DECISION No 1/2018 OF THE EU-SWITZERLAND JOINT COMMITTEE of 3 July 2018
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
(2018/C 255/04)

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 of 18 July 2001 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 (2),

Whereas:

(1) New Member States have acceded to the European Union (hereafter 'Union') and their accession requires some technical amendments to Annex III to the Agreement.

(2) Certain legal acts adopted by the Union and by Switzerland between 18 July 2001 and 3 July 2018 require an amendment of the Annexes and Protocols to the Agreement.

(3) After examination, certain legal acts adopted by Switzerland do not require the Agreement to be amended,

HAS ADOPTED THIS DECISION:

Article 1
Following the legal acts adopted by Switzerland and by the Union between 18 July 2001 and 3 July 2018, and in order to reflect the accession of new Member States to the Union, the Agreement is amended as follows:

(1) the list of acceptable legal forms in Part B of Annex III to the Agreement is replaced by the list in Part A of Annex III to Directive 2009/138/EC of the European Parliament and of the Council (3);

(2) Protocol No 1 to the Agreement is amended as follows:

(a) Article 1 is 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 (4).'

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).


(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 Directive 2009/138/EC.

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) paragraph 2.3 of Protocol No 3 is replaced by the following:

‘2.3. With regard to the equivalent in Swiss francs of amounts expressed in euro, the exchange value of one euro shall, for the purposes of this Agreement, be 1.14 Swiss francs.’

Article 2

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


— Commission Delegated Regulation 2015/35/EU, in the version published in the Official Journal of the European Union of 17 January 2015 (1);


(4) Commission Implementing Regulation (EU) 2015/462 of 19 March 2015 laying down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council (OJ L 76, 20.3.2015, p. 23).


— Commission Delegated Decision (EU) 2015/2290, in the version published in the **Official Journal of the European Union** of 9 December 2015 (2);

— Commission Delegated Decision (EU) 2016/309, in the version published in the **Official Journal of the European Union** of 4 March 2016 (3);

— Commission Delegated Decision (EU) 2016/310, in the version published in the **Official Journal of the European Union** of 4 March 2016 (4);

— Commission Implementing Regulation (EU) 2015/2450, in the version published in the **Official Journal of the European Union** of 31 December 2015 (5);

— Commission Implementing Regulation (EU) 2015/2451, in the version published in the **Official Journal of the European Union** of 31 December 2015 (6);

— Commission Implementing Regulation (EU) 2015/2452, in the version published in the **Official Journal of the European Union** of 9 February 2016 (7);

— Commission Implementing Regulation (EU) 2016/165, in the version published in the **Official Journal of the European Union** of 1 April 2016 (8);

— Commission Delegated Regulation (EU) 2016/467, in the version published in the **Official Journal of the European Union** of 3 June 2016 (9);

— Commission Implementing Regulation (EU) 2016/869, in the version published in the **Official Journal of the European Union** of 18 August 2016 (10);


— Commission Implementing Regulation (EU) 2016/1630, in the version published in the Official Journal of the European Union of 10 September 2016 (1);


— Commission Implementing Regulation (EU) 2016/1868, in the version published in the Official Journal of the European Union of 21 October 2016 (3);


— Commission Implementing Regulation (EU) 2017/1421, in the version published in the Official Journal of the European Union of 14 September 2017 (7);


The following legal acts of the Swiss Confederation are compatible with the Agreement:

— Insurance Supervisory Act (9).

— Insurance Supervisory Ordinance (10).


(9) Versicherungsüberwachungsgesetz (AS 2005 5269) as last amended on 19 June 2015 (AS 2015 5339).

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 3 July 2018.

For the Joint Committee

The President

Nathalie BERGER