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Cc: [REDACTED], Head of Unit, Insurance and Pensions (H5)

Vienna, 1 August 2013

**Trilogue on the Directive on Markets in Financial Instruments (MiFID II) -
Impact on insurers and insurance intermediaries**

Dear Ms Fábregas-Fernandez,

in view of the next trilogue meetings on the Directive on Markets in Financial Instruments (MiFID II) in September the Austrian Insurance Association (VVO) as the legal interest representative of all Austrian insurers, may bring the following to your attention:

In contrast to the European Commission's initial proposal and the Council position the European Parliament requests **bringing insurers and insurance intermediaries into the scope of the Directive** (under Art 1 para 3 a (new) and Art 2 para 1 point a).

The VVO would like to express **strongest reservation** about this approach for the following reasons:

1. Redundant regulation

Art 16 (3), Art 23 - 26, Art 69 - 80 and Art 83 - 91 of MiFID II concern regulatory areas like conflict of interest, information requirements, alternative dispute resolution, sanctions etc. All of them are already addressed under the new Insurance Mediation Directive („IMD II“), proposed by the European Commission in July 2012. As a consequence there is no need for regulating these areas for insurers and their intermediaries a second time under MiFID II.

2. Inconsistencies with European insurance regulation

The provisions of IMD II are widely aligned with the Framework Directive 2009/138/EC (Solvency II). In addition the European legislator is currently refining necessary alignments e.g. in the areas of information requirements or sanctions. Provisions of MiFID II are inevitably not in line with Solvency II.

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Page 1/2



3. **Regulatory patchwork**

In general insurers and insurance intermediaries will have to apply IMD II when selling insurance products. However, for the particular case of insurance investment products they would be forced to apply a foreign regime: MiFID II. Different sets of provisions within the insurance sector would lead to the confusion of policyholders and disadvantage smaller players due to a significant increase of the regulatory burden. In Austria self-employed insurance intermediaries are predominantly one-man businesses.

Page 2/2

4. **Lack of impact assessment**

The European Parliament intends to apply selected MiFID II provisions, designed for banks and securities firms, without any scrutiny to insurers and their intermediaries. The initial proposal of the European Commission was not designed for such a scope. Better regulation requires at least a thorough impact assessment. Such a significant regulatory disruption has to be preceded by a well-informed debate. IMD II - on the other hand - has been subjected to an impact assessment targeted to the insurance industry.

We thank you for the attention that you will bring to this letter. Please do not hesitate to contact us should you wish further elaboration of the points raised.

With best regards,



Austrian Insurance Association

About VVO

Founded in 1899, the Austrian Insurance Association (Versicherungsverband Österreich, VVO) is representing and promoting the interests of all insurance companies operating in the Austrian insurance market regarding legal, economic and fiscal matters on national, European and international level.

Austrian insurance companies are operating in more than 20 EU Member States. VVO is a founding member of the European Insurance and Reinsurance Federation (Insurance Europe).