APPENDIX 3

Appendix 3a - Examples of situations giving rise to cross-border activity procedures

Example 1
IORP X operates in Member State A

IORP X plans to operate a new pension scheme B for the employees of company B, the relationship between company B and its members and beneficiaries being governed by the SLL of Member State B.
Example 2

IORP X operates in Member State A

IORP X plans to operate the future accrual of the pension rights of an existing pension scheme for the employees of company B, the relationship between company B and its members and beneficiaries being governed by the SLL of Member State B. None of the existing pension scheme's liabilities, technical provisions and corresponding assets are transferred to IORP X.
Example 3
IORP X operates in Member State A a pension scheme B for the employees of company B and the relationship between company B and its members and beneficiaries being governed by the SLL of Member State B.

IORP X plans to transfer the pension scheme’s B liabilities, technical provisions and corresponding assets to IORP which is in the same Member State A.
**Example 4**

IORP X operates in Member State A. Insurance company Y operates an existing pension scheme B for the employees of company B, the SLL applicable to the relationship between company B and its members or beneficiaries being the SLL of member State B.

If allowed by national law, the pension scheme’s B liabilities, technical provisions and corresponding assets are planned to be transferred from insurance company Y to IORP X resulting in IORP X operating a cross-border activity for pension scheme B.
**Appendix 3b - Flowchart Cross-border activity procedure (Article 11)**

1. IORP submits notification (see appendix 4a). Home CA checks formal completeness within 10 working days and indicates, where appropriate, which information must still be provided in accordance with Article 11(3). When receiving the complete notification the Home CA informs the IORP that the 3-month period starts on this date.

2. Home CA starts assessment in order to determine whether it should issue a 'reasoned decision' or not (Art. 11(4)). IORP provides to this end all the information (see appendix 4b), simultaneously or immediately after the submission of the notification. Home CA can request additional necessary information. The result of the assessment is:

   - 3.1. No reasoned decision
   - 3.2. Reasoned decision within 3 months from the receipt of the complete notification.

3. Home CA forwards the notification to the Host CA within 3 months of the receipt of the complete notification and promptly informs the IORP accordingly.

4. Host CA promptly informs Home CA about the date it received the notification. Home CA promptly informs the IORP of this date.

5. Host CA must communicate the Host MS SLL, information requirements and, where applicable, the requirement to appoint a depositary to Home CA within 6 weeks of its receipt of the notification.

6. Host CA does not provide Host MS SLL, information requirements and where applicable depositary requirement, to Home CA within 6 weeks of receipt of the notification.

   - 7.1. IORP may start to carry out cross-border activity 6 weeks after the date of receipt of the notification by the Host CA.
   - 7.2. Home CA promptly communicates Host MS SLL, information requirements and where applicable depositary requirement to the IORP.

7. Home CA does provide Host MS SLL, information requirements and where applicable depositary requirement, to Home CA within 6 weeks of receipt of the notification.

   - 8. IORP may start to carry out cross-border activity on the day of receipt of Host MS SLL, information requirement and where applicable depositary requirement.

8. IORP promptly informs Home CA about the effective launch of the cross-border activity. This information shall be shared between CAs and EIOPA.

   - 3.1. Home CA promptly communicates reasoned decision to IORP. The notification will not be forwarded to the Host CA. Right of appeal for the IORP in its home MS (Art.11(5)).