

## **Insurance Europe key position on cross-border supervision ahead of the Council WG meeting on 11 March**

### **Key messages to convey**

Insurance Europe welcomes proposals to strengthen the cooperation between home and host supervisors around the activities of businesses operating cross-border through the freedom to provide services and the freedom of establishment (FOS/FOE). This will enable the home supervisor and the insurer a clear understanding of the risk it intends to cover via FOS. This cooperation should start “upstream” ie at the moment of the notification/authorization process.

However, changes should not compromise the home-state principle and improvements are needed to the EC proposals to ensure that:

- The changes are tailored to the specific problems they seek to solve and it is ultimately about ensuring that supervision is effective and the Solvency II framework is fully applied.
- The appropriate improvements will not result in overburdening or even discriminating against insurers whose business model integrates the opportunities created by the single market.

#### **Do**

- Improve coherence and convergence in the supervision of cross-border activity and ensure information is shared between supervisors when needed.

#### **Don't**

- Do not introduce changes that compromise the home-state principle or create unnecessary costs and barriers for well run cross-border businesses.
- Do not impose additional requirements where not needed (reinsurers, captive undertakings and entities covered by a supervisory colleges)

### **Insurance Europe proposes the following practical solutions**

#### **1) Enhanced sharing of existing (ie QRT) information between home and host NSAs is needed.**

- Host NSAs should have access to all the standardised reporting and data (eg QRTs) of the insurer who wishes to pursue (or is pursuing) any business under FoS or FoE.
- This information will allow the host supervisor to monitor the solvency of companies selling insurance in its country, monitor levels and rate of growth in sales and if there are concerns to contact the home supervisor
- Use should be made of digital solutions so that access to QRT data for the host can be without delays and not create additional burden for companies or home supervisors. Such standard data is already stored centrally within EIOPA's QRT digital platform and so it should be possible to create a system for access for the host supervisor without material costs involved.

#### **2) Additional cooperation and information should be available for host NSAs for a companies operating in its jurisdiction under FoS or FoE where that company meets risk-based criteria which justify the costs and burdens involved.**

- Home member state principle should be maintained

- The EC's proposed "5%" definition of "significant cross-border activity" is too simplistic, and can be improved by defining a risk-based approach.
- Such a risk-based approach would exclude:
  - reinsurers because cross-border activity being integral to their business model and lack of exposure
  - captives because they only share risk within their group and lack consumer exposure.
  - all undertakings that are covered by a group supervisory college because the host NSA already has access to enhanced cooperation and information sharing mechanism.
- Such a risk-based approach could include companies with, for example,
  - volatile solvency ratios
  - any supervisory actions by the home NSA
  - selling a list of certain products – eg building insurance
  - Companies whose sales in the host country reaches a certain rate of growth or reaches a certain threshold

### 3) Enhanced mediation role for EIOPA.

The industry supports EIOPA to play a role in the mediation where NSAs fail to reach a common view and in resolving disputes between NSAs. EIOPA should also have a role in the coordination of information sharing.

However, **proposals for own initiative powers for EIOPA to directly supervise undertakings eg via on-site inspections should not be taken forward.** The supervision of undertakings should remain the responsibility of NSAs and not EIOPA.

## Industry responses to questions

### Q1 [Design of criteria for the definition of "significant" cross-border activities] None of the suggested answers

The definition of "significant cross-border activity" is too simplistic, not risk-based, and therefore should be improved. Cross-border business is not inherently riskier, which is what is implied by using a specific threshold or market share as the single criterion to separate businesses that should receive increased scrutiny.

Additionally, and contrary to what is suggested in option 4, the definition of a qualitative criterion and interpretation of "relevant" cross-border activity should not be left to the host member state but be clearly defined in the Directive.

A more comprehensive risk-based approach not limited to the market share or annual GWP should therefore be developed, with clear and specific criteria that truly capture those undertakings with unsustainable business models and that respects the home member state principle.

### Q2 [Definition of "relevance" of cross-border activities] – Not applicable