations of 1998, but under the administrative jurisdiction of the Minister of Commerce. The FME began its operation on 1 January 1999, prior to which Insurance Supervisory Authority and the Bank Inspectorate of the Central Bank of Iceland carried out the supervision. The FME shall ensure that the activities of parties subject to supervision are in accordance with laws, regulations, rules or by-laws governing such activities and that they are in other respects consistent with sound and proper business practices.
3. The supervision of the insurance sector covers insurance companies in accordance to Act on Insurance Activities no. 60/1994 and insurance mediation in accordance to Act on Insurance Mediation no. 32/2005 (such as brokers and agents).
4. The supervision of financial undertakings comprises commercial banks, savings banks, credit undertakings, investment banks, electronic money undertakings, securities companies, securities brokerage and management companies for UCITS.
5. The supervision of securities market includes undertaking permitted to operate stock exchanges, authorized markets and central securities depositories. Through its market supervision, the FME contributes to an efficient securities market by counteracting for instance, the abuse of inside information and market manipulation.
6. The supervision of pension funds, UCITS and investment funds.
7. The FME's supervision is largely conducted through regular collection of information on the operations and financial position of parties subject to supervision (off-site), various specific surveillance operations (on-site) and written enquires on specific issues.

8. Tryggingareftirlitið (TE) (The Insurance Authority of the Faroe Islands) is an independent institution established under the Act no. 3 on Insurance activities from 13 February 1996, but under the administrative jurisdiction of the Minister of Trade and Industry. On 1. September 2008 the new Act nr. 55 on Insurance activities from 9. June 2008 will enter into power. The TE shall ensure that the activities of parties subject to supervision are in accordance with laws, regulations, rules or by-laws governing such activities and that they are in other respects consistent with sound and proper business practices.
9. The supervision of the insurance sector covers insurance companies in accordance to Act on Insurance Activities no. 55/2208 which also covers registration of insurance brokers/agents.
10. The supervision of TE comprises life insurance companies and pension funds, non-life insurance companies and one Credit mortgage institution.
11. The TE's supervision is largely conducted through regular collection of information on the operations and financial position of parties subject to supervision (off-site), various surveillance operations (on-site) and written inquires on specific issues.

## **II. DEFINITIONS**

12. In this MoU, unless the context requires otherwise:
  - 1) "Home state": the member state where the head office of an insurance company is located and where its operating license was issued.
  - 2) "Host state": a member state where an insurance company, whose head office is in another state, has a branch or provides services without an establishment.
  - 3) "Jurisdiction" means the country, state or other territory, as the case may be, in which the FME or the TE have legal authority, power and/or jurisdiction by law.
  - 4) Non-life "Classes" of insurance: (Can be some or all of the following)
    1. Accidents (including industrial injuries and occupational illness): fixed pecuniary benefits, benefits in the nature of indemnity, combinations of the two, and passenger transport.
    2. Sickness: fixed pecuniary benefits, benefits in the nature of indemnity and combinations of the two.

3. Fully comprehensive insurance for land vehicles (other than railway rolling stock): all damage to or loss of land motor vehicles and land vehicles other than motor vehicles.
  4. Fully comprehensive insurance for railway rolling-stock: all damage to or loss of railway rolling stock.
  5. Hull insurance for aircraft: all damage to or loss of aircraft.
  6. Hull insurance for ships (sea, lake and river and canal vessels): all damage to or loss of sea, lake and river and canal vessels.
  7. Goods in transit (including merchandise, baggage, and all other goods): all damage to or loss of goods in transit or baggage, irrespective of the form of transport.
  8. Fire and natural forces: all damage to or loss of property (other than property included in classes 3, 4, 5, 6 and 7) due to fire, explosion, storm, natural forces (other than storm), nuclear energy or land subsidence.
  9. Other damage to property: all damage to or loss of property (other than property included in classes 3, 4, 5, 6 and 7) due to hail or frost, and any event such as theft, other than those mentioned under 8.
  10. Third-party liability insurance for motor land vehicles: all liability arising out of the use of motor land vehicles (including carrier's liability).
  11. Third-party aircraft liability: all liability arising out of the use of aircraft (including carrier's liability)
  12. Third-party liability for ships (sea, lake and river and canal vessels): all liability arising out of the use of ships, vessels or boats on the sea, lakes, rivers or canals (including carrier's liability).
  13. General liability: all liability other than those forms mentioned under 10, 11 and 12.
  14. Credit: insolvency (general), export credit, installment credit, mortgages and agricultural credit.
  15. Suretyship: direct suretyship and indirect suretyship.
  16. Miscellaneous financial loss: employments risks, insufficiency of income (general), bad weather, loss of benefits, continuing general expenses, unforeseen trading expenses, loss of market value, loss of rent or revenue, indirect trading losses other than those mentioned above, other financial loss (non-trading) and other forms of financial loss.
  17. Legal expenses: legal expenses and costs of litigation.
  18. Assistance: assistance for persons who get into difficulties while travelling, while away from home or while away from their permanent residence.
- 5) Life insurance classes:
- I. Life assurance on death and survival without investment risk.
  - II. Marriage assurance, birth assurance
  - III. Life assurance on death and survival with investment risk
  - IV. Health insurance
  - V. Other life assurance
  - VI. Re-insurance of life and health insurance

### III. ESTABLISHMENT OF BRANCH/NOTIFICATION

13. The supervisory authority of the home member state shall inform the supervisory authority of the host member state of any notice regarding the establishment of a branch, unless there is among other things a reason to doubt the adequacy of the administrative structure or financial situation of the insurance undertaking taking into account the activities envisaged.
14. The supervisory authorities included in this Memorandum of Understanding shall exchange information regarding the branch, its management and other questions pertaining to conditions regarding the notice.
15. The information to be provided in the notice shall be defined in detail by the home member state supervisory authority pursuant to the national provision and this Memorandum of Understanding.
16. The following information and documentation from the home member state shall be provided:
  - a) A plan for the proposed activities and structure of the branch and confirmation that the company has an operating license in those insurance classes which it proposes to offer in Iceland/Faroe Islands.
  - b) The address of the branch where the company's appointed representative is located, documentation may be obtained on the activities and to which all communication shall be sent.
  - c) The name of the appointed representative of the branch authorized to bind the company towards third parties and to represent it in court in Iceland/Faroe Islands.
  - d) A declaration that the company is a party to International vehicle insurance if it proposes to carry out activities as provided for in class 10.
  - e) A certificate from the supervisory authority that the requirements concerning solvency margin for the company's operations in general are fulfilled, together with comments on the proposed activities if any.
  - f) The terms of compulsory insurance which the branch proposes to offer in Iceland/Faroe Islands and where applicable, the technical basis of life assurance and health insurance.
17. Before a branch commences operation in Iceland/Faroe Island the host member state supervisory authority shall inform the home member state supervisory authority of any general good conditions which may apply to the insurance activities of the branch in Iceland/Faroe Islands and of provisions concerning the public good.

18. The host member state supervisory authority shall, within two months of receiving the above documentation, give notice that the company may establish a branch, after which it may commence activity.
19. The supervisory authorities included in this Memorandum of Understanding shall – to the extent that they become aware of such fact – inform each other of any conviction of a branch manager, with special reference to any sentence which excludes the manager from insurance undertaking activities, as well as any other matters which may raise doubts about the managers suitability and integrity, whether the manager concerned has already taken up his position in the branch or not.
20. If, before receiving the prescribed notice, the host member state supervisory authority becomes aware that an insurance undertaking registered in the other member state has established a branch on its territory, it shall immediately notify the home member state supervisory authority thereof. The home member state shall take such steps as may be required to make the insurance undertaking observe the rules and shall notify the host member state supervisory authority thereof.
21. An insurance undertaking which has established a branch in the host member state pursuant to the national provisions and this Memorandum of Understanding may open additional “place of business” in the host member state. The opening of another place of business in the host member state shall be exempted from the notification requirement, unless it represents a change of the description of the branches activities which requires notification
22. The home member state supervisory authority shall ensure that an insurance undertaking which has established several places of business in the host member state shall state one place of business as its head branch whose management shall be accountable to the host member state supervisory authority and in that respect shall be authorized on behalf of all places of business in the host member state.
23. After receiving a notice of changes, the home member state shall inform the host member state supervisory authority when the branch is about to make major changes.
24. If such change concerns the branches management, the supervisory authorities included in this Memorandum of Understanding shall be able to use one-month period elapsing between notification and the making of the change, to exchange any information possessed by the supervisory authorities regarding the appointed branch managers suitability and integrity.
25. The home member state supervisory authority shall be responsible for the supervision of the insurance undertakings carrying on activities in a branch.



26. In their capacity as a home member state supervisory authorities it shall continue to be able to lay down their own inspection requirements and allow the supervisory authority's employees, as well as experts acting on behalf of such employees, to inspect insurance undertaking. The host member state supervisory authority shall not oppose inspection instituted by the home member state supervisory authority.
27. Further, the host member state shall be entitled to ask the supervisory authority of the home member state to institute an investigation of a branch.
28. The home member state supervisory authority shall inform the host member state supervisory authority of any planned investigations of branches. The host member state supervisory authority shall be given an opportunity to participate in the home member state investigation of branches. After completion of an investigation of a branch, the home member state supervisory authority shall communicate the conclusion resulting from the investigation to the supervisory authority of the host member state in writing.
29. In their capacity of host member state authorities shall within their sphere of authority, continue to be authorized to inspect, audit or order inspection reports regarding branches of insurance undertakings.
30. The host member state supervisory authority shall on request support the supervisory inspector or auditor appointed by the home member state authority if such inspector or auditor meets with resistance from the branch. Further, the host member state supervisory authority shall, whenever this may be expedient, cooperate with the home member state supervisory inspectors or auditors in the form of meeting or exchange of information.

#### **IV. FREEDOM TO PROVIDE SERVICES**

31. The supervisory authority of the home member state shall inform the supervisory authority of the host member state of any notice regarding the freedom to provide services, unless there among other things a reason to doubt the adequacy of the financial situation of the insurance undertaking taking into account the activities envisaged.
32. The information to be provided in the notice shall be defined in detail by the home member state supervisory authority pursuant to the national provision and this Memorandum of Understanding.
33. The following information and documentation from the home member states shall be provided:

- a) A certificate from the supervisory authority that the solvency margin requirements for the company's activities as a whole are fulfilled.
  - b) A list of the insurance classes and sub-classes which the company is authorized to deal in.
  - c) A list of the types of risk the company proposes to insure in Iceland/Faroe Island.
  - d) A declaration that the company is a party to International vehicle insurance if it proposes to carry out activities as provided for in class 10, and the name and address of the representative in Iceland/Faroe Island responsible for settling claims.
  - e) Terms of compulsory insurances which the company proposes to offer in Iceland/Faroe Islands and, where applicable, the technical basis of life assurance and health insurance.
34. The company may provide service in Iceland/Faroe Island once the host member state supervisory authority has given notice that all the above documentation have been received by the host member state supervisory authority.
35. A company which provides services without having an establishment in Iceland/Faroe Island, as provided in class 10, shall see to it that parties entitled to benefits resulting from damage in Iceland/Faroes Island are not in a worse position than others due to the fact that no establishment is located there. The representative referred to in point 33(d) shall obtain all necessary documentation on damages and have full authorization to pay benefits and represent the company in Iceland/Faroe Islands. He/She must also provide the competent authorities in Iceland/Faroe Islands with information as to whether statutory vehicle insurance has been provided and its period of validity. The representative may not assume other tasks for the company in Iceland/Faroes Island than those specified in the paragraph.
36. The home member state supervisory authority shall be responsible for the supervision of the insurance undertakings carrying on activities under the freedom to provide services.
37. The host member state supervisory authority shall inform the home member state supervisory authority whenever it becomes aware of any violation of the legislation of the host member state resulting from the provision of cross-frontier services and marketing connected therewith, provided that it finds that such information might be of importance to the home member state supervisory authority. The home member state supervisory authority shall take such measures as may be required to make the insurance undertaking comply with the legislation and shall report to the host member state supervisory authority.
38. If the host member state supervisory authority has reason to believe that an insurance undertaking registered in the other member state is carrying on activities within its territory of which it has not been informed, despite the fact

that such activities come within the framework of the freedom to provide services it, it shall inform the home member state supervisory authority thereof. The home member state supervisory authority shall make investigations, take the required measures to ensure observance of the legislation and shall inform the host member state supervisory authority of the result. Such investigation shall not affect any measures taken by the host member state under national legislation in order to ensure compliance with the provisions.

39. The Authorities may prohibit an insurance company, which operates a branch or provides services in Iceland/Faroe Islands, from further activities if it repeatedly and flagrantly violates the provisions of the national Acts of the host member state.

## **V. EXCHANGE OF INFORMATION**

40. The supervisory authorities included in the Memorandum of Understanding hereby declare that they are willing to exchange information to the extent permitted by national law, in order to support and improve the effectiveness of their supervision. Either written or verbal contact shall be made whenever the home member state or the host member state supervisory authority – based on relevant matters or developments – considers it useful or necessary for own or mutual purposes of supervision. Further, any existing additional information may be exchanged on request.
41. The FME and TE will endeavour to notify each other and provide relevant information regarding a material supervisory concern in any Icelandic entity incorporated in Faroe Island or any Faroe Islands entity incorporated in Iceland. The term “material supervisory concern” encompasses all matters relating to
- (a) whether the operations of an entity mentioned in the first sentence are conducted in a safe and sound manner and substantially in conformity with applicable prudential standards;
  - (b) whether there has been evidence of a violation of law which could potentially materially affect the operations of an entity mentioned in the first sentence; or
  - (c) any activity, action, course of conduct or other event that could have a material adverse effect on the financial stability of an entity mentioned the first sentence.
42. This Memorandum of Understanding does not affect the ability of the Authorities to obtain information from persons in the others jurisdiction on a voluntary basis, provided that the Authorities observe the procedures in that other jurisdiction for the obtaining of such information.
43. If the FME is requested by the TE to disclose confidential information originating from another authority or body in the European Economic Area (EEA), the FME being a member state of the EEA may only do so to the TE not being a member state of the EEA, if such authority or body has given permission. Such

information disclosed to the TE may only be used for the purposes for which the permission from the relevant authority or body was granted. In this connection the FME will use all reasonable endeavours to obtain the necessary permission from the relevant authority or body to such disclosure.

## **VI. CONFIDENTIALITY**

44. The Authorities shall, to the extent permitted by their national laws, regulations and rules keep confidential:
1. Any request for assistance or information pursuant to this Memorandum of Understanding.
  2. Any information received pursuant to this Memorandum of Understanding
  3. Any matter arising during the operation of this Memorandum of Understanding, including consultation and unsolicited assistance.
45. The Authorities shall not disclose the assistance or information obtained pursuant to this Memorandum of Understanding to third parties without the prior written consent of the Authorities.

## **VII. TRANSFER OF PORTFOLIO**

46. If an assurance/insurance company which has a branch or provides services in Iceland/Faroe Islands, requests to transfer its insurance portfolio, in whole or in part, to another company with an establishment in Iceland/Faroe Islands, the home member state supervisory authority of the former may authorize the transfer of the portfolio after receiving confirmation that the prescribed requirements on solvency margin will be fulfilled following the acquisition of the portfolio and after consultation with the host member state supervisory authority.
47. Where the insurance risk is situated in Iceland/Faroe Islands, the approval of the host member state supervisory authority shall always be required for the transfer.
48. The host member state supervisory authority shall publish a notice in the national Legal Gazette concerning the request for transfer and call for written comments from policyholders and insured within a specified time limit which shall not be shorter than one month. The company shall advertise the proposed transfer and the date the notice appeared in the national Legal Gazette.
49. The host member state supervisory authority shall deliver its opinion within three months of receiving the request for transfer; failure to do so shall imply that it takes a positive view of the transfer.

## **VIII. WITHDRAWAL OF LICENSE**

50. Should the home member state supervisory authority revoke/withdraw the operating license of a company which has a branch or provides services in Iceland/Faroe Islands, the host member state supervisory authority shall, upon receiving notification thereof, take appropriate measures to prevent the company from entering into any further insurance contracts in Iceland/Faroe Islands. It shall co-operate with the appropriate supervisory authority to safeguard, as far as possible, the interests of policyholders and the insured.

## **IX. CRISES**

51. The supervisory authorities included in this Memorandum of Understanding shall immediately notify each other if they become aware of an imminent crisis affecting a branch of an insurance/assurance undertaking which might result in the insolvency of the undertaking or the entire group.
52. The host member state supervisory authority shall in any event cooperate with the home member state supervisory authority if the home member state supervisory authority adopts supervisory countermeasures.

## **X. GENERAL PROVISIONS**

53. The language of the MoU is English. All communication relating to the MoU should be conducted in English.
54. This MoU will not cover Life Insurances provided by Life insurance companies and pension funds until the TE has in writing informed the FME that the Minister of Trade and Industry of the Faroe Islands has put into effect a regulation according the Insurance Act of the Faroe Islands legalizing cross border service provision or establishment of branches in the Life insurance area. This is due to some pending clarification of tax issues between the Faroe Islands and Iceland concerning life-insurance.
55. The Authorities will provide a list of contact points to which information or requests for information or assistance under this MoU should be directed. See Appendix 1.

## XI. EFFECTIVE DATE AND DURATION

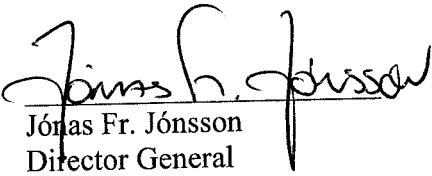
56. This Memorandum of Understanding shall take effect on 1 September 2008.
57. This Memorandum of Understanding shall continue in effect for an indefinite period but shall be terminated if the respective governments of Iceland and Faroe Island terminate the Hoyvíkur Agreement. The provisions set forth under the headings "Confidentiality" are to continue with respect to any information provided or actions taken under this Memorandum prior to its termination.

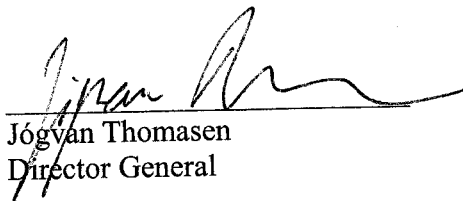
Signed at Reykjavík on the 28/8/2008

Signed at Tórshavn on the 1/9-2008

Fjármálaeftirlitið

Tryggingareftirlitið

  
Jónas Fr. Jónsson  
Director General

  
Jógvan Thomasen  
Director General

## APPENDIX 1

### DESIGNATED CONTACT OFFICERS

#### Financial Supervisory Authority

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108 Reykjavík  
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