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European Insurance and
Occupational Pensions Authority

PRESS RELEASE

EIOPA CALLS UPON NATIONAL SUPERVISORY AUTHORITIES TO MINIMISE THE DETRIMENT TO INSURANCE POLICYHOLDERS AND BENEFICIARIES IN CASE OF A NO WITHDRAWAL AGREEMENT BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION

- *The Recommendations provide guidance on the treatment of UK insurance undertakings and distributors with regard to cross-border services in the European Union after the withdrawal of the United Kingdom from the European Union without a withdrawal agreement.*
- *The objective of the Recommendations is to minimise the detriment to policyholders with such cross-border insurance contracts.*
- *The Recommendations addressed to National Competent Authorities (NCAs) are to foster supervisory convergence and to ensure consistent supervisory practices.*
- *Policyholders residing in the European Union other than the United Kingdom (EU27) with insurance contracts from UK insurance undertakings may face uncertainty after the withdrawal of the United Kingdom, in case their undertakings have not taken measures to ensure the continuity of their insurance services in the EU27.*

Frankfurt, 19 February 2019 – Today, the European Insurance and Occupational Pensions Authority (EIOPA) issued Recommendations for the insurance sector in light of the United Kingdom (UK) withdrawing from the European Union without a withdrawal agreement. The Recommendations addressed to National Competent Authorities (NCAs) provide guidance on the treatment of UK insurance undertakings and distributors with regard to cross-border services in the European Union after the withdrawal of the United Kingdom from the European Union without a withdrawal agreement. The Recommendations will apply as of the date following that on which the European Union's *acquis* ceases to apply to and in the United Kingdom.

In case the United Kingdom withdraws from the European Union without ratification of the withdrawal agreement, on 30 March 2019 the United Kingdom becomes a third country and UK insurance undertakings and distributors lose their right to conduct business across the EU27 Member States by way of freedom of establishment and freedom to provide services. In principle, insurance contracts concluded before that date by UK insurance undertakings in the EU27 are

valid after that date. However, the insurance undertakings would not anymore be authorised to carry out insurance activities with regard to these cross-border insurance contracts.

On 21 December 2017, EIOPA issued an [Opinion](#), calling on the NCAs to ensure that insurance undertakings with affected cross-border business develop realistic contingency plans setting out measures to prevent insurance activity without authorisation and ensuring service continuity after the United Kingdom's withdrawal and the implementation of those measures. Many UK insurance undertakings, in particular with large cross-border business in the EU27, have already taken action and are implementing contingency measures. However, there is a residual amount of insurance business in the EU27 for which UK insurance undertakings have not taken appropriate measures - as of November 2018, 124 UK insurance undertakings, representing about 0.16% of the total insurance business in the EU27.

The Recommendations provide guidance on the supervisory treatment of residual insurance business with the objective to minimise the detriment to policyholders with such cross-border insurance contracts. NCAs should ensure an orderly run-off of the insurance business, including the appropriate supervision. UK insurance undertakings without authorisation should not conclude new insurance contracts.

Furthermore, the Recommendations provide guidance on the application of relevant legal provisions with regard to cross-border insurance of UK insurance undertakings. The nine Recommendations are ranging from the authorisation of third country-branches, the lapse of authorisation, the cooperation between the national competent authorities, the communication to policyholders and beneficiaries to distribution activities. In particular, the following three Recommendations are to be highlighted:

- **Orderly run-off:** Without prejudice to policyholder rights to exercise an option or right in an existing insurance contract to realise their pension benefits, the NCAs should prevent that UK undertakings conclude new insurance contracts or establish, renew, extend, increase or resume insurance cover under the existing insurance contracts in their jurisdiction as long as they are not authorised for such insurance activities under Union law.
- **Portfolio transfer:** Provided that it was initiated before the withdrawal date, the NCAs should allow the finalisation of portfolio transfer from UK insurance undertakings to EU27 insurance undertakings.
- **Change in the habitual residence or establishment of the policyholder:** If a policyholder with habitual residence or, in the case of a legal person, place of establishment in the United Kingdom concluded a life insurance contract with a UK insurance undertaking and

afterwards the policyholder changed its habitual residence of place of establishment to a EU27 Member State, the NCAs should take into account in the supervisory review that the insurance contract was concluded in the United Kingdom and the UK insurance undertaking did not provide cross-border services for the EU27 for this contract.

Enhanced cooperation between NCAs is necessary to address issues arising from unauthorised cross-border insurance. EIOPA will facilitate the necessary cooperation through the establishment of cooperation platforms. UK insurance undertakings should disclose the consequences for their rights and obligations to the policyholders and beneficiaries of contracts affected by the United Kingdom's withdrawal.

Guidance on the application of the legal framework for insurance intermediation regarding UK distributors after the withdrawal of the United Kingdom is also part of the Recommendations.

Gabriel Bernardino, Chairman of EIOPA, said: *“Besides the fact that UK insurance undertakings have taken appropriate measures for most the cross-border insurance into the EU27, there is a residual amount of business that would become unauthorised when the United Kingdom leaves the European Union. To ensure the protection of policyholders and beneficiaries concerned national supervisors have to ensure consistent supervisory actions and to cooperate closely and effectively.”*

The Recommendations can be obtained via [EIOPA's Website](#).

Background

The European Insurance and Occupational Pensions Authority (EIOPA) has so far issued the following Opinions linked with the withdrawal of the United Kingdom from the European Union:

- **5 November 2018** – [EIOPA calls for immediate action to ensure service continuity in cross-border insurance](#)
- **28 June 2018** - [Opinion addressed to national supervisory authorities about the duty of insurance undertakings and insurance intermediaries to inform customers about the possible impact of the withdrawal of the United Kingdom from the European Union](#)
- **18 May 2018** - [Opinion on the solvency position of insurance and reinsurance undertakings in light of the withdrawal of the United Kingdom from the European Union](#)
- **21 December 2017** - [Opinion on service continuity in light of the withdrawal of the United Kingdom from the European Union](#)
- **11 July 2017** - [Opinion on supervisory convergence in light of the United Kingdom withdrawing from the European Union](#)