

**MEMORANDUM  
OF  
UNDERSTANDING**

**REGARDING MUTUAL CO-OPERATION AND EXCHANGE OF INFORMATION  
IN THE FIELD OF INSURANCE SUPERVISION**

**BETWEEN THE**

**INSURANCE SUPERVISION AGENCY  
OF MONTENEGRO**

**AND THE**

**FEDERAL MINISTRY OF FINANCE,  
AUSTRIA**

**AND THE**

**FINANCIAL MARKET AUTHORITY,  
AUSTRIA**

## **I. PURPOSE OF MEMORANDUM OF UNDERSTANDING**

1. The purpose of this Memorandum of Understanding (hereinafter referred to as "MoU") is to protect the interests of existing and potential policyholders of insurance companies, and promote the integrity, stability and efficiency of the insurance industry by providing a framework for co-operation, including channels of communication, increasing mutual understanding, the exchange of information and assistance to the extent permitted by laws, regulations and requirements.
2. Recognising the increasing international activities in the insurance market and the corresponding need for mutual co-operation between the signatory parties (hereinafter referred to as "Authorities").
3. This MoU serves as a basis of co-operation for the Authorities and does not create any binding international legal obligations. It does not affect any arrangements under other MoUs.
4. The performance of the provisions of this MoU shall be consistent with the domestic laws, regulations and conventions of the respective countries of the Authorities and within the availability of respective resources of the Authorities, and shall not be contrary to the public interests of the countries of the Authorities concerned.
5. To the extent permitted by the applicable laws and regulations, each Authority will use reasonable efforts to provide the other Authority with any information, giving rise to a suspicion of a breach, or anticipated breach, of the regulatory requirements or laws in the insurance market administered by the other Authority.

## **II. SCOPE OF MEMORANDUM OF UNDERSTANDING**

1. The Authorities agree to promote mutual assistance and the exchange of information to assist them to perform their respective functions, subject to its laws and overall policy, in relation to the following areas:
  - a) The legislative provisions dealing with proposals for the establishment, acquisition and take-over of insurance companies;
  - b) The enforcement of financial and other eligibility requirements for key positions of responsibility in insurance companies including ownership;
  - c) The continuing monitoring, auditing, inspection and examination of insurance companies for compliance with prudential, financial reporting and other supervisory requirements;
  - d) The conduct of specific inquiries into the activities of individual insurance companies;
  - e) Check of respecting the requirement of disclosure of information and of marketing of insurance products;

- f) Fraudulent practices in relation to the offer, purchase or sale of insurance products;
- g) Technical co-operation and assistance;
- h) Other issues agreed upon by the Authorities.

### **III. REQUESTS AND EXECUTION**

1. Requests will be made in writing in the English language to the contact persons listed in Annex A. In urgent cases, requests may be made in summary form to be followed as soon as possible by a full request.
2. Any requests should specify:
  - a) Request for co-ordination or information;
  - b) The purpose for which the information is sought (including details of the laws and regulatory requirements pertaining to the matter which is the subject of the request);
  - c) The link between the specific laws or regulatory requirements and the regulatory functions of the requesting Authority;
  - d) The persons believed by the requesting Authority to possess the information sought, or the place where such information may be obtained, if the requesting Authority is knowledgeable thereof;
  - e) To whom, if anyone, onward disclosure of information is likely to be necessary and the reason for such disclosure;
  - f) The desired time period for the reply.
3. If in the area covered by the MoU the requesting Authority makes a request for information on behalf of another authority of the same country (police, court, etc.), this shall be indicated in the request. The Authorities will consult the further proceedings and the exact kind of information to be possibly communicated by the requested Authority.
4. The requested Authority will deal with the request in a reasonable time.
5. Each request will be assessed by the requested Authority to determine whether the information requested can be provided under the terms of this MoU. In any case where the request cannot be accepted completely, the requested Authority will consider whether there may be any relevant or partial information, which can be given.
6. In deciding whether to accept or decline a request, the requested Authority will consider:
  - a) whether the request relates to the breach of laws or regulations which has no close parallel in the country of the requested Authority;

- b) whether broadly equivalent assistance would be available from the requesting Authority;
  - c) whether the request involves an assertion of a jurisdiction not recognised by the requested Authority;
  - d) whether it would be contrary to the public interests of the requested Authority.
7. Any document or other materials provided in response to a request under this MoU and any copies thereof must be returned to the requested Authority on request.

#### **IV. UNSOLICITED INFORMATION**

Where one Authority has information, which will assist the other Authority in the performance of its regulatory functions, the former may provide such information, or arrange such information to be provided, to the extent permitted by law, on a voluntary basis even though no request has been made by the other Authority.

#### **V. PERMISSIBLE USE AND CONFIDENTIALITY**

1. The requesting Authority may use the information solely for the purpose stated in the request with respect to ensuring compliance with or enforcement of the legal provisions specified in the request as well as for the purpose of conducting once started administrative proceedings instituted as a result of a violation of the provisions specified in the request. If the requesting Authority intends to use the information furnished for any other purpose, it must obtain prior consent of the requested Authority, which may subject the information to certain conditions.
2. Each Authority will keep confidential to the extent permitted by law any request made under this MoU as well as any matter arising in the course of its operation.
3. To the extent permitted by law, each Authority will keep confidential any information passed under the MoU to the same degree as provided by law in the country of the other Authority.
4. Information or assistance provided under the MoU will only be disclosed by the recipient to any third parties upon consent of the requested Authority and for the purpose approved by the requested Authority.
5. Prior to disclosing information received pursuant to this MoU to third parties, the requesting Authority will obtain a written assurance from such third parties to keep the information confidential.

#### **VI. TECHNICAL COOPERATION**

The respective Authorities intend to work together to identify and address, subject to the availability of personnel and resources, the training and technical assistance required to

facilitate the development of the regulatory framework for the insurance market both in Montenegro and Austria.

## **VII. CONSULTATION**

1. The Authorities will consult, in the event of a dispute, the meaning of any term used in this MoU.
2. The Authorities may consult, at any time, about a request or proposed request.
3. The Authorities may consult and revise the terms of the MoU in the event of a substantial change in the laws, regulations or practices affecting the operation of the MoU. Any such changes will be done after both sides agreement in written form.
4. To improve the co-operation under this MoU, the Authorities will conduct consultations and discussions on the implementation of the MoU periodically or when necessary.

## **VIII. CONTACT PERSONS**

All communications between the Authorities should be made between the principal points of contact as set out in Appendix A unless otherwise agreed. Appendix A may be amended by written notice from either Authority.

## **IX. ENTRY INTO EFFECT**

This MoU will be effective from the date of its signature by all contractual parties.

## **X. TERMINATION**

This MoU may be terminated by either Authority upon that Authority giving thirty days' written notice to the other Authority. This Memorandum of Understanding will continue to have effect with respect to all requests for assistance that have been made before the effective date of termination.

SIGNED on \_\_\_\_\_ 2009 in Vienna and on 01 June 2009 in Podgorica, in triplicate in English all three versions being equally authentic.

On behalf of the  
Insurance Supervision Agency of  
Montenegro

Vladimir Kavacic  
President of the Council

On behalf of the  
Federal Ministry of Finance,  
Austria

Mag. Alfred Lejsek  
Director

On behalf of the  
Financial Market Authority,  
Austria

Mag. Helmut Ettl  
Executive Director

Dr. Kurt Pribil  
Executive Director

Annex A

**CONTACT PERSONS**

**Insurance Supervision Agency of Montenegro:**

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**Finanzmarktaufsichtsbehörde:**

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