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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 17 November 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2017) 666 final ANNEX 1

Subject: ANNEX to the proposal for a Council Decision establishing the position to
be taken on the Union's behalf in the EU-Switzerland Joint Committee
concerning a technical revision of the Agreement on direct insurance other
than life insurance

Delegations will find attached document COM(2017) 666 final ANNEX 1.

Encl.: COM(2017) 666 final ANNEX 1



Brussels, 17.11.2017
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ANNEX 1

ANNEX

to the

proposal for a Council Decision

establishing the position to be taken on the Union's behalf in the EU-Switzerland Joint Committee concerning a technical revision of the Agreement on direct insurance other than life insurance

ANNEX

DECISION OF THE EU-SWITZERLAND JOINT COMMITTEE¹

amending the annexes and protocols to the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance and finding that the domestic legislation of the Contracting Parties is compatible with that Agreement

THE EU-SWITZERLAND JOINT COMMITTEE,

Having regard to Article 39 and 40.3 of the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance ('the Agreement'),

Having regard to Decision No 1/2001 of the EC-Switzerland Joint Committee,

Whereas:

- (1) New Member States have acceded to the Union and their accession requires some technical amendments to Annex III to the Agreement;
- (2) Certain legislative provisions adopted by the Union and by Switzerland require an amendment of the protocols and annexes to the Agreement;
- (3) After examination, certain legislative provisions adopted by Switzerland do not require the Agreement to be amended.
- (4) Following the legislative provisions adopted by the Swiss Confederation and the Union between 18 July 2001 and [Date of signature of decision], and in order to reflect the accession of new Member States to the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement is hereby amended as follows:

- (1) The exchange value between the EUR and the CHF for all the annexes and protocols shall be fixed at EUR 1 = CHF 1,14.
- (2) Protocol No 1 to the Agreement shall be amended as follows:
 - (a) Article 1 shall be replaced by the following:

“Article 1

Definition of the solvency margin

The solvency margin for undertakings whose head office is domiciled in the territory of the Union is the Solvency Capital Requirement, as referred to in Articles 100 and 101 of Directive 2009/138/EC of the European Parliament and of the Council*, ('Solvency 2') as amended by Directive 2014/51/EU of the European Parliament and of the Council**('Omnibus 2')

¹ Formerly the EC-Switzerland Joint Committee.

The solvency margin for undertakings whose head office is domiciled in the territory of the Swiss Confederation is the Target Capital (Zielkapital), which is defined together with related concepts such as the valuation of assets and liabilities and the Risk Bearing Capital (Risikotragendes Kapital) of the Swiss Solvency Test (SST) in the Versicherungsaufsichtsgesetz*** ('Insurance Supervisory Act') and the Aufsichtsverordnung**** ('Insurance Supervisory Ordinance').

* Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (OJ L 335, 17.12.2009, p. 1).

** Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 153, 22.5.2014, p. 1).

*** Versicherungsaufsichtsgesetz, SR 961.01.

**** Aufsichtsverordnung, SR 961.011.”;

(b) Article 2 is deleted;

(c) Article 3 is replaced by the following:

“Article 3

Definition of the guarantee fund

The guarantee fund for undertakings whose head office is domiciled in the territory of the Union is the Minimum Capital Requirement as referred to in Articles 128 and 129 of Solvency 2, as amended by Omnibus 2.

The guarantee fund for undertakings whose head office is domiciled in the territory of the Swiss Confederation is the minimal capital (lowest intervention level) in the Swiss Solvency Test.”;

(d) Article 4 is deleted.

(3) The list of acceptable legal forms in Part B of Annex III to the Agreement should be replaced by the list in Part A of Annex III to Directive 2009/138/EC of the European Parliament and of the Council².

Article 2

The following acts of the Union are compatible with the Agreement:

– Directive 2009/138/EC ('Solvency 2'), as amended by Directive 2014/51/EU of the European Parliament and of the Council ('Omnibus 2')³;

² Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), (OJ L 335, 17.12.2009, p. 1).

³ Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European

- Commission Delegated Regulation No 2015/35, in the version published in the *Official Journal of the European Union* of 17 January 2015⁴;
- Commission Implementing Regulation (EU) 2015/460 on the approval of an internal model, in the version published in the *Official Journal of the European Union* of 20 March 2015⁵;
- Commission Implementing Regulation (EU) 2015/462 on the procedures for supervisory approval to establish SPVs, for the cooperation and exchange of information between supervisory authorities regarding SPVs, as well as to set out formats and templates for information to be reported by SPVs, in the version published in the *Official Journal of the European Union* of 20 March 2015⁶;
- Commission Implementing Regulation (EU) 2015/461 on the process to reach a joint decision on the application to use a group internal model, in the version published in the *Official Journal of the European Union* of 20 March 2015⁷;
- Commission Implementing Regulation (EU) 2015/498 on the supervisory approval procedure to use undertaking-specific parameters, in the version published in the *Official Journal of the European Union* of 25 March 2015⁸;
- Commission Implementing Regulation (EU) 2015/500 on the procedures to be followed for the supervisory approval of the application of a matching adjustment, in the version published in the *Official Journal of the European Union* of 25 March 2015⁹;
- Commission Implementing Regulation (EU) 2015/499 on the procedures to be used for granting supervisory approval for the use of ancillary own-fund items, in the version published in the *Official Journal of the European Union* of 25 March 2015¹⁰;
- Commission Delegated Decision (EU) 2015/1602 on the equivalence of the solvency and prudential regime for insurance and reinsurance undertakings in force in

Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 153, 22.5.2014, p. 1).

⁴ Commission Delegated Regulation 2015/35/EU of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)(OJ L 12, 17.1.2015, p. 1).

⁵ Commission Implementing Regulation (EU) 2015/460 of 19 March 2015 on the approval of an internal model (OJ L 76, 20.03.2015, p.13).

⁶ Commission Implementing Regulation (EU) 2015/462 of 19 March 2015 on the procedures for supervisory approval to establish SPVs, for the cooperation and exchange of information between supervisory authorities regarding SPVs, as well as to set out formats and templates for information to be reported by SPVs (OJ L 76, 20.03.2015, p.23).

⁷ Commission Implementing Regulation (EU) 2015/461 of 19 March 2015 on the process to reach a joint decision on the application to use a group internal model (OJ L 76, 20.03.2015, p.19).

⁸ Commission Implementing Regulation (EU) 2015/498 of 24 March 2015 on the supervisory approval procedure to use undertaking-specific parameters (OJ L 79, 25.3.2015, p. 8).

⁹ Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 on the procedures to be followed for the supervisory approval of the application of a matching adjustment (OJ L 79, 25.3.2015, p. 18).

¹⁰ Commission Implementing Regulation (EU) 2015/499 of 24 March 2015 on the procedures to be used for granting supervisory approval for the use of ancillary own-fund items (OJ L 79, 25.3.2015, p. 12).

Switzerland, in the version published in the *Official Journal of the European Union* of 24 September 2015¹¹;

- Commission Delegated Decision (EU) 2015/2290 on the provisional equivalence of the solvency regimes in force in Australia, Bermuda, Brazil, Canada, Mexico and the United States, in the version published in the *Official Journal of the European Union* of 9 December 2015¹²;
- Commission Delegated Regulation (EU) 2016/467 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings, in the version published in the *Official Journal of the European Union* of 1 April 2016¹³;
- Commission Implementing Regulation (EU) 2015/2011 on the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in accordance with Directive 2009/138/EC, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁴;
- Commission Implementing Regulation (EU) 2015/2016 on the equity index for the symmetric adjustment of the standard equity capital charge, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁵;
- Commission Implementing Regulation (EU) 2015/2017 on the adjusted factors to calculate the capital requirement for currency risk for currencies pegged to the euro, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁶;
- Commission Implementing Regulation (EU) 2015/2013 on standard deviations in relation to health risk equalisation systems, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁷;
- Commission Implementing Regulation (EU) 2015/2014 on the procedures and templates for the submission of information to the group supervisor and for the

¹¹ Commission Delegated Decision (EU) 2015/1602 of 5 June 2015 on the equivalence of the solvency and prudential regime for insurance and reinsurance undertakings in force in Switzerland (OJ L 248, 24.09.2015, p. 95).

¹² Commission Delegated Decision (EU) 2015/2290 of 12 June 2015 on the provisional equivalence of the solvency regimes in force in Australia, Bermuda, Brazil, Canada, Mexico and the United States (OJ L 323, 9.12.2015, p. 22).

¹³ Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (OJ L 85, 1.4.2016, p. 6).

¹⁴ Commission Implementing Regulation (EU) 2015/2011 of 11 November 2015 on the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in accordance with Directive 2009/138/EC (OJ L 295, 12.11.2015, p. 3).

¹⁵ Commission Implementing Regulation (EU) 2015/2016 of 11 November 2015 on the equity index for the symmetric adjustment of the standard equity capital charge (OJ L 295, 12.11.2015, p. 18).

¹⁶ Commission Implementing Regulation (EU) 2015/2017 of 11 November 2015 on the adjusted factors to calculate the capital requirement for currency risk for currencies pegged to the euro (OJ L 295, 12.11.2015, p. 21).

¹⁷ Commission Implementing Regulation (EU) 2015/2013 of 11 November 2015 on standard deviations in relation to health risk equalisation systems (OJ L 295, 12.11.2015, p. 9).

exchange of information between supervisory authorities, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁸;

- Commission Implementing Regulation (EU) 2015/2012 on the procedures for decisions to set, calculate and remove capital add-ons, in the version published in the *Official Journal of the European Union* of 12 November 2015¹⁹;
- Commission Implementing Regulation (EU) 2015/2015 on the procedures for assessing external credit assessments, in the version published in the *Official Journal of the European Union* of 12 November 2015²⁰;
- Commission Delegated Decision (EU) 2016/310 on the equivalence of the solvency regime for insurance and reinsurance undertakings in force in Japan, in the version published in the *Official Journal of the European Union* of 4 March 2016²¹;
- Commission Delegated Decision (EU) 2016/309 on the equivalence of the supervisory regime for insurance and reinsurance undertakings in force in Bermuda amending Commission Delegated Decision (EU) 2015/2290, in the version published in the *Official Journal of the European Union* of 4 March 2016²²;
- Commission Implementing Regulation (EU) 2015/2450 -Supervisory reporting: templates for submission, in the version published in the *Official Journal of the European Union* of 31 December 2015²³;
- Commission Implementing Regulation (EU) 2015/2452 -Solvency and financial condition report, in the version published in the *Official Journal of the European Union* of 31 December 2015²⁴;
- Commission Implementing Regulation (EU) 2015/2451 - Reporting by supervisors, in the version published in the *Official Journal of the European Union* of 31 December 2015²⁵;
- Commission Implementing Regulation (EU) 2016/165 on the calculation of technical provisions and basic own funds for reporting with reference dates from 1 January

¹⁸ Commission Implementing Regulation (EU) 2015/2014 of 11 November 2015 on the procedures and templates for the submission of information to the group supervisor and for the exchange of information between supervisory authorities (OJ L 295, 12.11.2015, p. 11).

¹⁹ Commission Implementing Regulation (EU) 2015/2012 of 11 November 2015 on the procedures for decisions to set, calculate and remove capital add-ons (OJ L 295, 12.11.2015, p. 5).

²⁰ Commission Implementing Regulation (EU) 2015/2015 of 11 November 2015 on the procedures for assessing external credit assessments (OJ L 295, 12.11.2015, p. 16).

²¹ Commission Delegated Decision (EU) 2016/310 of 26 November 2015 on the equivalence of the solvency regime for insurance and reinsurance undertakings in force in Japan (OJ L 58, 4.3.2016, p. 55).

²² Commission Delegated Decision (EU) 2016/309 of 26 November 2015 on the equivalence of the supervisory regime for insurance and reinsurance undertakings in force in Bermuda amending Commission Delegated Decision (EU) 2015/2290 (OJ L 58, 4.3.2016, p. 50).

²³ Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015 -Supervisory reporting: templates for submission (OJ L 347, 31.12.2015, p. 1).

²⁴ Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 -Solvency and financial condition report (OJ L 347, 31.12.2015, p. 1285).

²⁵ Commission Implementing Regulation (EU) 2015/2451 of 2 December 2015 - Reporting by supervisors (OJ L 347, 31.12.2015, p. 1224).

until 30 March 2016, in the version published in the *Official Journal of the European Union* of 9 February 2016²⁶;

- Commission Implementing Regulation (EU) 2016/869 on the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March until 29 June 2016, in the version published in the *Official Journal of the European Union* of 3 June 2016²⁷;
- Commission Implementing Regulation (EU) 2016/1376 on the calculation of technical provisions and basic own funds for reporting with reference dates from 30 June until 29 September 2016, in the version published in the *Official Journal of the European Union* of 18 August 2016²⁸;
- Commission Implementing Regulation (EU) 2016/1630 on the procedures for the application of the transitional measure for the equity risk sub-module, in the version published in the *Official Journal of the European Union* of 10 September 2016²⁹;
- Commission Implementing Regulation (EU) 2016/1800 on the allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps, in the version published in the *Official Journal of the European Union* of 12 October 2016³⁰;
- Commission Implementing Regulation (EU) 2016/1868 amending and correcting Impl. Reg. (EU) 2015/2450 on the templates for the submission of information to the supervisory authorities, in the version published in the *Official Journal of the European Union* of 21 October 2016³¹;
- Commission Commission Implementing Regulation (EU) 2016/1976 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 30 September until 30 December 2016, in the version published in the *Official Journal of the European Union* of 16 November 2016³²;
- Commission Implementing Regulation (EU) 2017/309 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2016 until 30 March 2017, in the

²⁶ Commission Implementing Regulation (EU) 2016/165 of 5 February 2016 on the calculation of technical provisions and basic own funds for reporting with reference dates from 1 January until 30 March 2016 (OJ L 32, 9.2.2016, p.31).

²⁷ Commission Implementing Regulation (EU) 2016/869 of 27 May 2016 on the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March until 29 June 2016 (OJ L 147, 3.6.2016, p. 1).

²⁸ Commission Implementing Regulation (EU) 2016/1376 of 8 August 2016 on the calculation of technical provisions and basic own funds for reporting with reference dates from 30 June until 29 September 2016 (OJ L 224, 18.8.2016, p.1).

²⁹ Commission Implementing Regulation (EU) 2016/1630 of 9 September 2016 on the procedures for the application of the transitional measure for the equity risk sub-module (OJ L 243, 10.9.2016, p. 1).

³⁰ Commission Implementing Regulation (EU) 2016/1800 of 11 October 2016 on the allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps (OJ L 275, 12.10.2016, p. 19).

³¹ Commission Implementing Regulation (EU) 2016/1868 of 20 October 2016 amending and correcting Impl. Reg. (EU) 2015/2450 on the templates for the submission of information to the supervisory authorities (OJ L 286, 21.10.2016, p. 35).

³² Commission Commission Implementing Regulation (EU) 2016/1976 of 10 November 2016 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 30 September until 30 December 2016 (OJ L 309, 16.11.2016, p. 1).

version published in the *Official Journal of the European Union* of 28 February 2017³³;

- Commission Implementing Regulation (EU) 2017/812 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March until 29 June 2017, in the version published in the *Official Journal of the European Union* of 18 May 2017³⁴;
- Commission Delegated Regulation (EU) 2017/1542 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates), in the version published in the *Official Journal of the European Union* of 14 September 2017³⁵;
- Commission Implementing Regulation (EU) 2017/1421 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 30 June until 29 September 2017 in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance, in the version published in the *Official Journal of the European Union* of 14 September 2017³⁶;

The following legislative provisions of the Swiss Confederation are compatible with the Agreement:

- Insurance Supervisory Act (SR 961.01)³⁷
- Insurance Supervisory Ordinance (SR 961.011)³⁸;

Done at **XX**, [...].

For the Joint Committee
The President
[...]

³³ Commission Implementing Regulation (EU) 2017/309 of 23 February 2017 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2016 until 30 March 2017 (OJ L 53, 28.02.2017, p. 1).

³⁴ Commission Implementing Regulation (EU) 2017/812 of 15 May 2017 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March until 29 June 2017 (OJ L 126, 18.5.2017, p.1).

³⁵ Commission Delegated Regulation (EU) 2017/1542 of 8 June 2017 amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) (OJ L 236, 14.9.2017, p. 14).

³⁶ Commission Implementing Regulation (EU) 2017/1421 of 2 August 2017 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 30 June until 29 September 2017 in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (OJ L 204, 5.8.2017, p.7).

³⁷ Versicherungsaufsichtsgesetz, SR 961.01.

³⁸ Aufsichtsverordnung, SR 961.011.