

**CASE COMP/ AT.40511 INSURANCE IRELAND:
INSURANCE CLAIMS DATABASE AND CONDITIONS OF ACCESS**

**COMMITMENTS OFFERED TO THE EUROPEAN COMMISSION UNDER ARTICLE 9 OF
COUNCIL REGULATION (EC) NO 1/2003**

ANNEX 15

I. Appointment procedure

1. Insurance Ireland shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments.
2. The Monitoring Trustee shall:
 - (a) At the time of appointment, be independent of Insurance Ireland and its members;
 - (b) Possess the necessary experience, competence and qualifications to carry out its mandate; and
 - (c) Neither have nor become exposed to a Conflict of Interest.
3. The Monitoring Trustee shall be remunerated by Insurance Ireland in a way that does not impede the independent and effective fulfilment of its mandate.

Proposal by Insurance Ireland

4. No later than fourteen (14) days after the Effective Date, Insurance Ireland shall submit the name or names of one or more natural or legal persons whom Insurance Ireland proposes to appoint as the Monitoring Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the person or persons proposed as Monitoring Trustee fulfil the requirements set out in paragraph 2 and shall include:
 - (a) The full terms of the proposed mandate, which shall include all provisions necessary to enable the Monitoring Trustee to fulfil its duties under these Commitments; and
 - (b) The outline of a work plan which describes how the Monitoring Trustee intends to carry out the mandate.

Approval or rejection by the Commission

5. The Commission shall have the discretion to approve or reject the proposed Monitoring Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Monitoring Trustee to fulfil its obligations. If only one name is approved, Insurance Ireland shall appoint or cause to be appointed the person or persons concerned as Monitoring Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, Insurance Ireland shall be free to choose the Monitoring Trustee to be appointed from among the names approved. The Monitoring Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by Insurance Ireland

6. If all the proposed Monitoring Trustees are rejected, Insurance Ireland shall submit the names of at least two more natural or legal persons within one week of being informed of the rejection in accordance with paragraphs 2 and 5.

Monitoring Trustee nominated by the Commission

7. If all further proposed Monitoring Trustees are rejected by the Commission, the Commission shall nominate a Monitoring Trustee, whom Insurance Ireland shall appoint, or cause to be appointed, in accordance with a Monitoring Trustee mandate approved by the Commission.

II. Functions and obligations of the Monitoring Trustee

8. The Monitoring Trustee shall assume its duties specified in the Commitments to ensure Insurance Ireland's compliance with the Commitments. The Commission may, on its own initiative or at the request of the Monitoring Trustee or Insurance Ireland, give any orders or instructions to the Monitoring Trustee in order to ensure compliance with the Commitments. Insurance Ireland may not give instructions to the Monitoring Trustee.
9. The Monitoring Trustee shall propose within one (1) month of its appointment to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions in the Commitments.

Reporting

10. The Monitoring Trustee shall promptly report to the Commission Insurance Ireland's compliance with paragraphs 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 5.1, 5.2, 5.3 and 5.4 of the Commitments.
11. Throughout the period during which steps shall be taken to implement the Commitments, the Monitoring Trustee shall provide the Commission with periodic written reports on those steps taken by Insurance Ireland to comply with the Commitments. During the period of the first two years following the Effective Date, the Monitoring Trustee shall submit its report to the Commission every six months and, thereafter for the remainder of the Commitments, shall submit its report to the Commission on an annual basis. The first such report shall be sent to the Commission within six months of the Effective Date. For the avoidance of doubt, the Monitoring Trustee will report promptly in writing to the Commission if it identifies that Insurance Ireland is failing to comply with the Commitments.
12. Each report shall include a reasoned opinion of the Monitoring Trustee whether Insurance Ireland has complied with the Commitments during the period of reporting. In addition, each report should include at least the following information:
 - (a) As regards access to InsuranceLink –
 - (i) the number of requests for InsuranceLink access received by the InsuranceLink Application Officer, including details of the entities seeking access to Insurance Ireland and the names and contact details of potential applicants that did not follow through even though they contacted the InsuranceLink Application Officer in relation to a potential application;
 - (ii) details of the number of successful applications and rejected applications for InsuranceLink access, including the reasons for rejection of applications at any stage of the application process;

- (iii) information on the InsuranceLink Application Officer and his/her performance, including in relation to any undue delays in taking action under the InsuranceLink Application Procedure, the handling of complaints regarding the conditions of access to InsuranceLink or complaints regarding the calculation of fees for use of InsuranceLink;
 - (iv) information on the activities of the Board of Insurance Ireland in relation to the application process;
 - (v) details of the number of decisions appealed to the InsuranceLink Oversight Committee, and the number of successful and rejected appeals, including the reasons for the rejection of any appeals; and
 - (vi) any other relevant information on the InsuranceLink Oversight Committee and its performance.
- (b) As regards applications for membership of Insurance Ireland –
- (i) the number of applications for Full and Associate Membership of Insurance Ireland received by the Membership Application Officer, including details of the entities applying and the names and contact details of potential applicants that did not follow through even though they contacted the Membership Application Officer in relation to a potential application;
 - (ii) details of the number of successful applications and rejected applications for both Full and Associate Membership, including the reasons for rejection of applications at any stage of the application process;
 - (iii) information on the performance of the Membership Application Officer by reference to the Membership Application Procedure, including in particular in relation to any undue delays in taking action under the Membership Application Procedure or the handling of complaints regarding membership applications;
 - (iv) information on the activities of the Board of Insurance Ireland in relation to the membership application process;
 - (v) details of the number of decisions appealed to the Membership Appeal Board, and the number of successful and rejected appeals, including the reasons for the rejection of any appeals; and
 - (vi) any other relevant information on the Membership Appeal Board and its performance.

III. Duties and obligations of Insurance Ireland

13. Insurance Ireland shall provide and shall cause its advisors to provide the Monitoring Trustee with all such cooperation, assistance and information as the Monitoring Trustee may reasonably require to perform the mandate. The Monitoring Trustee shall have full and complete access to any of Insurance Ireland's books, records, documents, management or other personnel, facilities, IT systems, sites and technical information, if and as necessary for fulfilling the mandate;
14. All confidential information is provided by Insurance Ireland to the Monitoring Trustee subject to due respect by the Monitoring Trustee of the confidentiality of such information.

15. On reasonable request and notice, Insurance Ireland shall make available to the Monitoring Trustee one or more offices on their premises. On reasonable request and notice, Insurance Ireland shall be available for meetings in order to provide the Monitoring Trustee with all information necessary for the performance of the mandate.
16. At the expense of Insurance Ireland, the Monitoring Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to Insurance Ireland's prior written approval (such approval not to be unreasonably withheld or delayed) if the Monitoring Trustee considers the appointment of such advisors necessary or appropriate for the performance of the mandate, provided that any fees and other expenses incurred by the Monitoring Trustee are reasonable. Should Insurance Ireland refuse to approve the advisors proposed by the Monitoring Trustee the Commission may approve the appointment of such advisors instead, after having heard Insurance Ireland. Insurance Ireland is not entitled to issue instructions to the advisors. Such additional advisors must not have any conflict of interest with Insurance Ireland.
17. Insurance Ireland agrees that the Commission may share any confidential information which is proprietary to Insurance Ireland with the Monitoring Trustee. The Monitoring Trustee shall not disclose such information and the principles contained in Regulation 1/2003 regarding confidential information and business secrets apply *mutatis mutandis*.
18. Insurance Ireland agrees that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties of the identity and the tasks of the Monitoring Trustee.

IV. Replacement, discharge and reappointment of the Monitoring Trustee

19. If the Monitoring Trustee ceases to perform its functions under the Commitments, ceases to perform its functions under the mandate, acts in breach of the mandate or for any other good cause, including the exposure of the Monitoring Trustee to a Conflict of Interest, which the Monitoring Trustee shall disclose to Insurance Ireland and to the Commission without delay:
 - (a) The Commission may, after hearing the Monitoring Trustee, require Insurance Ireland to replace the Monitoring Trustee; or
 - (b) Insurance Ireland may, with the prior approval of the Commission, replace the Monitoring Trustee.
20. If the Monitoring Trustee is discharged according to paragraph 19, the Monitoring Trustee may be required to continue its mandate until a new Monitoring Trustee is in place to whom the Monitoring Trustee has effected a full hand over of all relevant information to carry out the mandate. The new Monitoring Trustee shall be appointed in accordance with the procedure referred to in paragraphs 1 to 7 (inclusive).
21. Unless removed in accordance with paragraph 19, the Monitoring Trustee shall cease to act as Monitoring Trustee only after the Commission has discharged it from the mandate after all the Commitments with which the Monitoring Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.