

**AGREEMENT BETWEEN THE COMPETITION AND CONSUMER PROTECTION COMMISSION AND FBD  
INSURANCE PLC**

This Agreement and Undertakings is made by and between the Competition and Consumer Protection Commission (the "Commission") and F.B.D. Insurance plc ("FBD") on the date set forth below.

**WHEREAS:**

- A. The Commission is a statutory body and one of its functions pursuant to the Competition and Consumer Protection Act 2014 is to enforce the Competition Act 2002, as amended (the "Act") and Articles 101 and 102 of the Treaty on the Functioning of the European Union ("TFEU"). Section 4 of the Act and Article 101 TFEU prohibit anti-competitive arrangements between undertakings, and section 5 of the Act and Article 102 TFEU prohibit the abuse of a dominant position by one or more undertakings.
- B. The Commission's role is to investigate suspected breaches of provisions of the Act and/or Articles 101 or 102 TFEU and to take appropriate enforcement action to deter such breaches and encourage on-going compliance with the provisions of the Act and/or Articles 101 and 102 TFEU.
- C. On 31 August 2016, the Commission commenced an investigation into suspected anti-competitive practices in the provision of private motor insurance ("PMI") in the State (the "Investigation"), contrary to section 4(1) of the Act and Article 101(1) of the TFEU. Following its Investigation, the Commission made preliminary findings in respect of FBD's conduct and communicated its competition concerns to FBD accordingly.
- D. FBD submitted a detailed response to the Commission's preliminary findings and FBD denies that its conduct infringes section 4 of the Act and/or Article 101 TFEU. Nothing in this Agreement and Undertakings may be construed as meaning that FBD infringed section 4 of the Act and/or Article 101 TFEU.
- E. The Commission has informed FBD that this Agreement and Undertakings resolves the Commission's competition concerns arising from its Investigation.
- F. This Agreement & Undertakings is without prejudice to FBD's position in any other judicial or administrative proceedings in any jurisdiction.

**FBD AND THE COMMISSION HEREBY AGREE AS FOLLOWS:**

**Definitions**

1. In this Agreement and Undertakings, the following terms shall have the following meanings:

**“Act”** means the Competition Act 2002 (as amended);

**“Commencement Date”** means the date of execution of the Agreement and Undertakings by both Parties;

**“Commission”** means the Competition and Consumer Protection Commission and its successors;

**“Compliance Officer”** means a senior employee of FBD appointed to act as the Compliance Officer in accordance with Clause 7 of this Agreement and Undertakings;

**“Investigation”** means the investigation commenced by the Commission on 31 August 2016 into suspected anti-competitive practices in the provision of PMI in the State and on the island of Ireland contrary to section 4 of the Act and/or Article 101 TFEU;

**“Parties”** means the Commission and FBD;

**“PMI”** means private motor insurance;

**“State”** means the Republic of Ireland;

**“Term”** means a period of seven (7) years beginning on the Commencement Date;

**“TFEU”** means the Treaty on the Functioning of the European Union;

**“FBD”** means FBD Insurance plc, a public limited company incorporated under the laws of Ireland, with company registration number 25475 and with its registered office at FBD House, Bluebell, Dublin 12, D12 Y0HE, its successors and assigns, and FBD Affiliates; and

**“FBD Affiliates”** means all undertakings or persons which, directly or indirectly, control FBD and all undertakings directly or indirectly controlled by FBD and/or by the ultimate parent(s) of FBD, whereby the notion of control shall be interpreted pursuant to section 16 of the Act.

**FBD's undertaking**

2. In consideration of the Commission's undertaking provided for in Clause 3, FBD hereby undertakes;

- (a) to implement and maintain an effective competition law compliance programme (the “Compliance Programme”) which shall, at least:

- (i) be specifically tailored to the business activities of and the competition law risks for FBD in the PMI sector and outline the legal consequences that may arise for breaching the applicable competition legislation;
  - (ii) involve providing regular competition law training, which shall include training on PMI pricing practices and communications that are and are not permitted under the applicable competition legislation, to all directors and officers, to all employees involved in the setting of PMI premium prices (or key competitive variables such as margins and rebates) and also to those individuals involved in FBD's external communications and public relations, with such training to cover the risks of breaching the applicable competition legislation in respect of public announcements relating to future FBD PMI premium pricing (including such public announcements made during media interviews);
  - (iii) include, following attendance at competition law training, the obtaining of written confirmation from each attendee that they are aware of the Compliance Programme, that they understand their obligations thereunder and agree to adhere to the Compliance Programme, as well as confirmation of when they last received competition law training;
  - (iv) be reviewed regularly by the Compliance Officer, who will be responsible for effectively implementing updates to the Compliance Programme as and when necessary, including any recommendation for improvements made by the External Expert following the annual audit of the Compliance Programme required under Clause 2(b);
  - (v) be highlighted in the FBD employee induction programme;
  - (vi) incorporate the requirement of relevant staff to adhere to the Compliance Programme into incentive and disciplinary schemes operating within FBD;
  - (vii) provide a mechanism and protection for employees reporting suspected breaches of the applicable competition legislation (whistle blower protection);
  - (viii) provide a mechanism through which the Compliance Officer reports any suspected or confirmed breaches of the applicable competition legislation to the Board of FBD as expeditiously as possible after the Compliance Officer is notified or becomes aware of such suspected or confirmed breaches and has undertaken appropriate initial investigation of same; and
- (b) to ensure that the Compliance Programme is audited annually by an external competition law expert (the "External Expert"), by reference to this Agreement and Undertakings, for the duration of the Term, and who will provide a full report annually to the Compliance Officer on the implementation of the Compliance Programme and list any deficiencies or recommendations for amendments and/or updates to the Compliance Programme that have been identified; and

- (c) to submit to the Commission, at intervals of one (1) year after the Commencement Date for the duration of the Term, a written certificate in the form set out in Schedule A to this Agreement and Undertakings (the "Compliance Certificate") signed by a Director of FBD.

**Commission's undertaking**

3. In consideration of FBD entering into this Agreement and Undertakings, the Commission undertakes that it shall conclude its Investigation and shall refrain from instituting proceedings pursuant to section 14A of the Act against FBD in respect of any matter or conduct to which the Investigation relates for so long as FBD remains in compliance with the Agreement and Undertakings.

**Compliance**

4. As provided in Clause 2(c), FBD shall submit the Compliance Certificate to the Commission, in the form set out in Schedule A to this Agreement and Undertakings, at intervals of one (1) year after the Commencement Date for the duration of the Term.
5. The Commission reserves the right to require FBD to provide to the Commission, at any time, such additional information as the Commission considers reasonably necessary in order for the Commission to verify FBD's compliance with its obligations set out in this Agreement and Undertakings. FBD shall promptly provide to the Commission all such information in its possession or control.
6. The Commission may provide such written directions to FBD from time to time as needed to require compliance with this Agreement and Undertakings. FBD shall promptly consider, in good faith, any written direction issued by the Commission pursuant to this Agreement and Undertakings.
7. FBD shall nominate a Compliance Officer who will have responsibility for monitoring compliance by it with this Agreement and Undertakings, for responding to any request(s) for information and for complying with any written direction(s) received from the Commission in connection with this Agreement and Undertakings. FBD shall provide the name and contact details of such Compliance Officer to the Commission within one (1) month of the Commencement Date. FBD shall provide written notice to the Commission in advance of any proposed change of the Compliance Officer nominated pursuant to this Clause 7 and shall promptly provide to the Commission the name and contact details of the proposed replacement Compliance Officer.

**Review clause**

8. The Commission may, at the latest after three (3) years from the Commencement Date, review to what extent the undertakings provided for in Clause 2 of this Agreement and Undertakings remain warranted to address the competition concerns identified by the Commission in its Investigation.

**Final provisions**

9. This Agreement and Undertakings shall be and is intended by the Parties to be a binding and enforceable agreement which may be enforced by the Parties by an action in any court of competent jurisdiction in the State.
10. This Agreement & Undertakings does not prevent FBD from complying with the laws or regulations of any jurisdiction that are, in the reasonable and good faith belief of FBD, in conflict with this Agreement and Undertakings provided that FBD informs the Commission promptly in writing of any such laws or regulations.
11. This Agreement and Undertakings shall take effect upon its execution by both Parties and shall remain in force for the duration of the Term.

SIGNED for and on behalf of the Commission by:



Name: ISOLDA COGGAN

Title: CHAIRPERSON

Date: 5<sup>TH</sup> AUGUST 2021 .

SIGNED for and on behalf of FBD Insurance plc by:



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Name: Tomás O' Midheach

Title: Chief Executive Officer

Date:

**SCHEDULE A  
TO THE AGREEMENT AND UNDERTAKINGS**

[On FBD Headed Paper]

[date]

Mr Ibrahim Bah  
Director  
Competition Enforcement and Mergers Division  
Competition and Consumer Protection Commission  
Bloom House  
Railway Street  
Dublin 1

**Re: Investigation into suspected anti-competitive practices in the provision of private motor insurance in the State**

Dear Mr Bah,

I refer to the Agreement and Undertakings entered into by the Competition and Consumer Protection Commission (the "Commission") and FBD Insurance plc ("FBD") on [•] 2021 (the "Agreement and Undertakings"). The definitions of terms contained in the Agreement and Undertakings shall also apply to the terms used herein, unless otherwise stated.

In accordance with Clause 4 of the Agreement and Undertakings, I hereby confirm compliance by FBD with the terms of the Agreement and Undertakings during the period commencing on [the Commencement Date]/[date of the previous certificate issued by [•]] and ending on the date hereof.

Yours sincerely,

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[Name]  
Director of FBD