

## **Second Schedule – Credit Risk Transfer Agreement**

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### **SECOND SCHEDULE**

*(Paragraph 4.4.2 of Chapter 4)*

#### **Scope and definitions**

1. The purpose of this Annex is to establish the contents which an agreement is required to contain in line with paragraph 4.4.2 of Chapter 4.
2. For the purposes of this Schedule, “insurance undertaking” means an undertaking authorised under the Insurance Business Act to carry on business of insurance and includes an undertaking authorised under 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) to carry on business of insurance, and any other third country insurance undertaking which has obtained the necessary authorisations or permissions in the third country where its head office is situated and has also obtained the necessary permissions to operate in the European Union.

#### **Obligations of the enrolled individual or an enrolled company**

3. Where the annual gross premiums of an enrolled individual or an enrolled company which collects clients monies are not deemed to be receivable in line with paragraph 4.4.2 of Chapter 4, the enrolled individual or enrolled company shall notify the Authority prior to entering into the said agreement. Without prejudice to paragraph 6 of the Schedule, the written agreement shall contain the information indicated in paragraph 5 of this Schedule.
4. Where an enrolled individual or an enrolled company is an insurance broker, it shall, together with the written agreement which contains information indicated in paragraph 5 of this Schedule, provide the Authority with a declaration from the compliance officer of the insurance broker:
  - (a) confirming that the insurance broker has procedures in place to mitigate any real or perceived conflicts of interest which the new arrangements may give rise to vis-à-vis the broker’s duty to act in the best interest of the client. The said procedures should include mitigating measures which may prevent the insurance broker from potentially recommending policies issued by the insurer with which the broker has a credit

transfer agreement over policies issued by other insurers with whom no such agreement is in place; and

- (b) stating that the current spread of business with the insurance undertakings with whom business is placed is evenly spread out and will be maintained on an ongoing basis.
5. The compliance officer of the enrolled individual or the enrolled company shall be required to submit to the competent authority an attestation in line with the Third Schedule to this Chapter.

### **Contents of the Agreement**

6. The agreement shall contain:

- (a) the name of the insurance undertaking willing to take the risk, the corporate registration number, the legal entity identifier, where available, the registered address and other relevant contact details, and the name of its parent company, if any;
- (b) the name of the enrolled person or enrolled company, including the corporate registration number, the legal entity identifier, where available, the registered address and other relevant contact details; and,
- (c) the following clauses:
  - (i) the insurance undertaking and the enrolled person or enrolled company undertake that monies received by the enrolled person or the enrolled company from a person in relation to a contract of insurance shall be treated as having been paid to the insurance undertaking issuing or offering the contract, and on whose behalf the enrolled person or enrolled company carries out insurance distribution activities or reinsurance distribution activities as defined in the Insurance Distribution Act (Cap. 487); and,
  - (ii) the insurance undertaking and the enrolled person or enrolled company undertake that monies paid by the insurance undertaking to the enrolled person or enrolled individual, and intended for the policyholder, shall not be treated as having been paid to the policyholder unless such monies are actually received by the policyholder concerned.

7. The enrolled person or enrolled company may include the provisions of paragraph 5 of this Schedule in the agreement entered into with the respective insurance undertaking.