

## Agreement Concerning Holocaust Era Insurance Claims

This Agreement is entered into by and among the Foundation “Remembrance, Responsibility, and Future” (hereinafter referred to as the “Foundation”), the International Commission on Holocaust Era Insurance Claims (hereinafter referred to as “ICHEIC”), and the German Insurance Association (hereinafter referred to as the “GDV”) regarding the settlement of individual claims on unpaid or confiscated and not otherwise compensated policies of German insurance companies in connection with National Socialist injustice and by the Foundation and ICHEIC regarding payments to the Humanitarian Fund of ICHEIC.

WHEREAS, on July 17, 2000 an Executive Agreement was executed between the Government of the Federal Republic of Germany and the Government of the United States of America concerning the Foundation (hereinafter referred to as the “Executive Agreement”); and

WHEREAS, on July 17, 2000 a Joint Statement was executed between the Government of the Federal Republic of Germany, the Government of the United States of America and the Government of Israel, among others, (hereinafter referred to as the “Joint Statement”); and

WHEREAS, effective August 12, 2000 the Federal Republic of Germany enacted the German Federal Law to establish the Foundation (hereinafter referred to as the “Foundation Law”); and

WHEREAS, the parties to this Agreement:

- Recognizing the political and moral responsibility of Germany for the victims of the genocide and other severe human rights violations committed against the Jewish people and people of other nations;
- Recognizing that German insurance companies wish to respond to their moral and historical responsibility arising from their participation in the injustices of the National Socialist Regime. These injustices resulted in the suffering and losses of their policyholders during the Holocaust era;
- Recognizing the heavy losses of property, financial and other assets belonging to the Jewish people and other victims of the National Socialist Regime, including the proceeds of insurance policies;

- Recognizing that the Federal Republic of Germany has provided comprehensive and extensive restitution and compensation for material wrongs caused by the National Socialist persecution, including damage to property and losses of insurance policies;
- Recognizing the legitimate interest German insurance companies have in all embracing and enduring legal peace in this matter;
- Recognizing that German insurance companies, having contributed substantially to the financing of all the Foundation's objectives, including compensation of unpaid or confiscated and not otherwise compensated insurance policies, cannot be expected to contribute again to the compensation of any wrongs committed during the National Socialist era and World War II;
- Recognizing that it is in the interest of all parties to this Agreement to have a resolution of the outstanding issues in a non-adversarial and non-confrontational way;
- Confident that ICHEIC, the Foundation and the GDV will provide a just and expeditious mechanism for making payments on individual claims on unpaid or confiscated and not otherwise compensated policies.

The parties have agreed as follows:

**Section 1. Scope of the Agreement**

- (1) The parties to this Agreement agree to work together in a close and trustful cooperation in order (i) to compensate unpaid or confiscated and not otherwise compensated insurance policies of German insurance companies (ii) to ensure that the terms of this Agreement are followed in full by all parties and (iii) to make the claims processing efficient, effective and responsive to claimants.
- (2) For this purpose 76,693,784 Euro (150 million Deutschmark) pursuant to Section 9, Paragraph 4, Sentence 2, Number 3, of the Foundation Law and an additional 25,564,594 Euro (50 million Deutschmark) from interest earned by the Foundation's capital pursuant to Section 9, Paragraph 5 of the Foundation Law shall be made available to cover this compensation and the costs as set out in

Section 6 (1). Monies from those funds may also be used for the other purpose in each case.

- (3) In the event that the funds of 102,258,376 Euro (200 million Deutschmark) should not be completely drawn down after all approved claims and the agreed costs pursuant to Section 6 (1) have been met, the monies not used shall be transferred to the Humanitarian Fund of ICHEIC as created in Section 9, Paragraph 4, Sentence 2, Number 5 of the Foundation Law (hereinafter referred to as the Humanitarian Fund).
- (4) If approved claims against German insurance companies cannot be covered by the funds pursuant to Section 9, Paragraph 4, Sentence 2, Number 3 and Paragraph 5 of the Foundation Law, the Foundation shall make available up to 51,129,188 Euro (100 million Deutschmark) from the Fund “Remembrance and the Future” to meet those claims.
- (5) The payment of 178,952,160 Euro (350 million Deutschmark) to the Humanitarian Fund pursuant to Section 9, Paragraph 4, Sentence 2, Number 5 of the Foundation Law shall be effected according to the provisions in Section 7 of this Agreement.

## **Section 2. Eligible Claims**

- (1) A claim concerning a life insurance policy is eligible for compensation, if
  - (a) the claim relates to a life insurance policy in force between January 1, 1920 and May 8, 1945 and issued by or belonging to a specific German company and which has become due through death, maturity or surrender; and
  - (b) the insurance policy was not paid or not fully paid as required by the insurance contract or was confiscated by the German National Socialist

Regime or by the government authorities as specified in the definition of Holocaust victim in Section 14; and

(c) the policy (or policies) in question was not covered by a decision of a German restitution or compensation authority. A policy or policies will be considered as having been covered by a decision of a German restitution or compensation authority, where the decision covers the same specific policy or policies as those referred to in the claimant's claim form, except in cases where:

- the claim was rejected by the German restitution or compensation authorities due to their own lack of jurisdiction; or
- the claim was rejected by the German restitution or compensation authorities due to the fact that the claim was made by a person not entitled to claim; or
- the claim was not timely filed; or
- documentary evidence that would have led to a decision in favor of the claimant was previously unavailable but subsequently became available (such as opening of company or government archives);

and

(d) the claimant is, in the following order of priority:

- the policy beneficiary or his heir pursuant to the Succession Guidelines (Annex C);
- the policyholder or his heir pursuant to the Succession Guidelines;
- the insured or his heir pursuant to the Succession Guidelines;

and

(e) the policy beneficiary or the policyholder or the insured life, who is named in the claim, was a Holocaust victim; and

- (f) the claim was lodged before a date mutually agreed by the parties to this Agreement. This date, once agreed, will be appropriately publicized by the parties.
- (2) A claim concerning non-life insurance is eligible for compensation, if
- (a) the insured event occurred while the policy was in force at the time of the event. Notwithstanding the above, a non-life insurance claim shall not be eligible if it was caused by war unless it can be attributed to racial or religious persecution; and
  - (b) the claimant is entitled as policyholder or as rightful heir of the policyholder to benefits of the policy notwithstanding the statutes of limitation; and
  - (c) the benefits of the policy were not paid out, because the policyholder became a Holocaust victim before an original insurance claim could be lodged, or if lodged before it could be settled or the benefits were confiscated by the German National Socialist Regime or by the government authorities as specified in the definition of Holocaust victim in Section 14; and
  - (d) the damage from the insured event was not compensated or restituted; and
  - (e) the claim was lodged before a date mutually agreed by the parties to this Agreement. This date, once agreed, will be appropriately publicized by the parties.
- (3) For the processing of a claim concerning a non-life insurance policy ICHEIC will send, where necessary, a questionnaire to the claimants requesting the following information:
- (a) the name of the German company that issued the policy;
  - (b) the type of insurance which was issued;

- (c) where and when the insurance had been issued and whether the insurance policy was still in force at the time the loss occurred;
  - (d) who took out the insurance and who might have been entitled to proceeds under the policy;
  - (e) when and how the damage or loss happened or the injury occurred which the claimant believes was covered by the insurance policy;
  - (f) in the case a business was insured, the type of business, legal entity and/or name under which the business was carried out; and
  - (g) whether any claim for restitution or compensation dealing with the insured property has been filed by the claimant or claimant's relatives.
- (4) Where there is a claim on an insurance policy which meets all the criteria in this section, but where the company determines that the proceeds of the policy was or is deemed to have been paid into a blocked account, the provisions of Section 20 of Annex A will apply. Any appeal will name the GDV as the relevant party.

**Section 3. Processing of application**

- (1) ICHEIC shall forward claims to the GDV to be processed by them and the companies in accordance with this Agreement.

**Section 4. Appeals Procedure**

- (1) Pursuant to Section 19 of the Foundation Law and the attached Appeal Guidelines (Annex E) ICHEIC shall – with the consent of the Foundation – set up an independent appeals body (the Panel).
- (2) The Panel shall consist of three members: Judge William Webster, Judge Abraham Gafni and Dr. Rainer Faupel. The three members shall select a Chairman from among themselves. If it becomes necessary, for any reason, to fill a vacancy on the Panel, the Chairman of ICHEIC and a member of the board of the Foundation shall consult.

- (3) An applicant may file an appeal to the Panel for a fresh review of (i) a German insurance company's decision to deny his claim or, (ii) whether the Valuation Guidelines have been correctly applied in calculating an offer made to the claimant. Any such appeal must be filed within 120 days of the receipt of the company's decision.
- (4) The decisions of the Panel are not open to legal challenge.
- (5) All claims decisions, including provisional claims decisions, taken by the German MOU companies prior to the signing of this Agreement will be eligible for the ICHEIC appeals process. All claims decisions taken by all of the German companies after the signing of this Agreement will be eligible for the appeals process specified in this Agreement (Annex E).

**Section 5. Procedure for payment of awarded compensation**

- (1) Claimants with approved claims shall be paid on the basis of the following procedure, which rests on the principles of fairness, justice, security, speed and cost-effectiveness.
- (2) The Foundation will pay companies for any payments they make to claimants in accordance with the provisions of this Agreement. The companies should record the names of claimants of the approved claims, and submit them, following receipt of the signed consent and waiver forms, to the GDV. The GDV will compile a comprehensive list and forward the list in electronic format to the Foundation. Once the Foundation has the appropriate information in respect of claims, the Foundation will prefund the companies to pay the submitted claims. The submission of requests for payment and the payment to the claimant must be completed within four weeks.
- (3) Each insurance company, in the case of a claim that names the company or is otherwise matched with the company, will provide ICHEIC, the Foundation and the GDV with a copy of each of the following information: (i) each decision letter, both offers and denials, and copies of all relevant documents as specified in

Annex A, paragraph 18, sent to a claimant, (ii) for each offer that is accepted, a copy of the consent and waiver forms (the original version goes to the Foundation as required in Section 16, paragraph 2 of the Foundation Law), properly signed by the claimant, together with the ICHEIC claim number, the claimant's family name and the first name and the amount of the agreed offer. The Foundation will inform ICHEIC of the claims accepted and of the payments it makes to the companies.

- (4) The Foundation may at any time ask the BAFin to make checks regarding the correct processing of claims by a given company through sampling. The reasons for such checks could be, inter alia: The company was not covered by the auditing described in Annex I, or the company has received a considerable amount of claims, or there are reasons to assume that the company has not respected the agreed claims handling procedure.
- (5) Each company, either directly or through the GDV shall cooperate and respond to any reasonable inquiry from ICHEIC having regard to speed and efficiency, regarding any decisions with respect to a claim mentioned in Section 5 (3).
- (6) If at any time during the claims process the Chairman of ICHEIC informs the Foundation in writing that he has reason to believe that in taking their decisions one or more companies are, or may be, failing to comply with any of the requirements of this Agreement, the Foundation shall ask the BAFin to investigate the possible failures of compliance either in the course of carrying out the checks referred to in paragraph 4 above on the company concerned or, if necessary because the matters in question need to be resolved urgently, by carrying out a special investigation immediately. The BAFin shall carry out both the checks referred to in paragraph 4 and any special investigations under this paragraph having regard to paragraphs 3 to 7 of the Audit procedure set out in Annex I and with the participation of ICHEIC observers as provided in paragraphs 9 and 10 of Annex I. Should significant irregularities be found in the claims process, the BAFin shall require the company in question to remedy those irregularities. In

cases of disagreement between the BAFin and the ICHEIC observers, the procedures set out in paragraphs 11 to 23 of Annex I will apply.

- (7) Payments to claimants will be on the basis that no fees will be charged to the claimant.

## **Section 6. Distribution of Foundation Funds**

- (1) The payments and costs to be met from within the 102,258,376 Euro (200 million Deutschmark) ceiling calculated in accordance with Section 9, paragraph 4, sentence 2, number 3 and Section 9, paragraph 5 of the Foundation Law, are as follows:

ICHEIC will receive, upon the signing of this Agreement, 102,258,376 Euro (200 million Deutschmark) for the payment of claims and a portion of ICHEIC's operating expenses. The uses of the 102,258,376 Euro (200 million Deutschmark) will be:

- To fund 50% of all actual operating expenses of ICHEIC from January 1, 2001 until the termination of ICHEIC'S claims process (with the exception of expenses associated with the Generali Trust and the administration of the Humanitarian Fund). These actual operating expenses are not to exceed \$60 million, including a provision for financing the publication of lists, paying banking fees incurred by the companies for payments to claimants and a contingency reserve. If, due to unforeseen circumstances, operating expenses exceed the \$60 million amount, there will be consultation between ICHEIC and the Foundation on providing additional funds from the 102,258,376 Euro (200 million Deutschmark) to ensure completion of ICHEIC's claims process. Any additional contribution would require the agreement of the Foundation.
- To prefund German insurance companies for claims to be paid by them (including approved claims on confiscated policies and approved claims against expropriated German insurance companies and their subsidiaries) from the date of signing of, and in accordance with, this Agreement.

- To reimburse the German MOU companies for ICHEIC claims paid by them prior to the signing of this Agreement in compliance with ICHEIC's Memorandum of Understanding.
  - Should there be any funds remaining at the end of the life of ICHEIC, they will be used for humanitarian purposes, at ICHEIC's discretion.
- (2) Prior to the signing of this Agreement, ICHEIC will have established banking arrangements, with the agreement of the Foundation, to enable the Foundation to withdraw funds from the 102,258,376 Euro (200 million Deutschmark) account to prefund the German insurance companies for payments to claimants approved in accordance with Section 5 and the banking charges incurred by them in making the payments through a bank selected by ICHEIC based upon the lowest cost.
  - (3) No German MOU companies or any other German entities will be entitled to any offsets or any reimbursements (other than as provided in Section 6 (1) above), including costs of peer review audits.
  - (4) There will be no payments from the 102,258,376 Euro (200 million Deutschmark) or from the 178,952,160 Euro (350 million Deutschmark) to any costs incurred by the GDV or individual German companies in investigating claims.
  - (5) The German MOU companies will have no further financial obligation to cover ICHEIC's operating and other expenses (other than peer review audit) after this Agreement is signed.
  - (6) Any interest earned on the sums transferred to ICHEIC from the 102,258,376 Euro (200 million Deutschmark) and the 178,952,160 Euro (350 million Deutschmark) Humanitarian Fund in accordance with Section 1 (2) and Section 1 (5) above shall, from the date of the transfers, accrue to ICHEIC and may thereafter be freely used by ICHEIC for any legitimate purpose permitted by its Memorandum of Understanding. Any interest earnings that are used for the purpose of financing ICHEIC's administrative expenses shall not be regarded as

part of the Foundation's 50% contribution to ICHEIC's future operating expenses as specified in Section 6 (1) above.

- (7) If approved claims against German insurance companies cannot be covered by the 102,258,376 Euro (200 million Deutschmark) fund, the Foundation shall make available up to 51,129,188 Euro (100 million Deutschmark) from the Fund "Remembrance and the Future" to meet those claims.

## **Section 7. Humanitarian Fund of ICHEIC**

The Foundation and ICHEIC have agreed between themselves on the following provisions:

- (1) According to Section 9, Paragraph 4, sentence 2, number 5 of the Foundation Law, 178,952,160 Euro (350 million Deutschmark) will be transferred to the ICHEIC, upon the signing of this Agreement.
- (2) These funds will be used for the following purposes:
  - At the discretion of ICHEIC, for the payment of claims against unknown or no longer existing insurance companies and their subsidiaries (Section 8A1 of the MOU);
  - For the payment of claims on insurance policies whose proceeds were transferred to blocked accounts;
  - For the payment of the difference between the calculated value according to the BEG method and the minimum payment as described in Section 2 (3) of the Valuation Guidelines;
  - At the discretion of ICHEIC, for the benefit of needy victims of the Holocaust and for other Holocaust-related humanitarian and educational purposes;
  - At the discretion of ICHEIC, for the payment of costs related to administration of the funds. Any such administrative costs shall be minimized to the maximum extent possible.
- (3) Prior to the signing of this Agreement, ICHEIC will have established banking arrangements, with the agreement of the Foundation, to enable the Foundation to withdraw funds from the 178,952,160 Euro (350 million Deutschmark)

Humanitarian Fund to prefund (i) the German insurance companies for the payment of the difference between the BEG calculated value and the minimum value on approved claims (ii) the GDV for the payment on policies transferred to blocked accounts and (iii) the banking charges incurred by the companies or the GDV in making such payments through a bank selected by ICHEIC based upon the lowest cost.

- (4) The administrator of the Humanitarian Fund will inform the Foundation by 1 April every year about the usage of the funds in the previous year.

#### **Section 8. Liability**

If any employee or executive of one of the contracting parties violates their contractual obligations, either willfully or through gross negligence, the liable party shall compensate the other party or parties for any resulting damage.

#### **Section 9. Duration of contract, termination**

- (1) This Agreement shall remain in effect until all obligations under this Agreement have been satisfied.
- (2) This Agreement may be terminated through written notification by any party upon the gross violation of its provisions by one of the other parties, but only after the failure of the notified party to correct such violation within 30 days from the receipt of such notification and subject to the arbitration provisions of Section 11 (4).

#### **Section 10. Audit and the preservation of records**

- (1) ICHEIC is required to comply with Swiss accounting standards and shall maintain its records in accordance with generally accepted good practices. The ICHEIC shall keep the 178,952,160 Euro (350 million Deutschmark) Humanitarian Fund in a separate account for ease of administration and audit. ICHEIC will provide the Foundation, one month after the end of each semi-annual period, with a statement of its expenses as referred to in Section 1(2) during that period under each of its main subject headings. In addition ICHEIC will provide annual reports

of its expenses related to administering the Humanitarian Fund. ICHEIC shall provide the Foundation with a copy of its audited accounts for each fiscal year together with its audited financial statement, including the auditor's report, as soon as such accounts and financial statement are available. The Foundation may make a reasoned request to ICHEIC to provide further information about ICHEIC's expenses and its budget process, where such information is needed in order to satisfy the Foundation that the funds provided to ICHEIC by the Foundation have been applied solely for the purposes set forth in this Agreement. Such request will be timely met. ICHEIC agrees that, upon receipt of a reasonable notice and written request, the Foundation, and its authorized auditing firm (which shall be an internationally recognized auditing firm), shall have access, at the Foundation's expense, to ICHEIC's Chief Financial Officer and external auditors for the purpose of obtaining information to enable the Foundation to determine whether the funds provided by the Foundation to ICHEIC have been applied by ICHEIC solely for the purposes set forth in this Agreement.

- (2) If on examination it is determined that ICHEIC has incorrectly applied the funds paid by the Foundation for ICHEIC administration, ICHEIC, shall, from other sources, restore to the appropriate fund the amount which has been incorrectly applied.
- (3) ICHEIC shall ensure that the records generated during the processing of the claims and the appeals process are kept for at least a year after all claims have been processed and appeals concluded. If ICHEIC no longer wishes to retain these records, it shall offer them to the Foundation for further safekeeping.

**Section 11. Choice of law clause, place of jurisdiction and arbitration**

- (1) This agreement shall be subject to Swiss law.
- (2) The place of jurisdiction for all legal disputes arising from this Agreement shall be Geneva, Switzerland.

- (3) The parties shall endeavor in good faith to resolve any dispute in relation to the interpretation or application of this Agreement amicably by negotiations between the parties.
- (4) Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, which cannot be settled by amicable agreement between the parties, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules.

## **Section 12. Legal Peace**

ICHEIC will use its best efforts to achieve an all embracing and enduring legal, regulatory, legislative and administrative peace for German insurance companies which are in compliance with this Agreement.

## **Section 13. Final Provisions**

- (1) This Agreement constitutes a final settlement between the three parties. No further verbal or written agreements between the three parties to this Agreement have been reached.
- (2) This Agreement supersedes, for German MOU companies, the procedures established under the MOU, except that German MOU companies will remain subject to ICHEIC audit procedures including, at their own expense, the phase two peer review audits as provided in Annex J, the monitoring processes provided in Annex K and the appeals provisions as provided in Section 4 (5). The MOU companies will cooperate directly with ICHEIC in resolving any problems identified through the claims process.
- (3) In light of ICHEIC's continued responsibility to ensure the implementation of the claims process, ICHEIC may make future decisions and arrangements as deemed necessary, provided that such decisions are consistent with this Agreement. Should there be any disagreement (1) as to whether a future ICHEIC decision is consistent with this Agreement or (2) otherwise pertaining to the interpretation of this Agreement, it should be addressed by a high level representative of (i)

ICHEIC, (ii) the Foundation, (iii) the GDV, (iv) US insurance regulators and (v) Jewish organizations participating in ICHEIC with the aim of finding a reasonable resolution of the dispute.

- (4) A member of the Board of Directors of the Foundation or the Chairman of the ICHEIC or the Managing Director of the GDV may each at any time, by written notice, inform the other two parties of any amendment which it considers should be made to this Agreement. The other two parties shall, in such case, agree to discuss the amendment(s) proposed at a meeting to take place not more than one calendar month after receipt of the written notice. In order to become effective any amendment to this Agreement must be agreed by all three parties and must be made in writing.
- (5) Should one or several of the provisions of this Agreement be or become ineffective this shall not affect the remaining provisions. If one of the provisions becomes ineffective the parties shall nevertheless endeavor to achieve the aim of the clause in question as far as this is legally permissible.
- (6) This Agreement is executed in two languages (English and German). Each version is equally authentic.
- (7) The following Annexes are attached and form an integral part of this Agreement:

<b><u>Annex</u></b>	<b><u>Subject</u></b>
Annex A	Claims Handling Procedure
Annex B	Relaxed Standards of Proof
Annex C	Succession Guidelines
Annex D	Valuation Guidelines
Annex E	Appeal Guidelines
Annex F	Consent and Waiver

Annex G	Appeal Form
Annex H	Agreement on Publication of Lists
Annex I	Agreements on Audits
Annex J	ICHEIC Stage II Peer Review Audit
Annex K	ICHEIC – Monitoring Group – Terms of Reference

## Section 14. Glossary

Definitions—words used in this Agreement have the following meanings:

**Agreement:** means both this Agreement and its Annexes, as they may be amended from time to time.

**Appeal:** means the request by a Claimant for a fresh review of a decision made by a German Company in connection with the handling of insurance claims under this Agreement and that is submitted by the Claimant to the Appeals Panel for resolution.

**Appeal Form:** is the written document attached as Annex G.

**Arbiter:** means a suitably qualified person, with the necessary independence and impartiality, skills, and experience, appointed by the Panel to determine an Appeal or Appeals.

**BAFin:** means the German Bundesanstalt für Finanzdienstleistungsaufsicht, which is the federal agency for the supervision of financial services.

**BEG:** means the Bundesentschädigungsgesetz, which is the federal compensation law.

**Blocked Account:** means a bank account from which the owner was constrained in withdrawing the proceeds due to the legal restrictions on the account from 1933 to 1945 imposed by the German National Socialist Regime and other relevant governments.

**BZK:** means Bundeszentralstelle, which is the federal central filing agency.

**Claimant:** is an individual or representative of any individual(s) who has submitted an insurance claim covered by this Agreement.

**Claims Handling Procedures:** means the procedures laid out in Annex A.

**Confiscated Policy:** a policy the proceeds of which were paid as required by local law in the relevant countries (or are deemed to have been under the Valuation Guidelines) directly to a governmental authority that was not the named beneficiary of the policy.

**Foundation:** means the German Foundation “Remembrance, Responsibility and the Future” established under the German Foundation Law effective on August 12th, 2000.

**GDV:** means Gesamtverband der Deutschen Versicherungswirtschaft, which is the German Insurance Association.

**German Company** or **Company:** as defined in Annex C of the Executive Agreement means those enterprises that had their headquarters within the 1937 borders of the German Reich or that have their headquarters in the Federal Republic of Germany, as well as their parent companies, even when the latter had or have their headquarters abroad. Enterprises situated outside the 1937 borders of the German Reich in which during the period between

January 30, 1933, and the entry into force of the legislation establishing the Foundation "Remembrance, Responsibility and the Future," German enterprises as described in the first sentence had a direct or indirect financial participation of at least 25 percent. "German companies" does not include foreign parent companies with headquarters outside the 1937 borders of the German Reich in any case in which the sole alleged claim arising from National Socialist injustice or World War II has no connection with the German affiliate and the latter's involvement in National Socialist injustice, unless there is pending a discovery request by plaintiff(s), of which the United States is provided notice by the defendant with copy to plaintiff(s), seeking discovery from or concerning World War II or National Socialist era actions of the German affiliate.

**German MOU Company:** means Allianz AG and its affiliates and the branches and affiliates of AXA, Zurich Financial Services, Winterthur Lebensversicherungs-Gesellschaft and Assicurazioni Generali, which meet the definition of a German company.

**Holocaust victim:** for the purposes of this Agreement means anyone who, as a result of racial, religious, political or ideological persecution by organs of the German National Socialist Regime, was deprived of his/her life or freedom; suffered damage to his/her mental or physical health; was deprived of his/her economic livelihood; suffered loss or deprivation of financial or other assets; or suffered any other loss or damage to his/her property. For the purpose of this definition, persecution by governmental authorities of the following countries for the period in brackets until the end of the Second World War in the following countries is considered equal to persecution by the organs of the German National Socialist Regime: Bulgaria (1941), Vichy France (1940), Slovakia (1939), Italy (1939), Hungary (1939), Romania (1940), and Croatia (1940).

**ICHEIC:** means the International Commission on Holocaust Era Insurance Claims.

**Insurance Claim:** means a claim to an insurance policy submitted to the claims process.

**Life Insurance Policy:** means all forms of life insurance, including annuities, endowments and dowries.

**MOU:** means the Memorandum of Understanding dated August 25, 1998 creating ICHEIC which was signed by certain European insurance companies, certain non-governmental Jewish organizations, the State of Israel and certain insurance regulators.

**Panel:** means the body comprising three Panel Members which is the supreme decision making body for determining an Appeal or Appeals.

**Panel Member:** is one person of the Panel who may make a decision on an Appeal or Appeals as the case may be.

**Relaxed Standards of Proof:** means the Relaxed Standards of Proof as annexed to the this Agreement as Annex B.

**Serious Irregularity:** means an irregularity by the Panel, Panel Member or Arbiter which is likely to cause substantial injustice to the claimant by reason of (1) the Panel, Panel Member or Arbiter exceeding their powers (other than by exceeding their substantive jurisdiction), (2) failure of the Panel, Panel Member or Arbiter to conduct the proceedings in accordance with the Appeal Guidelines, or to deal with the issues put to them, and (3) the decision being obtained by fraud or in a manner which is contrary to public policy.



## **ANNEX A**

### **CLAIMS HANDLING PROCEDURES**

#### **Mailing forms to claimant**

1) The ICHEIC helpline sends the claims form, the introductory letter, and the declaration of consent to the claimant (by mail). The claims form will be available in nine languages, including English and German and the claimant may indicate which version he prefers. The claimant will be asked to fill in the form in German or English, if possible, but may complete the claims form in any language.

#### **Return of forms to the ICHEIC office**

2) The answer of the claimant (completed questionnaire, signed declaration of consent, proof of identity and copies of existing documents in the possession of the claimant) is sent , by mail, to ICHEIC.

#### **Work of call center**

3) An information package will be sent to each claimant who calls the helpline. If a claimant still cannot fill in the form, the call centre, using specially trained staff, will be available to assist claimants, free of charge, to complete the necessary forms correctly and completely. Where possible, each organisation will attempt to provide assistance within its current infrastructure and budget. However, if additional assistance is required, ICHEIC may fund the cost of the provision of these services.

#### **Examination of returned forms by ICHEIC**

4) The ICHEIC office examines the documents submitted by the claimants. If the claim form is in the Hebrew or Cyrillic alphabet, Capita London Market Services (CLMS) will transliterate names into the Latin alphabet using accepted and consistent transliteration standards and will translate the text into English. If the claim form is in German or English it will not be translated. Any other language will be translated into English.

5) CLMS will acknowledge receipt of the claim within 14 days and assign a claim number to it.

#### **Named company claims**

#### **ICHEIC action**

6) If the claimant names the company that issued the policy, CLMS will send the claim in electronic format to the GDV, provided that the following sections on the claim form (which are marked in bold) have been filled out (responses such as “do not

know” or “not applicable” are adequate responses for sections 6.3 to 6.15, 7 and 8).

- a) 1, eligibility
- b) 2.1, 2.2 , 2.4, 2.7, 2.10, information about the claimant
- c) 3.1 name of insurance company (which will be sent by official company number)
- d) 6.1, 6.2, 6.4, 6.8, 6.11, information about the policyholder
- e) 7.1, 7.2, 7.4, 7.8, 7.11, information about the insured
- f) 8.1, 8.2., 8.4, 8.8, 8.11, information about the beneficiaries
- g) 9.1, compensation or restitution
- h) Declaration of Consent and proof of identity

If the above mentioned essential information is missing, CLMS will ask the claimant to provide it before sending the claim to the GDV. If any other information (not regarded as essential) is missing, then it will be assumed that the claimant answered "I do not know" to those questions.

The GDV will check the information recorded on the electronic extracts. If any of the following sections have no information, the GDV will return the claim to CLMS as incomplete:

2.1, 2.2, 2.7, 3.1, 6.1, 6.2 and 6.8 (for 6.8 any variant of "I do not know" will be shown as 00/00/00). CLMS will contact the claimant for the missing information.

7) If companies require further information while processing a claim, companies will contact claimants directly with copies to ICHEIC.

8) The declaration of consent has to be signed. If this is not the case ICHEIC sends the declaration of consent back to the claimant and asks him to complete the declaration of consent.

9) Proof of identity of the claimant must also be provided. If it is not, CLMS will contact the claimant, but will not hold up the transmission of the claim while doing so.

**Distribution of claim forms by ICHEIC**

10) The ICHEIC office examines the contents of the claimant’s answer in order to ascertain which company is concerned by the claim. If ICHEIC decides that the claim is covered by this Agreement , ICHEIC’s claims processor (CLMS) will send to the GDV all information in electronic format of all claims (named and unnamed

<p>claims separately) and in the case of named company claims, will send hard copies of the claim form with relevant attachments directly to named companies. Where necessary, in cases of uncertainty about the company responsible for processing the claim, ICHEIC will consult BAFin. CLMS will send all new claims weekly.</p> <p>11) ICHEIC informs the claimant that the claim has been sent to the GDV (NOTE: a text of the letter to the claimant will be agreed with the GDV)</p>
<p><b>Examination of named claims by the GDV and German compensation/restitution archives</b></p> <p>12) The procedure for checking for compensation/restitution before named company claims are sent to companies is as follows:</p>
<p>i) GDV sorts out enquiries, checks if they have been made before,</p>
<p>ii) GDV records names, etc in database</p>
<p>iii) GDV passes lists of named claims to BZK</p>
<p>iv) BZK investigates names within its file cards</p>
<p>v) BZK notifies GDV of match/no-match between the claimant or policyholder and its records of claimants for compensation</p>
<p>vi) GDV informs companies of “no match” or “match” with compensation /restitution archives</p>
<p>vii) BZK sends to the local archives details of the claims that "match"</p>
<p>viii) Local archives check if the BEG record relates to insurance and that the restitution or compensation proceedings related to the policy(ies) that are subject to the ICHEIC claim. The questions that local archives will be invited to answer include:</p> <p>a) Was an insurance policy part of the compensation/restitution decision?</p> <p>b) If so, what was the file reference in the archive?</p> <p>d) If so, what was the policy number and which company issued the policy? (if known)</p> <p>e) Was compensation /restitution paid? If so how much and to whom?</p> <p>f) If compensation was not paid, what were the reasons for the rejection?</p>
<p>ix) Local archives inform the GDV accordingly with the answers to the questions</p>
<p>x) GDV passes the information to the relevant company</p>
<p>xi) Where the named insurance company does not belong to the GDV, the GDV</p>

shall forward the claim to that insurance company inviting it to process the claim in accordance with the Agreement. If the non-member insurance company agrees to do so, the claim is then treated like any other named claim. If the non-member insurance company refuses to investigate the claim or has not replied within 3 months, the GDV will process the claim itself on the basis of any information provided by the claimant and the named insurance company and sends the claimant its decision. In these cases the claimant will have a right of appeal against the GDV's decision.

**Action by companies**

13) The company informs the claimant with a copy to ICHEIC and the German Foundation if a restitution/compensation decision has been taken relating to the specific policy claimed, including a copy of the answers to the questions from the archive and of any relevant documents provided by the archive. Subject to the exceptions in Section 2 (1) (c) of the Agreement, in cases where a restitution/compensation decision was taken relating to the specific policy claimed, the claim will be denied.

14) The companies shall not search further in the compensation/restitution archives unless they need to do so to check whether a policy was compensated before making an offer to a claimant or where it is in the interest of the claimant to do so in order to match a claim.

15) Once checks for compensation are completed, the company will inform the claimant which company is investigating the claim. The company will carry out the research and processing of the claims in accordance with ICHEIC standards as agreed with the German Foundation and the GDV.

16) The company will provide the claimant with a status report on named claims within 90 days of receipt and, if necessary, every six months thereafter until a decision has been taken.

17) The company analyses the results of the investigation and makes a decision on the claim according to the relaxed Standards of Proof agreed with the Foundation (Annex B) and the Succession Guidelines (Annex C). Payment offers are based on the standards regarding valuation and interest established by ICHEIC and agreed with the Foundation (AnnexD).

18) The company sends its decision directly to the claimant and adds copies of all relevant documents relating to the claim. This letter will also advise the claimant of his right to appeal the company's decision and the procedure for doing so. The company sends copies of the letter together with copies of all relevant documents relating to the claim to ICHEIC and informs the GDV accordingly.

19) If the company makes an offer to the claimant, its letter will include a document of waiver and release (Annex F). It will also include copies of all documents relevant to the claim and a valuation sheet showing how the sum has been calculated.

20) Where an insurance company determines, during the claims handling process, that the proceeds of the policy were paid or deemed to have been paid into a "blocked account" according to Annex D (Valuation Guidelines), the company shall inform the GDV. The GDV shall notify the claimant with a copy to ICHEIC that, although the claim concerns a policy that was properly paid by the insurance company, he/she is entitled, according to Annex D (Valuation Guidelines), to a humanitarian payment of the same amount as if the policy had remained unpaid. Along with the notification, the GDV shall offer the claimant a compensation payment, calculated according to Annex D (Valuation Guidelines). Once the offer is accepted, the GDV shall be prefunded by the Foundation from the ICHEIC Humanitarian Fund and shall pay the claimant directly. The GDV shall inform the claimant that he has a right of appeal in respect of the offer.

**Procedure for handling unnamed company claims**

**Examination by ICHEIC**

21) If the claimant did not name a company, CLMS will follow the same procedure as for named claims (in Paragraph 6) except that, if information about the company, the insured or the beneficiaries is missing, the claim will be handled as if the claimant had answered "I do not know" to those questions.

22) In these cases CLMS will only contact the claimant for additional information if requested by the GDV. If the Declaration of Consent is missing or incomplete, CLMS will only ask the claimant to provide it, if any company confirms that it has a match. The Declaration of Consent must then be provided by the claimant for all further processing.

23) If ICHEIC decides that the claim may be covered by the Agreement the ICHEIC's

<p>claims processor (CLMS) will send to the GDV all information in electronic format of all claims (unnamed claims separately).</p>
<p><b>Action by GDV and companies</b></p>
<p>24) The GDV will distribute the electronic information on unnamed company claims to all relevant companies. The companies will check their records for any matches. Once a match is found, the company will inform the GDV, who will notify CLMS of the match and follow the procedure for named company claims (from Paragraph 12 onwards). Other companies will continue to search their records for other policies related to the original claim. If no match is found with any relevant company, the GDV will inform CLMS who will inform the claimant - if it cannot be researched any further.</p>
<p><b>Queries from claimants and handling delays</b></p>
<p>25) Claimants who request information from ICHEIC (or the company) about the handling of their claim will be sent a letter (or orally if they telephone the ICHEIC call centre), explaining that there may be some time before they receive a final decision on their claim. [Note: the draft of such a letter will be agreed with the GDV]</p>
<p>26) If the claimant provides fresh information (either in response to a request, or voluntarily) this will be sent by CLMS (in electronic format if possible) to the GDV who will inform the relevant company.</p>
<p>27) When CLMS finds a match between a claim and a record in the ICHEIC research database or a match is found in accordance with Annex H, Exhibit 3 CLMS will inform the respective company through the GDV using the same procedure as for fresh information. In such cases, the procedures for named company claims, including appeals, will apply.</p>
<p>28) If the claimant (through ICHEIC) or ICHEIC request information about a particular offer or denial the ICHEIC will contact the GDV. The company will provide the information in accordance with Section 5 (5) of the Agreement.</p>
<p><b>Appeals</b></p>
<p>29) All claims decisions, including provisional claims decisions, taken by the German MOU companies prior to the signing of this Agreement will be eligible for the ICHEIC appeals process. All claims decisions taken by all of the German companies after the signing of this Agreement will be eligible for the appeals process specified in this Agreement.</p>

30) In the company's decision letter, the claimant will be told of his rights to appeal and the procedure for doing so. Should a claimant file an appeal, the company will follow the appropriate procedure as specified in Paragraph 29 above.

## **ANNEX B**

### **RELAXED STANDARDS OF PROOF FOR LIFE INSURANCE POLICIES\***

#### **PART A**

The Foundation "Remembrance, Responsibility and Future", the International Commission on Holocaust Era Insurance Claims (ICHEIC) and the German Insurance Association establish the following Relaxed Standards of Proof for use by German insurance companies (insurance companies) to assess the validity of unpaid life insurance claims from the Holocaust-era. The insurance companies will review claims pursuant to Relaxed Standards of Proof based on the information provided by the claimant as well as information discovered during the insurer's investigation of its files, records and archives, together with documents and records recovered during the search of appropriate archives by ICHEIC. The Relaxed Standards of Proof have been established to make it as easy as possible for a claim to be assessed, taking into account all relevant information.

- A In making a claim related to an insurance policy issued to a victim of the Holocaust, a claimant:
- 1 shall show that it is plausible, in the light of all the special circumstances involved, including but not limited to the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy in question was obtained, that the claimant is entitled, either in whole or in part, to the benefits of the insurance policy under consideration.
  - 2 shall submit all relevant documentary and non-documentary evidence in the claimant's possession or under the claimant's control that may reasonably be expected to be submitted in view of the circumstances and the years that elapsed, of that particular claim, including but not limited to the history of the claimant and the claimant's family, the history of the policyholder/beneficiary/insured (if they

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\*The eligibility criteria for non-life insurance policies is set out in Sections 2 (2) and (3) of the Agreement.

are not the claimant), and whether or not the policyholder, insured or claimant was a victim of the Holocaust;

- 3 shall submit a copy or reproduction of any original document about the insurance contract within the claimant's possession or control;
- 4 shall disclose whether the claimant or, to the claimant's knowledge, any other person has applied for, or received, any payment, compensation, reparations or restitution from any government or organisation in respect of the policy under consideration;
- 5 shall disclose the identity of any person known to the claimant whom the claimant believes or may have reasonable grounds to believe may have a valid claim to the benefits of the policy under consideration; and
- 6 shall not submit any evidence in support of a claim which the claimant knows is falsified, forged or materially misleading.

B In assessing a claim by a claimant, the participating insurance companies have agreed:

- 1 not to reject any evidence as being insufficiently probative of any fact necessary to establish the claim if the evidence provided is plausible in the light of all the special circumstances involved, including but not limited to the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy under consideration was obtained;
- 2 not to demand unreasonably the production of any document or other evidence which, more likely than not, has been destroyed, lost or rendered inaccessible to the claimant;
- 3 to consider all information submitted by the claimant together with all information recovered by the insurers and ICHEIC during their search of insurer and other appropriate archives and at all times to consider the difficulties of proving a claim after the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy under consideration was obtained.

C The existence of an insurance policy<sup>1</sup> will be considered adequately substantiated by any one of the following:

- 1 an original or copy of an insurance policy;
- 2 original or copies of premium receipts for an insurance policy;
- 3 information in the records of an insurer that verifies the existence of an insurance policy;
- 4 written correspondence between the insurer or agent or representative of the insurer and the claimant that verifies the existence of an insurance policy;
- 5 records held or maintained by any governmental body that verify the existence of an insurance policy;
- 6 records of any governmental body held by the claimant that verify the existence of an insurance policy.

The review process shall also consider whether any other document or statement, or combination of documents or statements, are sufficient to substantiate the existence of an insurance contract (“catch-all” provision).

D Evidence of details of the insurance contract, the contract’s history, information on any payment made to the policyholder, on blocked accounts or any government by the insurer and details of any payment, compensation, restitution, reparations, as well as nationalisation shall be considered adequately substantiated by any of the following documents, including but not limited to:

- 1 correspondence with an insurer or the agent or representative of an insurer;
- 2 information in the records of an insurer;
- 3 records held or maintained by any governmental body that verify the above mentioned details surrounding the insurance contract;

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<sup>1</sup> Please note: The existence of an insurance policy does not automatically mean that the claim  
(continued...)

- 4 records of any governmental body held by the claimant that verify the above mentioned details surrounding the insurance contract.

The review process shall consider whether any other document or statement, or combination of documents or statements, are sufficient to substantiate the above-mentioned details surrounding the insurance contract. (“catch-all” provision)

Information about personal circumstances may be gathered from the following documents, including but not limited to:

- 1 photographs;
- 2 maps;
- 3 reports or notices published in any newspaper, gazette or other journal;
- 4 diaries and personal letters;
- 5 family histories or tree;
- 6 birth or death certificates;
- 7 employment or school records;
- 8 military records;
- 9 a sworn or affirmed statement or affidavit, made by the claimant or by any person having relevant knowledge or authority;
- 10 immigration or emigration records;
- 11 letters, written evidence;
- 12 mortgages;
- 13 any other evidence that the claimant may wish to add to his file.

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(...continued)  
is valid.

## **PART B**

There can be no question that there has to be sufficient and adequate evidence of a contractual relationship with an insurance company. In the first instance the claimant is invited to provide whatever evidence he has. But whatever evidence the claimant can offer—and even if there is none—the companies will, as part of the claims process, carry out a thorough investigation of their records and where, deemed appropriate by the company, a search of outside archives, to help the claimants find evidence of the contractual relationship, even if they themselves have none. Satisfaction of that requirement will be determined in accordance with these Relaxed Standards of Proof, which are to be interpreted liberally in favour of the claimant; all parties agree to this basic concept. There is intentionally built into the Relaxed Standards of Proof wide latitude and flexibility. Indeed it is understood that, under the catch-all provisions, non documentary evidence, as well as other documentary evidence not specifically mentioned or contemplated in the Relaxed Standards of Proof, will be considered in determining the existence of a policy.

When the existence of the contract has been established, the burden shifts to that company. At this point the relevant details of the contract (e.g. type of insurance, value insured, premium and duration) need to be determined. This will be done using evidence from the claimant, the company or other outside sources.

Once the existence and details of the contract or claim are established, the company must establish the status of the contract, i.e. what, if any, adjustments are to be made to the value of the claim (i.e. loans, forfeitures, redemptions, payment of insured benefits, etc.). Most importantly the company will have to demonstrate, either from its own records or from external documentary evidence that it has fulfilled its contractual obligations.

A company's ability to satisfy this burden will depend, in part, on the adequacy of the records available to it. It is understood that some company records have been destroyed, either during the war or in the normal course of business, making it impossible to state with complete certainty whether any particular claim was paid or otherwise reduced in value. A company may present any evidence from its own records or external sources, which would prove that a payment was made to the proper insured or a beneficiary.

If a company is unable to demonstrate that a policy has been paid or that the value should otherwise be adjusted, the full payment of the sum insured under the policy, as calculated under the Valuation Guidelines (Annex D) will be offered.

Decisions based on these factors, like all other decisions, will be subject to the appeals procedure. Those hearing and deciding the appeals will be authorised to make fresh reviews of the record (including evidence offered under the catch-all provisions). This procedure will insure that those with strong evidence of a claim, even if purely non documentary, as well as those with less persuasive evidence, will be given an appropriate and fair review while maintaining the integrity of the process. The named companies will be afforded the opportunity to show that payments and adjustments were made, but claimants will not be unduly prejudiced by a lack of records or a presumption of payment where proof is unavailable.

In short, the process established in the Relaxed Standards of Proof allows the claimant to bring non documentary and unofficial documentary evidence for assessment, and guarantees that any claim (irrespective of what evidence the claimant can produce) will be thoroughly researched to see if conclusive evidence of the contract can be found. But it also avoids the risk to the integrity of the review process which would arise if payments were made on the basis of non documentary or unofficial documentary evidence, irrespective of its strength and plausibility.

### **PART C**

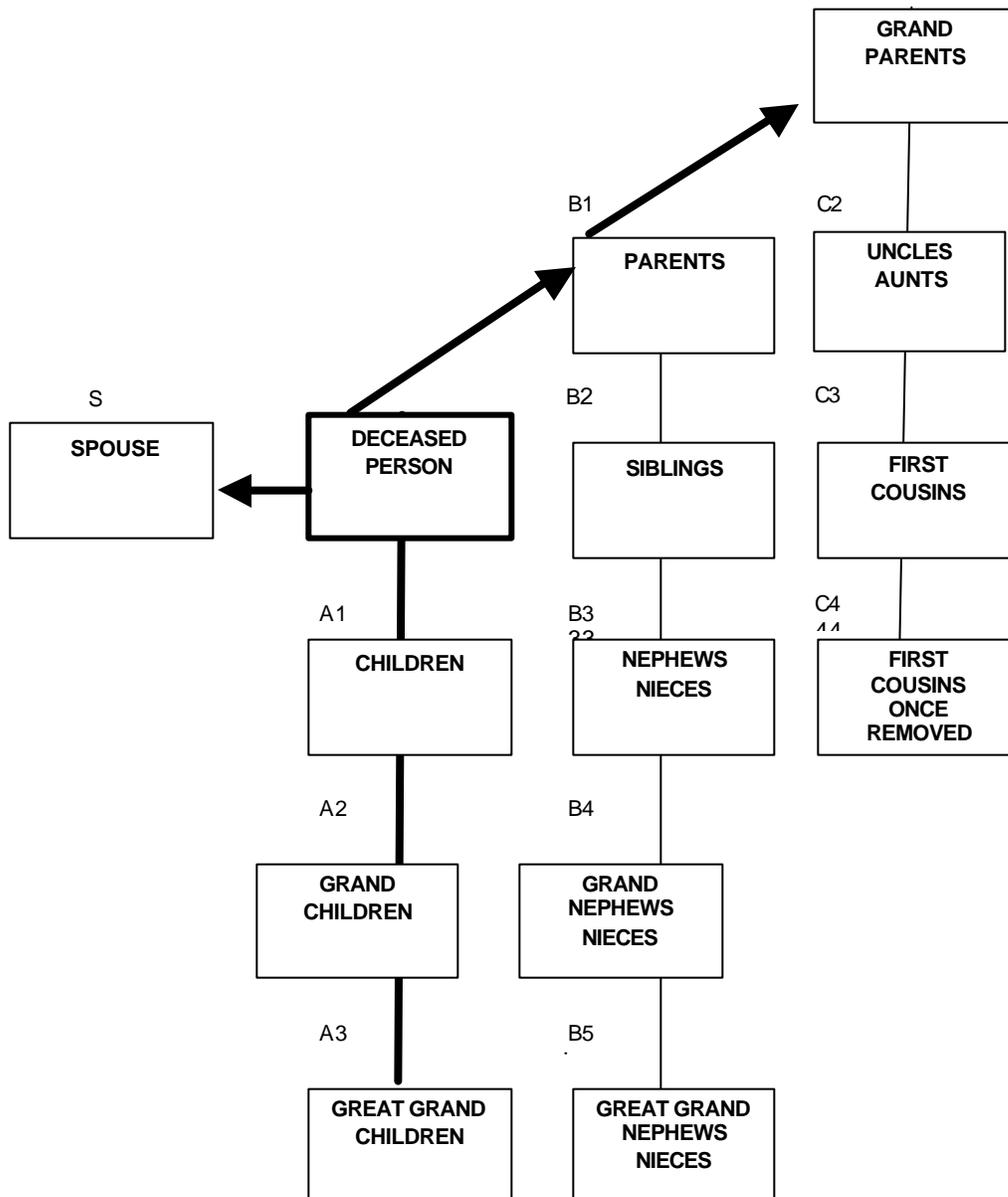
Relaxed Standards of Proof will also apply where the burden of proof lies with the insurance company in accordance with Section D of Part A of this document. Under the Relaxed Standards of Proof the companies may use any evidence available to them from their own records or external archives to prove the status of the policy. In this context so-called “negative evidence” (eg, an inference from the absence of a policy from certain company registers that the policy did not exist or was cancelled or paid) is in principle admissible in determining a claim and in an appeal, subject to sufficient supporting evidence being available from the audit process and elsewhere, to show that the company records in question are trustworthy and comprehensive. However, where the Agreement provides for the use of “deemed dates” to determine whether a policy had been confiscated or paid into a blocked account, the “deemed dates” must also apply to such negative evidence. Accordingly,

“negative evidence” from a company register showing that a policy had been paid after the “deemed date” would, in the absence of other evidence, create a presumption that the payment had been made into a blocked account or confiscated (see the provisions in the Valuation Guidelines Annex D, Sections 4 and 5), and the converse would apply before a “deemed date”.

## ANNEX C

### SUCCESSION GUIDELINES

- 1 In matters concerning the right of the Claimant to succeed to or inherit the benefits of an insurance policy (the “Proceeds”) from the person who was entitled to the Proceeds at the insured event (the “Deceased Person”), the Panel, Panel Member and Arbiters shall apply the following Succession Guidelines:



<b>Category</b>	<b>Relationship to Deceased Person</b>	<b>Distribution of Proceeds</b>
S	Spouse and no issue or other relatives	All Proceeds to spouse.
S + A1 – A3	Spouse and issue	\$50,000 and half the residue of the Proceeds to spouse, balance to any issue as provided in Paragraph 2(i).
A1 – A3	Issue and no spouse	All Proceeds to issue as provided in Paragraph 2(i).
B1	One or both parents, no spouse, no issue	Proceeds to surviving parent or parents.
B2 – B5	Siblings, and no spouse, issue or parent	All Proceeds to the siblings and their issue as provided in Paragraph 2(i).
C1 – C4	One or more grandparents or their issue, no spouse, issue, parents or siblings	<ol style="list-style-type: none"> <li>1. Half of the Proceeds to the paternal grandparents. If none survives, half to their issue as provided in Paragraph 2(i).</li> <li>2. Half of the Proceeds to the maternal grandparents. If none survives half to their issue as provided in Paragraph 2(i).</li> <li>3. If the paternal or maternal grandparents and their issue do not survive the Deceased Person, the whole of the Proceeds to the surviving grandparents on the other side or their issue as provided in Paragraph 2(i).</li> </ol>

**2** For all purposes of these Succession Guidelines:

- (i) Where the Proceeds or part of the Proceeds are to be divided in accordance with this Paragraph 2 (i), those Proceeds shall be divided into as many equal shares as there are:
  - (a) living members of the nearest generation of issue then living; and
  - (b) deceased members of that generation who leave issue then living.
- (ii) Each living member of the nearest generation receives one share and the share of each deceased member of that generation who leaves issue shall be divided in the same manner.
  - (a) The Deceased Person's relatives of the half blood shall be treated as if they were relatives of the whole blood.
  - (b) Distributees of the Deceased Person conceived before his or her death but born alive thereafter take as if they were born in his or her lifetime
  - (c) An adopted child shall take under this Succession Guidelines as if such adopted child were a natural child.
  - (d) Where one or more persons, Claimants, or the estates, heirs, legatees, descendants, survivors, beneficiaries, or other such successors-in-interest (as limited by these Succession Guidelines), is entitled to the Proceeds, each such person shall take the proportion of the Proceeds to which he or she is properly entitled under these Succession Guidelines.

**3** If the person who was entitled to the Proceeds at the date when the policy matured left a written will that has been provided to the Panel, Panel Member and Arbiters, as the case may be, the Panel, Panel Member and Arbiters shall distribute the Proceeds among the beneficiaries named in the will applying the Succession Guidelines to any question of succession to any person named in the will.

- 4** Where the sequence of demise between any persons is unknown, the older person shall be deemed to have predeceased the younger. Where the respective ages of such persons are unknown, they shall be deemed to have passed away at the same time.
- 5** Where no claim is submitted by a successor to the Deceased Person, the successors to the policyholder or, if none, to the insured may succeed to the Proceeds. In such cases, references to the Deceased Person shall be read as references to the insured or the policyholder as appropriate.
- 6** In cases where the application of the Succession Guidelines would be inappropriate because of special circumstances that would make their application contrary to the principles of justice, the Panel shall endeavour to reach a fair settlement.

In any decision of the Panel, Panel Member or Arbiter, the obligation of any particular company is limited to one payment of the proceeds of the policy, which may be divided between one or more persons as decided by the Panel, Panel Member or Arbiter.

## **ANNEX D**

### **VALUATION GUIDELINES**

#### **1 INTRODUCTION**

- 1.1** Annex D, as agreed between ICHEIC and the Foundation and which will be applied by German insurance companies, is intended as a guideline for those assigning values to valid claims on Holocaust era life insurance policies and for those advising on the offers made by companies on such policies.
- 1.2** The valuation of a claim includes two phases. The first is the assignment of a base value to a policy, depending on the terms of the contract, the history of the payment of premiums etc and the circumstances of the insured event (death of the insured or maturity of the policy).
- 1.3** The base value of a policy is the value that the policy would have had at the date of the insured event (on death of the insured person or on maturity at the end of the policy). The second phase in the valuation of a claim is the application of appropriate multipliers to the base value to produce the current value.
- 1.4** A policy shall be valued as unpaid if a claim on the policy is proved to be valid according to the Agreement and the relaxed Standards of Proof (Annex B) and there is no evidence that the policy was paid.
- 1.5** Rules for determining the treatment of policies paid during the Holocaust but where the proceeds were either confiscated or paid into a blocked account or where it is deemed likely that they were confiscated or paid into a blocked account are set out in Sections 4 and 5 below.

## **2 POLICIES ISSUED IN GERMANY**

- 2.1** For policies issued in Germany (within the boundaries of 1937) and denominated in German currency, for which the Federal Republic of Germany established programmes of compensation after the war under the Bundesentschaedigungsgesetz (the BEG) or other programmes of compensation or restitution, the company shall assess the claim (both the base value and the valuation up to 1969) as if it had been submitted to the BEG, using the same methods of valuation, and apply a multiplier to this value of 8X.
- 2.2** For offers made from January 2001 the value will be updated by reference to the appropriate multiplier (see Schedule 2).
- 2.3** As agreed between ICHEIC and the Foundation, each claimant shall receive in respect of any valid claim on a policy issued in Germany by a German company at least a minimum payment of \$ 4000, if he is himself a survivor of the Holocaust or \$3000 for other valid claims. The company will determine the value of the policy according to Sections 2.1 and 2.2 of this Annex. No maximum limit should be applied. The differences between the calculated value according to Sections 2.1 and 2.2 and the minimum payment shall be met from the Humanitarian Fund. The total payment to the claimant shall be made by the company after the corresponding amounts have been provided by the Foundation.
- 2.4** If a claim is on a policy where the German Compensation or Restitution Authorities had rendered a decision on that specific policy then such a decision cannot be considered further in the claims process, subject to the exceptions provided in Section 2 (1) (c) of the Agreement.

### 3 DETERMINING BASE VALUES (Not Germany)

#### Policies relating to those who died during the Holocaust era

**3.1 Date of death:** If the company or the claimant has evidence of the date of death or deportation of the policyholder or the insured, this shall be used as relevant in assessing the base value. If there is no evidence, the dates for deemed death shown in Schedule 1, shall be used.

**3.2 Base value at death:** If the insured person or the policyholder died during the Holocaust era (see Schedule 1), the base value at the date of the insured event is the full sum insured minus any specific deduction (unless the company can demonstrate that the policy had been voluntarily converted to "paid up" status by the policyholder). (Paid up value is defined as a new sum insured at a lower value according to the terms of the policy, or as assessed by the company).

**3.3 The specific deductions** are for:

**3.3.1** loans taken out during the life of the policy but before the beginning of the Holocaust era and not repaid;

**3.3.2** premiums not paid, subject to the following conditions:

- If premiums stopped after the date of deportation (from the evidence) or the start of the Holocaust era (using Schedule 1), the company shall deduct those unpaid premiums from the full sum insured, up to a maximum of two years.
- If premiums ceased before start of the Holocaust era given in schedule 1, the offer shall be based on the "paid up" value.
- Only if the company has evidence of unpaid premiums shall it make a deduction. If the company has no records it shall make no deduction.

and

**3.3.3** compensation related to the specific policy and paid under post war arrangement (other than in Germany by governments or any other state entities. (Section 2 (1) (c) of the Agreement).

**3.4 Policies converted to paid up status:** In cases where there is evidence that the policy was formally converted to paid up status, the following rules apply:

- If conversion was before the start of the Holocaust era, base value equals paid up value.
- If conversion was in or after the year of the start of the Holocaust era, and the company can show that this was made voluntarily by the policyholder in writing, then the base value equals the paid up value.
- If conversion was made in or after the year of the start of the Holocaust era, but the company cannot show that this was made voluntarily by the policyholder in writing, then the base value equals the full sum insured, less any deductions for unpaid premiums in accordance with paragraph 3.3.2).
- From all base values any further adjustments required by paragraphs 3.3.1 and 3.3.3 should be applied.

#### **Policies of survivors**

**3.5** If the insured person and the policy holder survived after 1945 (and premiums had not been paid), the base value is the “paid up” value of the policy as assessed by the company (which will deem premium payments to have stopped in 1945) and subject to any further adjustments required by paragraphs 3.3.1. and 3.3.3.

## **4 CONFISCATED POLICIES**

**4.1** Policies that were paid, as required by local law, to a government authority that was not the named beneficiary of the policy shall be given the same valuation as applied to unpaid claims. Payments shall be financed from money allocated for claims.

**4.2** In the absence of evidence to the contrary produced either by the claimant or the company, a payment should be treated as confiscated if it was in or after the year given for the respective country in the table in Schedule 1 Column (iii).

**4.3** Conversely, where a company can demonstrate that the proceeds of the policy were paid before the deemed date, it should be assumed, in the absence of evidence to the contrary, that the payment was made to the rightful beneficiary.

**4.4** For France, any claim that a policy was confiscated will be considered under the procedures in paragraph 5.3 below for blocked accounts in France.<sup>1</sup>

## **5 BLOCKED ACCOUNTS**

**5.1** Where there is evidence that policies were paid, but the payment was into a blocked account, these policies shall be given the same valuation as applied to unpaid claims. As agreed between ICHEIC and the Foundation pursuant to Section 7 Paragraph 2 of the Agreement, payments shall be financed from money allocated for the Humanitarian Funds. The payment to the claimant shall be made by the GDV after the corresponding amounts have been provided by the Foundation.

**5.2** A payment on a policy will be deemed paid into a blocked account if it was during the years given for the respective country in the table in Schedule 1 Column (ii), unless there is evidence that it was not paid into a blocked account.

**5.3** For policies issued in France, where there is a scheme for the compensation of bank accounts that were blocked, the claim will be referred to the relevant authority.

**5.4** For policies issued in Austria, the payment is deemed to be made into a blocked account if it was made to the policyholder from March 1938 through the end of

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<sup>1</sup> Note: Procedures on Belgian policies are under consideration.

1939 unless there is evidence that the payment was not made into a blocked account.

**5.5** For policies issued in Germany the following rules shall apply:

**5.5.1** During the period from the start of 1933 through to the end of 1937:

**5.5.1.1** The payment is deemed to be made into a blocked account, if there is evidence according to the Relaxed Standards of Proof that:

the policyholder emigrated or was deported or was otherwise deprived in that period of his freedom as a Holocaust victim (as defined in Section 14 of the Agreement)

or

that a policyholder attempted to emigrate or was arrested or detained.

unless there is evidence that the payment was not made into a blocked account.

**5.5.1.2** Conversely, if there is no evidence that the policyholder emigrated, attempted to emigrate, was arrested or detained or was deprived of his freedom as a Holocaust victim (as defined in Section 14 of the Agreement), then it can be assumed that payment was not made into a blocked account and was properly paid.

**5.5.2** During the period from the start of 1938 through the end of 1939, the payment is deemed to be made into a blocked account if it was made to the policyholder or beneficiary, unless there is evidence that the payment was not made into a blocked account.

## **6 DETERMINING CURRENT VALUES**

The current value of a policy is in the base value increased by agreed factors to allow for changes in currency, economic circumstances and interest during the years from

the insured event to the present day. The factors for each country are designed to give a present day value to the base values, while taking account of the many economic and monetary events which disturbed the purchasing power of currencies in wartime and post-war Europe. For policies issued in Eastern Europe account has also been taken of the fact that insurance companies were nationalised or liquidated under the instructions of the post war governments.

### **6.1 Western European countries including Germany**

The current value of offers on policies issued in these countries is calculated in accordance with the steps outlined in Schedule 2.

### **6.2 Eastern European countries**

Offers on policies issued in these countries are in US dollars. The current value is determined in accordance with the steps outlined in Schedule 2. For policies issued in dollars and not converted into the local currency, the base value remains in dollars.

## **7 OTHER ISSUES**

### **7.1 Unknown values**

If a claimant satisfies the Relaxed Standards of Proof that a policy existed which was unpaid and names the company that issued the policy, but the amount of the policy cannot be determined, the offer shall be based on a multiple of three times (3X) the average value for policies in the respective country (shown in Schedule 3). The appropriate multipliers should then be applied but the payment offered should not exceed \$6,000 per policy.

### **7.2 Minimum payments for policies issued in Eastern Europe**

If the valuation of a claim on a policy issued in Eastern Europe is below \$100, the minimum payment is \$500; if the valuation is above \$100, the minimum payment is \$2,000 for survivors and \$1,000 for other proven claimants.

### **7.3 Policies denominated in currencies other than the country of issue**

If a policy was issued in a currency of another country (e.g. Swiss Francs) and subsequently converted into the local currency, in accordance with a law of general application, the current value is determined according to the rules for that country. For Western European countries, if the policy was not converted (e.g. a cross-border sale) the valuation is according to the multipliers in Schedule 4. For policies issued in Eastern Europe and not converted, the procedure in Schedule 2 from Step 2 (for East European claims) should be followed. Policies issued with a link to the price of gold should be treated as if they had been issued in the nominal currency.

### **Prior settlement by companies**

**7.4** Any claim settled between a claimant and an insurance company after the war will not be reopened, even if the claimant would be entitled to a larger amount under the Valuation Guidelines.

### **7.5 Cancelled policies**

**7.5.1** For policies that were cancelled or suspended for non-payment of the premiums after the payment of the first premium, if any unpaid premiums were due in years on or after the start of the Holocaust era in the country of issue and if the insured or the policyholder died during the Holocaust era, the policy shall be deemed to be valid for the full sum insured (less any specific deductions under paragraphs 3.3.1 and 3.3.3) at the date of the insured event.

**7.5.2** If the policyholder and the insured survived the Holocaust era and did not reinstate the policy, the policy shall be valued as a paid up policy on the assumption that premiums had been paid until 1945.

## **8 FINAL PROVISION**

All offers shall include a schedule showing how the calculation of the offer has been made.

## SCHEDULE 1

**Dates for determining the deemed dates of events, if not otherwise known, for**

- (i) the start of the Holocaust or Nazi persecution in each country,**
- (ii) payments into blocked accounts**
- (iii) the start of confiscation of the proceeds of insurance policies and**
- (iv) year of death,**

	(i) Start of Holocaust Era/NS persecution	(ii) Dates of deemed payment to blocked account	(iii) <u>Dates for start of deemed confiscation</u>	(iv) Deemed death
Austria	1938	1938-1939	1940	1941
Belgium	1940	1941- 1944		1942
Bulgaria	1941		1942	1942
Croatia	1940		1940	1941
Czechoslovakia - Sudetenland	1938		1938	1941
Czechoslovakia -Bohemia Moravia and Slovakia	1939		1939	1941
France	1940	1941-1944		1942
Germany	1933	1933-1939	1940	1945
Greece	1941		1943	1943
Hungary	1939		1942	1944
Italy	1939		1943	1943
Netherlands	Sjoa		Sjoa	Sjoa
Poland	1939		1939	1941
Romania	1940		1941	1941
Yugoslavia	1941		1941	1941

## SCHEDULE 2

### TABLE OF VALUATION FACTORS Western European Claims

#### Step 1

Multipliers to be used in step 1 as described in the valuation guide from the date of the insured event.

All multipliers to 2000

Year of insured event	Austria	Belgium	France*	Italy
1938	69.1	61.1		1335.2
1939	68.5	58.2	1.696	1271.4
1940	65.8	55.5	1.547	1144.4
1941	63.4	53.3	1.408	1035.1
1942	61.6	51.3	1.280	936.8
1943	60.2	49.3	1.163	679.9
1944	58.6	47.5	1.058	247.1
1945	54.3	45.7	0.961	163.6
1946	42.4	43.9	0.874	146.4
1947	28.4	42.0	0.795	109.2
1948	16.2	40.1	0.722	102.5
1949	12.8	38.3	0.657	97.0
1950	10.7	36.7	0.597	91.7
1951	8.2	35.1	0.543	86.4
1952	7.1	33.4	0.493	81.6
1953	7.1	31.8	0.464	77.0
1954	6.7	30.4	0.436	72.6
1955	6.3	29.0	0.411	68.3
1956	5.9	27.7	0.388	64.0
1957	5.5	26.2	0.362	59.9
1958	5.2	24.8	0.337	56.1
1959	4.8	23.6	0.316	53.1
1960	4.5	22.4	0.299	50.6

\*The multipliers for France incorporate the currency reform of 1960 when 100 Old Francs were replaced by 1 New Franc.

#### Step 2

For offers made after 2001, an addition will be made to the value in Step 1 in respect of 2001 to reflect interest at the rate of 5.4% for the full year 2001 and an addition will be made at the rate of so many twelfths of 5%, including the month in which the offer is made, plus two twelfths, (for example, an offer in June 2002 will add a further 8/12ths of 5%).

1. **Netherlands** The arrangements for valuing and paying claims on policies issued in the Netherlands will be a matter for the Sjoa Foundation following the agreement with them.
2. For **Greece** , the policy sum insured should be converted to Italian lire at the average rate of exchange for the year of issue of the policy, any deductions would be made at the exchange rate for the appropriate year. The net sum due from the insured event has the multipliers for Italy applied to it. The exchange rates between the drachma and the lira are shown in Schedule 5.
3. For **Germany**, companies should use the method employed by the BEG to value claims up to the end of 1969 (the closure date for West German compensation claims). The values are then multiplied by 8, to bring the end 1969 value up to year 2000 values. For the year 2001 and later years the same multiplier is used as for Western Europe. The minimum payment on valid claim on a German policy will be \$4,000 for claimants who are survivors and \$3000 for other valid claimants. No maximum limit should be applied.

### **East European Claims**

#### **Step 1 - Exchange Rates**

Convert the claims expressed in local currency to US dollars at the discounted exchange rates shown below.

Country	Currency	1 unit = US\$
Bulgaria	Lev	US\$ 0.00863
Czechoslovakia:	Koruna	US\$ 0.024
Czechoslovakia: Sudetenland	Reichsmark	US\$ 0.2807
Hungary	Pengo	US\$ 0.1376
Poland	Zloty	US\$ 0.1323
Romania	Lei	US\$ 0.00509
Yugoslavia	Dinar	US\$ 0.01594

#### **Step 2**

Multiply the dollar value by 11.286. This gives a value up to the end of the year 2000.

#### **Step 3**

For offers made after 2001, an addition will be made to the value in Step 2 in respect of 2001 to reflect interest at the rate of 5.4% for the full year 2001 and an addition will be made at the rate of so many twelfths of 5%, including the month in which the offer is made, plus two twelfths, (for example, an offer in June 2002 will add a further 8/12ths of 5%).

### SCHEDULE 3

#### Average life insurance policy sums insured

The table below shows the average sums insured for each market in 1938 (1937 for Czechoslovakia), in local currency.

	Average sum insured1938 (local currency)
Austria	Sch. 1246
Belgium	BFr. 5730
France	FFs. 20,744
Germany	RM. 841
Italy	L. 9355
Neth'lnds	G 309
Bulgaria	L. 26,559
Czech	Kcs. 12,070
Hungary	P. 827
Poland	Z. 2425
Romania	L. 60,638
Yugoslavia	D. 24,080

The base value for qualifying claims (see paragraph 7.1 of the guidelines) would be a multiple of three times (3X) the averages shown above

**Schedule 4**

<b>Indices of bond yields and multipliers for UK, Switzerland &amp; USA</b>									
<b>United Kingdom: Pound Sterling</b>				<b>Switzerland Swiss Francs</b>			<b>US dollars</b>		
	<b>bond yields</b>	<b>index</b>	<b>multipliers</b>	<b>bond yields</b>	<b>index</b>	<b>multipliers</b>	<b>bond yields</b>	<b>index</b>	<b>multipliers</b>
<b>1937</b>	3.28			3.41			2.41		
<b>1938</b>	3.38	100.0	78.8	3.24	100	11.2	2.26	100.00	29.3
<b>1939</b>	3.72	103.7	76.0	3.76	103.8	10.8	2.05	102.05	28.7
<b>1940</b>	3.4	107.2	73.5	4.06	108.0	10.3	2.26	104.36	28.1
<b>1941</b>	3.13	110.6	71.2	3.39	111.6	10.0	2.05	106.50	27.5
<b>1942</b>	3.03	114.0	69.1	3.15	115.1	9.7	2.46	109.12	26.8
<b>1943</b>	3.1	117.5	67.1	3.32	119.0	9.4	2.47	111.81	26.2
<b>1944</b>	3.14	121.2	65.0	3.27	122.9	9.1	2.48	114.58	25.6
<b>1945</b>	2.92	124.7	63.2	3.29	126.9	8.8	2.37	117.30	25.0
<b>1946</b>	2.6	128.0	61.6	3.1	130.8	8.5	2.19	119.87	24.4
<b>1947</b>	2.76	131.5	59.9	3.17	135.0	8.3	2.25	122.56	23.9
<b>1948</b>	3.21	135.7	58.1	3.42	139.6	8.0	2.44	125.56	23.3
<b>1949</b>	3.3	140.2	56.2	2.94	143.7	7.8	2.31	128.46	22.8
<b>1950</b>	3.55	145.2	54.3	2.67	147.5	7.6	2.32	131.44	22.3
<b>1951</b>	3.64	150.4	52.4	2.95	151.9	7.4	2.57	134.81	21.7
<b>1952</b>	4.26	156.9	50.2	2.84	156.2	7.2	2.68	138.43	21.2
<b>1953</b>	3.94	163.0	48.3	2.55	160.2	7.0	2.92	142.47	20.6
<b>1954</b>	3.55	168.8	46.7	2.62	164.4	6.8	2.52	146.06	20.1
<b>1955</b>	4.32	176.1	44.7	2.97	169.3	6.6	2.8	150.15	19.5
<b>1956</b>	5.16	185.2	42.5	3.12	174.6	6.4	3.06	154.74	18.9
<b>1957</b>	5.49	195.4	40.3	3.65	180.9	6.2	3.54	160.22	18.3
<b>1958</b>	5.48	206.1	38.2	3.19	186.7	6.0	3.48	165.80	17.7
<b>1959</b>	5.19	216.8	36.3	3.08	192.4	5.8	4.13	172.64	17.0
<b>1960</b>	5.77	229.3	34.4	3.09	198.4	5.6	4.06	179.65	16.3
<b>1989</b>	9.58	3656.5	2.2	5.2	729.5	1.5	8.5	1534.41	1.9
<b>1990</b>	11.08	4061.6	1.9	6.68	778.2	1.4	8.55	1665.60	1.8
<b>1991</b>	9.92	4464.5	1.8	6.35	827.6	1.3	7.86	1796.51	1.6
<b>1992</b>	9.12	4871.7	1.6	5.48	873.0	1.3	7.01	1922.45	1.5
<b>1993</b>	7.87	5255.1	1.5	4.05	908.3	1.2	5.82	2034.34	1.4
<b>1994</b>	8.05	5678.1	1.4	5.23	955.8	1.2	7.11	2178.98	1.3
<b>1995</b>	8.26	6147.1	1.3	3.73	991.5	1.1	6.58	2322.35	1.3
<b>1996</b>	8.1	6645.0	1.2	3.63	1027.5	1.1	6.44	2471.91	1.2
<b>1997</b>	7.09	7116.2	1.1	3.08	1059.1	1.1	6.35	2628.88	1.1
<b>1998</b>	5.45	7504.0	1.1	2.39	1084.5	1.0	5.26	2767.16	1.1
<b>1999</b>	5	7879.2	1.0	3.02	1117.2	1.0	5.87	2929.59	1.0

Schedule 5

**Greece: Drachma to Lira rates**  
**Following decision memo of 6 July 2000**

1	2	3	4	5
	US cents per drachma	US cents per lira	value of 1 drachma in lire	value of 1 lira in drachma
1915	19.0862	15.5287	1.229	0.814
1916	19.5296	15.2674	1.279	0.782
1917	19.7837	13.3181	1.485	0.673
1918	19.4195	12.7195	1.527	0.655
1919	12.223	11.26	1.086	0.921
1920	12.223	4.97	2.459	0.407
1921	5.0261	4.2936	1.171	0.854
1922	3.3059	4.7559	0.695	1.439
1923	1.7141	4.6016	0.373	2.685
1924	1.79	4.358	0.411	2.435
1925	1.5614	3.9776	0.393	2.547
1926	1.2579	3.8894	0.323	3.092
1927	1.3173	5.156	0.255	3.914
1928	1.3044	5.2571	0.248	4.030
1929	1.2934	5.2334	0.247	4.046
1930	1.2959	5.2374	0.247	4.042
1931	1.2926	5.2063	0.248	4.028
1932	0.832	5.1253	0.162	6.160
1933	0.7233	6.7094	0.108	9.276
1934	0.9402	8.5617	0.110	9.106
1935	0.9385	8.2471	0.114	8.788
1936	0.9289	7.2916	0.127	7.850
1937	0.9055	5.2607	0.172	5.810
1938	0.8958	5.2605	0.170	5.872
1939	0.8153	5.1959	0.157	6.373

Source: "Banking and Monetary Statistics" Board of Governors of the Federal Reserve System November 1943

The valuation of drachma policies would convert the policy value to lire, using the above exchange rates, for the year in which the policy was taken out. (multiply drachma value by figure from col.4)

No rates exist for Drachma - \$ for the years 1919 and 1920. The rates shown are the average of 1918 and 1921.

## **ANNEX E**

### **APPEAL GUIDELINES**

#### **1 Scope of These Guidelines**

- 1.1 The Agreement and its Annexes, including these Appeal Guidelines (“Guidelines”) shall govern the resolution of all appeals submitted to the Panel, Panel Member and Arbiters.
- 1.2 These Guidelines, in their entirety, apply only to appeals of decisions on life insurance policies.
- 1.3 In reaching decisions on appeals of decisions on non-life insurance policies, the Panel, Panel Member and Arbiters shall apply the rules set out in Section 2 (2) of the Agreement and in other respects shall follow these Guidelines to the extent possible, making adjustments as required (*mutatis mutandis*).

#### **2 Jurisdiction**

- 2.1 The Panel, Panel Member and Arbiters appointed pursuant to these Guidelines shall have jurisdiction over all issues raised in or by an appeal and shall make a fresh review of all information and evidence available to them and may uphold, amend or reverse the decision of the German company subject of the appeal.
- 2.2 The Panel, Panel Member and Arbiters shall have no jurisdiction over any of the following:
  - 2.2.1 the validity of these Guidelines save that the Panel shall have jurisdiction to determine whether the Guidelines were applied correctly in any particular case;

- 2.2.2 claims concerning policies which are considered to have been covered by a decision rendered by a German restitution or compensation authority in accordance with Section 2 (1) (c) of the Agreement;
- 2.2.3 claims in which the claimant does not name a specific German company and where, upon subsequent investigation and research within the agreed claims handling procedures including Annex H, Exhibit 3, no policy was identified as being issued by or belonging to a specific German company;
- 2.2.4 claims concerning general humanitarian payments, as foreseen in Section 9 (4) No. 5 of the Foundation law (the Humanitarian Fund) except where, pursuant to Section 2 (4) of the Agreement, the appeal relates to, or appears to relate to, the issue as to whether the proceeds of an insurance policy were paid into a blocked account and in that case an appeal to the Panel or Panel Member or Arbiter will proceed. Where the appeal relates to, or appears to relate to, any other issue relating to a blocked account, the appeal will also proceed to the Panel, Panel Member and Arbiters. In any event, the Panel, Panel Member and Arbiter will direct, or order, that any sums to be paid to the claimant shall be paid, not by the German company, but instead according to Section 2 (4) of the Agreement.

### **3 Appointment and Organization of the Panel**

- 3.1 Appeals are decided by a Panel.
- 3.2 The Panel shall consist of the following three members:

Judge William Webster

Judge Abraham Gafni

Dr. Rainer Faupel

In the event of a vacancy occurring, the Chairman of ICHEIC and a Member of the Board of Directors of the Foundation shall consult.

- 3.3 The three members shall select a Chairman from among themselves.
- 3.4 The Panel shall not determine any appeal and is not properly constituted until all the members to be appointed as aforesaid are appointed.
- 3.5 Every Panel Member shall be and remain impartial and independent of the parties to each appeal to which he or she is appointed. No Panel Member shall accept an appointment to serve as a member of the Panel in an appeal involving a German company or claimant, with which Panel Member has any connection or relationship or where there are other facts or circumstances that are of such a nature as to call into question his or her independence or impartiality.
- 3.6 When nominating a Panel Member the nominating parties shall take into account the Panel Member's impartiality, availability, language skills, expertise, experience and the attendant costs associated with the nomination.
- 3.7 The Panel shall organize itself and may promulgate any rule of practice and/or internal guidelines necessary to the efficient and consistent processing of appeals, provided such rules or guidelines are consistent with these Guidelines and are approved by the Foundation and ICHEIC.

- 3.8 To assist the Panel in deciding appeals, a pool of Arbiters shall be established. The selection of the potential Arbiters shall be as follows:
- 3.8.1 Names of potential Arbiters may be supplied by ICHEIC (and its constituent members), the Foundation, the GDV (and its constituent members) and members of the Panel. There shall be a period of thirty (30) days from written notice by the Panel for these names to be submitted to it.
- 3.8.2 Thereafter the Panel shall circulate the list of names to ICHEIC and the GDV to be forwarded to their respective members and to the Foundation, each of whom shall have the right, for a period of forty-five (45) days, reasonably to reject any name from the list.
- 3.8.3 The Panel shall then review each name on the revised list and all eligible Arbiters shall be unanimously approved by the Panel.
- 3.9 When the Panel has determined by majority decision that its initial tranche of decisions have created a range of reliable precedents, it may decide to authorize the Chairman to transfer the decision on any appeal case to a single member of the Panel or an appointed Arbiter. The Chairman will appoint an Arbiter from the approved list of Arbiters.
- 3.10 In determining the allocation of appeals between the Panel itself and individual Panel members and Arbiters, the Chairman will seek to balance the objectives of speed and cost effectiveness with the need to ensure consistency of decision making. The Panel will reserve to itself appeals which it determines are complex or novel.
- 3.11 Where the decision is rendered by a Panel Member or Arbiter it shall be regarded as a decision of the whole Panel.

- 3.12 The Panel shall simultaneously submit to the Foundation, the GDV and ICHEIC quarterly written reports on its appeals processing. These reports shall include the activities and the conduct in general and the expenses, costs and fees that it has incurred.

#### **4 Administration of the Panel**

- 4.1 The Panel shall determine its internal administrative procedures, which include the establishment of an appeals office, and accordingly enact its internal rules and administrative procedures after approval of the Foundation and ICHEIC. The Panel shall appoint an appeals office in an appropriate venue, having regard for cost, convenience and efficiency.

#### **5 Challenge and Replacement of Panel Members and Arbiters**

- 5.1 Any Panel Member may be challenged by any party to an appeal on grounds that there are circumstances which give rise to justifiable doubts as to the independence and impartiality of the Panel Member challenged. Any challenge shall be submitted to the Chairman of ICHEIC and the Board of Directors of the Foundation specifying the facts and circumstances upon which the challenge is based as soon as possible after the challenging party becomes aware of such circumstances.
- 5.2 If the Panel Member contests the challenge, the Chairman of ICHEIC and a Member of the Board of Directors of the Foundation shall decide if there are justifiable doubts as to the independence and impartiality of the Panel Member.
- 5.3 Where the Chairman of ICHEIC and a Member of the Board of Directors of the Foundation, decide, in any case, that there are justifiable doubts as to the

independence and impartiality of the Panel Member, the Panel Member shall be disqualified from determining that appeal.

- 5.4 Any Arbiter may be challenged by any party to an appeal on grounds that there are circumstances which give rise to justifiable doubts as to the Arbiter's independence and impartiality. Any challenge shall be submitted to the Panel specifying the facts and circumstances upon which the challenge is based as soon as possible after the challenging party becomes aware of such circumstances.
- 5.5 If the Arbiter contests the challenge, the Panel shall decide if there are justifiable doubts as to the independence and impartiality of the Arbiter.
- 5.6 Where the Panel decides, in any case, that there are justifiable doubts as to the independence and impartiality of the Arbiter, the Arbiter shall be disqualified from determining that appeal.
- 5.7 Any Panel Member or Arbiter shall immediately resign from the appeal if any facts or circumstances arise during the course of the appeal which are of such a nature as to call into question his or her independence and impartiality.
- 5.8 A Panel Member may only be replaced by agreement between the Chairman of ICHEIC and a Member of the Board of Directors of the Foundation due to a grave and weighty reason or in case of a gross neglect of duty.
- 5.9 An Arbiter shall be replaced with another Arbiter by the Panel, if the Panel decides that the Arbiter is prevented by law or other circumstances from fulfilling his functions as an Arbiter.
- 5.10 In case of dismissal or voluntary resignation of an Arbiter, a new Arbiter

shall be appointed by the Panel, if necessary.

- 5.11 Following the dismissal or voluntary resignation of a Panel Member or an Arbiter, the newly appointed Panel Member or Arbiter shall determine if and to what extent any prior steps in any unresolved proceedings shall be repeated before the new Panel Member or Arbiter.

## **6 Venue of the Appeals Hearings**

- 6.1 The official seat of the Appeals Panel shall be in Geneva, Switzerland.
- 6.2 The Panel or Panel Member may deliberate and hold hearings in any location that is appropriate for practical reasons, utilizing such modes of communication as is deemed necessary.

## **7 Filing Appeals**

- 7.1 Each German company shall, upon the completion of its processing of the claimant's claim send to the claimant;
- 7.1.1 the determination regarding the claimant's entitlement to the claimed insurance policy;
  - 7.1.2 all documents relevant to the claim and to the company's decision;
  - 7.1.3 notice that an appeal against the determination is possible and on the time within which an appeal shall be filed;
  - 7.1.4 an Appeal Form (Annex G) should the claimant want to appeal against the German company determination; and

7.1.5 a copy of these Guidelines.

7.2 A claimant wishing to file an appeal shall sign the Appeals Form and submit it by post to the Panel. Together with the form the claimant shall file the following:

7.2.1 a written statement of the grounds and reasons for making the appeal; and

7.2.2 any information or evidence supporting the appeal not already submitted to the claims process.

7.3 Any new information or evidence shall be forwarded to the German company and the GDV. In light of the new information or evidence the German company has the opportunity to make an offer to the claimant.

7.4 The appeal shall not be processed by the Panel, Panel Member or Arbitrator before 30 working days have expired from the date the German company received the new evidence or information.

## **8 Powers of the Panel**

8.1 Upon receipt of the Appeal Form, as specified in Section 7.2 of these Guidelines the Panel shall request the relevant German company to produce to the Panel all documents relating to the claim.

8.2 If the Panel or Panel Member or Arbitrator determines that additional documents or evidence or information is needed from a German company or a claimant in order to properly evaluate the appeal, it shall request such documents, evidence or information from that party.

- 8.3 If any party to the proceedings fails to provide any requested existing documents, evidence or information the Panel, Panel Member or Arbitrator may, after taking all relevant facts into account, including the failure to provide such requested documents, continue the proceedings and render such decision as it deems just and fair in the circumstances.
- 8.4 Where the Panel, when determining an appeal, in an exceptional circumstance, has a substantial basis for believing that the German company has not complied with its claims handling obligations under this Agreement in its investigation of the claimant's claim, the Panel may request that the BAFin investigate the German company's handling of the claim.
- 8.5 Where a Panel Member or Arbitrator, when determining an Appeal, in an exceptional circumstance, has a substantial basis for believing that the German company has not complied with its claims handling obligations under this Agreement in its investigation of the claimant's claim, the Panel Member or Arbitrator may certify to the Panel, and the Panel may request, that the BAFin investigate the German company's handling of the claim.
- 8.6 If the BAFin upon completion of its investigation of the German company's handling of the claim is of the opinion, and so certifies in writing to the Panel that the German company is not in compliance with its claims handling obligations under this Agreement, the Panel may find for the claimant or may direct the Panel Member or Arbitrator to find for the claimant and in all cases may fix compensation to be paid to the claimant in accordance with the Valuation Guidelines.
- 8.7 The Panel, Panel Member or Arbitrator shall, wherever possible, determine the substance of any dispute, matter or issue raised in an appeal on the basis of this Agreement. If a matter or an issue is not covered by this Agreement,

they shall determine the substance of any dispute in a fair and just way, after reviewing the relevant documents and evidence including the insurance contract.

- 8.8 The Panel, Panel Member or Arbiter shall make every effort to resolve each appeal within six months from the date it is filed. In extraordinary situations the resolution of an Appeal may extend beyond the six-month period, provided that the claimant is given timely notice that the decision will not be rendered within the agreed period.

## **9 Confidentiality**

- 9.1 All documents, evidence or information and materials produced by or provided to any party for the purposes of an appeal by any party shall be kept confidential by all parties and persons involved in the appeal.

## **10 Conduct of Proceedings**

- 10.1 The Panel, Panel Member or Arbiter shall conduct the proceedings in a fair, impartial and claimant friendly manner so as to facilitate the fully informed participation of all parties taking into account their age, language, residence, resources and whether or not they are represented in the proceedings by lawyers or other professionals.
- 10.2 The proceedings shall be conducted on a documents only basis, unless an oral hearing is requested by the claimant or the German company. The Panel may order that such a hearing be conducted by recorded telephone or videoconference. The Panel, Panel Member or Arbiter shall give the parties reasonable notice of all hearings. The parties may attend any oral hearing at their own expense.

- 10.3 All decisions and orders shall be in writing.
- 10.4 The Panel shall decide by majority. Members of the Panel may not abstain from voting. Decisions shall record the majority opinion only.
- 10.5 A decision shall be made in writing and signed by all Panel Members, in the case of a decision by the Panel; or by the Panel Member or Arbiter in the case of a decision by the Panel Member or Arbiter who has issued the decision.
- 10.6 Each decision shall contain:
- 10.6.1 the designation of the parties; and
  - 10.6.2 a description of the parties' submissions, the factual findings and any applicable law in the dispute; and
  - 10.6.3 the decisions on the merits and the reasons why the decisions were reached; and
  - 10.6.4 the date of the decision.

## **11 Language and Translation**

- 11.1 The appeal procedures shall be conducted in English or German unless the parties and the Panel, Panel Member or Arbiter agree on another language. The original version and language of any documents shall prevail in matters of construction and interpretation.
- 11.2 Where the Panel, Panel Member or Arbiter deems it appropriate, he shall arrange for the translation of any documents and the oral translation of any

oral hearing, procedure or other oral communication.

## **12 Communications**

12.1 The parties to an appeal and the Panel, Panel Member or Arbiter shall direct any correspondence or communication to be in writing or other means of telecommunication.

12.2 The last address or fax number notified to the Panel, Panel Member or Arbiter shall be deemed to be a valid address for delivery of any notice or communication.

## **13 Time Limits**

13.1 Unless inappropriate to do so, any time limit or deadline shall be expressed by reference to a specific date.

13.2 Where a time limit or deadline is not expressed by reference to a specific date, counting of days shall commence on the day following the day upon which any notice of the deadline is received.

13.3 Unless special circumstances are shown, requests for extensions of time shall be made to the Panel before the expiry of the deadline. Requests for extensions of time shall be determined by the Panel, Panel Member or Arbiter having regard to the rights of other parties and to the need of expedient settlement of appeals. The Panel, Panel Member or Arbiter is entitled to extend any deadline as they see fit.

## **14 Multi-Party Proceedings**

14.1 The Panel, Panel Member or Arbiter may, if he considers it appropriate,

join, consolidate, order concurrent hearings or order a multi-party proceeding of all related appeals. For the purpose of these Guidelines “related appeals” are claims submitted by persons who appear to be related to each other or share the same family background or appeals submitted by the same claimant but relating to different policies.

14.2 Any claimant reviewing information relating to another appeal obtained by him as a result of an exchange of documents or information in a multi-party proceeding shall keep such information confidential and shall only use such information for purposes directly connected with the appeal.

14.3 Where, from information available to the Panel, Panel Member or Arbiter, it appears that the just and fair resolution of an appeal requires the participation in the appeal of a claimant or German company not already a party, they shall invite such claimant or German company to follow such other directions and orders as the Panel, Panel Member or Arbiter considers appropriate.

## **15 Representation**

15.1 Although not required, any party may be represented by an attorney, counsel, lawyer, advocate or any other person of their choice at the party’s own expense.

## **16 Costs**

16.1 The appeals process is free of cost to the parties. However, each party shall bear, at its own expense, all costs for communication and all costs, fees and expenses incurred in connection with any representation or assistance it chooses to obtain in accordance with Section 10.2 and this Section.

## 17 Entitlement

17.1 The Panel, Panel Members or Arbiters shall admit all evidence, including information, statements and documents presented by the parties and any other information available and shall weigh the evidence applying the Relaxed Standards of Proof (Annex B) of the Agreement, bearing in mind the circumstances of each case, the difficulties of tracing documents and information and of proving or disproving the validity of a claim after the destruction caused by the Second World War and the Holocaust and the long time that has elapsed since the insurance policies were issued. In all claims and appeals processing, it is contemplated that German companies, the Panel, Panel Member or Arbiter shall apply the same Relaxed Standards of Proof.

17.2 In accordance with the Agreement, to succeed in an appeal the claimant must establish, based on the Relaxed Standards of Proof, that it is plausible;

17.2.1 that the claim relates to a life insurance policy in force between 1 January 1920 and 8 May 1945, and issued by or belonging to a specific German company (as defined in Section 14 of the Agreement) and which has become due through death, maturity or surrender;

17.2.2 that the claimant is the person who was entitled to the proceeds of that policy upon the occurrence of the insured event, or is otherwise entitled in accordance with Section 2 (1) (d) of the Agreement and pursuant to the Succession Guidelines (Annex C); and

17.2.3 that either the policy beneficiary or the policyholder or the insured life who is named in the claim was a Holocaust victim as defined

in Section 14 of the Agreement.

17.3 Where the claimant has satisfied the burdens in Section 17.2 above, the relevant German company has a defense in accordance with the Agreement and under the same relaxed Standards of Proof and the claimant is not entitled to payment from the Foundation funds if;

17.3.1 the policy was cancelled before the insured event occurred and before the beginning of the Holocaust in the relevant country, in accordance with Section 7.5.1 of the Valuation Guidelines; or

17.3.2 the insurance policy in question was fully paid as required by the insurance contract. However, where it appears that the policy was paid or surrendered into a blocked account the provisions of Section 5 of the Valuation Guidelines shall apply; or

17.3.3 another person other than the claimant, who has submitted a claim, has a higher entitlement to the proceeds of the policy in accordance with Section 2 (1) (d) of the Agreement or the Succession Guidelines; or

17.3.4 the policy (or policies) in question are considered to have been covered by a decision of a German restitution or compensation authority in accordance with Section 2 (1) (c) of the Agreement.

## **18 Taking of Evidence**

18.1 The Panel, Panel Member or Arbiter may accept relevant oral statement where written evidence, signed statement or statutory declarations are not available or appropriate.

18.2 The Panel may hear parties or other persons as unsworn witnesses or accept affirmations.

## **19 Panel, Panel Member and Arbiter Decisions**

19.1 Based on the Valuation Guidelines (Annex D), the Panel, Panel Member or Arbiter may render an award for smaller or larger amounts than claimed, provided that no award shall be for a sum lower than any sum already offered to the claimant by the relevant German company, unless a fraudulent claim was brought.

19.2 Where it appears to the Panel, Panel Member and Arbiter that a third person may be entitled to part of the proceeds of an insurance policy claimed in the appeal, the decision shall reflect any such entitlement and the Panel may order the payment of the appropriate amount to any such third person out of the sum awarded by the Panel.

## **20 Correction of Decisions**

20.1 The Panel, Panel Member or Arbiter, may on his own initiative or upon the application of a party:

20.1.1 correct a decision to remove any clerical mistake or error or clarify or remove any ambiguity in the decision, or

20.1.2 make an additional award in respect of any claim which was presented to the Panel, Panel Member or Arbiter but which was not dealt with in the decision, or

20.1.3 correct a decision in the case another person is entitled.

20.2 The powers afforded by the preceding paragraph shall not be exercised without affording the parties affected by the decision a reasonable opportunity to make representations to the Panel, Panel Member or Arbitrator.

## **21 Interest**

21.1 The Panel may order that interest be paid on an award in the following circumstances:

21.1.1 where the claimant appeals a decision by the relevant German company which is a denial not upheld on appeal and the Panel or Panel Member or Arbitrator makes an award to the claimant.

21.1.2 where the claimant appeals a decision by the relevant German company which is an offer and the Panel, Panel Member or Arbitrator, makes an award to the claimant.

21.2 In the circumstances referred to in Sections 21.1.1 and 21.1.2 interest shall be credited from the date of the relevant German company's decision to the date of the decision of the Panel, Panel Member and Arbitrator at the rate equivalent to the interest rate referenced in the Valuation Guidelines for the year in which the decision is made.

## **22 Finality**

22.1 Save as provided in Section 20, any decision, order or award, made by the Panel, Panel Member or Arbitrator shall be final.

## **23 Settlement**

23.1 It is the duty of the parties to notify the Panel, Panel Member or Arbitrator

immediately if the claim is settled or otherwise terminated by the mutual agreement of all parties.

23.2 Upon receipt of notification of a settlement or a termination the Panel, Panel Member or Arbitrator shall terminate the proceedings and, if so requested by the parties, record the settlement or termination in the form of a consent order which shall have the same status as any other decision made by the Panel.

23.3 A consent order may only be entered if the Panel, Panel Member or Arbitrator is satisfied that the settlement reached by and between the parties does not contain oppressive provisions, or provisions which adversely affect the rights of any third person.

## **24 Publication of Panel Decisions**

24.1 The Panel shall notify the parties to the appeal as well as the GDV, the Foundation and ICHEIC of its decision in writing within 14 days of the date of the decision. ICHEIC and the Foundation will seek to arrange regular exchanges of information on a reciprocal basis about decisions taken on appeals respectively by the German Appeals Panel, the ICHEIC Appeals Tribunal, the Generali Trust Fund and the Sjoa Foundation.

## **25 Immunity**

25.1 The Panel, Panel Members or Arbitrator shall not be liable to any party for any act or omission in connection with the Panel work, except that they may be liable to a party for serious irregularity as defined in Section 14 of the Agreement and as interpreted and governed by Swiss law.

25.2 The claimant waives, by signing the Appeal Form (Annex G), all potential

malpractice claims against the Panel, Panel Member or Arbiter. However, the waiver does not extend immunity to the Panel, Panel Member or Arbiter for any serious irregularity affecting the Panel, Panel Member or Arbiter, the proceedings or the decision. In this context serious irregularity is defined in Section 14 of the Agreement.

## ANNEX F

### CONSENT AND WAIVER

I accept the offer of \_\_\_\_\_ (the Payment) from \_\_\_\_\_ (the Company) for the one or more policies described on Exhibit A attached hereto (collectively, the Policy) and agree to waive my rights on this Policy as follows:

(a) Upon the receipt of the Payment, I irrevocably waive and release any and all rights and benefits, including the right of appeal, which I might now have or ever had, up to the date of this release, relating to, or in any way connected with, any of the following:

- (i) The Policy or any claims related to it; and
- (ii) Any claims outside of the German Foundation Act against both (a) the Federal Republic of Germany, German Federal States and other German public institutions relating to slave labor, forced labor and property losses, and (b) German companies relating to all claims connected with National Socialist (Nazi) injustice.

This release and waiver specifically does not apply to other insurance policies which are not described in this document or claims for other types of compensation or restitution under the German Foundation Act (such as slave labor). Any of these additional claims must be made within the framework of the German Foundation law; provided, however, that this waiver does not apply to any claims for the return of artwork. The claimant must pursue a claim for artwork either in Germany or in the country from which the artwork was taken.

(b) Neither I, nor to the best of my knowledge, any other claimant, has received any payment related to the Policy from the Company or any German reparation or compensation organization.

(c) I attest that the information provided in support of my claim is true and made to the best of my knowledge. I am aware that false information may lead to action for the return of any payment made and further legal action.

(d) I acknowledge that if new or additional facts are subsequently discovered relative to the Policy or the subject matter of this Consent and Waiver, the release and waiver of my rights will still continue in full force and effect.

(e) In consideration of the Payment, I undertake and agree that in the event that one or more other entitled claimants make(s) a claim under the Policy, or otherwise seek(s) payment or compensation in connection therewith, I shall share the Payment with such other entitled claimant(s) on a pro rata basis, in the absence of another mutually agreed basis.

(f) I agree that in connection with the processing and checking of this claim, my data and any other data relating to the Policy will be kept in a central database.

Please sign and date this official Consent and Waiver form where indicated and have your signature confirmed or notarized by a notary public, bank, German consulate or a Jewish social service agency possessing a seal. If you are homebound, your signature may be witnessed by an attending physician.

**Signature of Claimant** \_\_\_\_\_ **Date** \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Confirmation or Notary**

Subscribed, witnessed or sworn before me on the date stated above. An identification card or passport has proven the applicant's identity.

**Signature of Witness or Notary** \_\_\_\_\_ **Date** \_\_\_\_\_

CONSENT AND WAIVER

EXHIBIT A

DESCRIPTION OF INSURANCE POLICIES

Name of Insured	Name of Policyholder	Insurance Company	Amount of Insurance Coverage
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# ANNEX G

## APPEAL FORM FOR SUBMISSION OF AN APPEAL TO THE GERMAN FOUNDATION APPEALS PANEL

Established under an Agreement made between the Foundation “Remembrance Responsibility and Future”, the International Commission on Holocaust Era Insurance Claims, and the German Insurance Association

<b>A CLAIMANT</b>	Your name
	Your claim number
	Your phone number <span style="float: right;">Fax number</span>

<b>B GERMAN INSURANCE COMPANY</b>	Company that issued the decision	Date of decision (Day/Month/Year)
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<b>C REASON FOR APPEAL OF DECISION</b>	Restate the basis for your claim and explain why you believe your claim has been wrongfully decided
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(If you need more space than provided, please attach additional paper.)

## INSTRUCTIONS TO THE CLAIMANT

To appeal the decision you have received on your claim from a German insurance company, you need to complete, sign and mail this Appeal Form within 120 days of receiving the company's decision.

You should be aware that by signing and submitting this Appeal Form:

- 1.) you provide notice that you do not agree with the German insurance company decision made on your claim;
- 2.) you acknowledge and agree that an Appeals Panel decision is final and that you waive any right to appeal such decision to any court whether on a question of law or fact;
- 3.) you acknowledge and agree that decisions, orders or awards of the Appeals Panel may be published, providing that such publication does not reveal the identity of any party; and
- 4.) you agree to be bound by the Appeal Guidelines.

To complete this Appeal Form:

- In A, please provide your name, your claim number, your phone number and a fax number, if available.
- In B, please provide the name of the German insurance company which issued the decision that you seek to appeal. Please also provide the date of the German insurance company's decision. (Again, please note that you must complete and submit this Appeal Form within 120 days of the date of the German insurance company's decision.)
- In C, please describe your claim and explain why you believe the German insurance company was wrong in its decision to deny your claim. (Add additional paper if the space provided above is not sufficient.)
- Please sign your name and date below.
- When you have completed the Appeal Form, please send it, with any additional pages you may have added in explaining the basis of your appeal, or any additional material not previously sent with your claim, to:

Attention—The German Foundation Appeals Panel  
[TNT, 000/00000/000  
Int Antwoordnummer,  
C.C.R.I. Numero 5120  
3000 VB Rotterdam,  
Pays-Bas, NEDERLAND.]

<b>CLAIMANT's</b> Please sign here	Date (Day/Month/Year)
<b>SIGNATURE</b>	

## **ANNEX H**

### **Agreement by the German Insurance Association, ICHEIC, and the Foundation Regarding the Publication of a Holocaust-related List of Possible Policyholders**

The German Insurance Association (GDV), on behalf of the participating German insurance companies, the Foundation and ICHEIC agree to work together with a view to publishing as comprehensive a list as possible of holders of insurance policies issued by German companies who may have been Holocaust victims. To this end, they agree as follows:

#### **I. Comprehensive database of Jewish residents who lived in Germany between 1933 and 1945**

1. The Foundation commits itself to generate as comprehensive as possible an electronic database of Jewish residents in Germany in the period of January 1, 1933 to May 30, 1945 within approximately 3 months after the signing of this agreement. As a starting point, the Foundation will use a list of Jews living in Germany compiled by the Federal Archives (Bundesarchiv). This list was extracted from a national census in 1939. The Foundation commits itself to supplement this list with names from Memorial Books, emigration and deportation lists and other registers of German Holocaust victims. A list of the archive sources to be searched has been agreed and will be evaluated by the team of experts appointed by the Bundesarchiv and ICHEIC (the advisory group). This list is attached as Exhibit 1. If further archive sources likely to yield significant numbers of additional names, which can be searched within the approximately 3-month period at a reasonable cost, become known to and approved by the advisory group, the Foundation will add them to the list.

2. The Foundation will entrust the Bundesarchiv as the competent German agency to compile the electronic database of Jewish residents in Germany in the period of January 1, 1933 to May 30, 1945. The advisory group, in accordance with the written recommendations of the experts at a meeting in Berlin on May 6-7, 2002 (the “Berlin Meeting”), will guide the work of the Bundesarchiv on the archive sources to be researched at the outset of the project and will regularly be informed and consulted by the Foundation and ICHEIC on the work as it progresses.
3. The database of Jewish residents in Germany produced from the research of the archives in Exhibit 1 will be screened electronically to remove any duplicate names.<sup>1</sup> Care will be taken in identifying duplicate names to ensure that duplicates are only removed when it is sufficiently certain the same person is referred to. The advisory group will advise and assist the Bundesarchiv in this task.
4. It is expected that the list of Jewish residents in Germany will usually contain family name, first name and the complete date of birth. Where available from the archival sources, additional information such as maiden name, place of birth, place of residence, and occupation will be incorporated into the list.
5. The Foundation will recommend to the Government of the Federal Republic of Germany that copies of the list of Jewish residents in Germany should be made available as soon as possible subsequent to the matching exercise to Yad Vashem in Jerusalem, the US Holocaust Memorial Museum in Washington, the Jüdisches Museum in Berlin and

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<sup>1</sup> In carrying out this screening, regard will be given to the written recommendations of the experts given in the Berlin Meeting.

the Conference on Jewish Material Claims Against Germany on the basis of agreements between the respective parties.

## **II. List of policyholders of German insurance companies**

1. All German insurance companies with existing electronic databases, both those companies which did not sign the ICHEIC MOU (non-MOU companies) and those companies which signed the ICHEIC MOU will provide out of their German portfolio a consolidated list with available electronically existing information regarding policyholders from the era between 1920 and 1945, independent of whether the policies were paid or unpaid, compensated or uncompensated.
2. The policyholder list will not contain any reference to a specific insurance company. Wherever available, it will comprise companies' electronic databases with the three criteria of family name, first name and the complete date of birth. It will also comprise companies' electronic databases containing only the family name, first name and either no date of birth or an incomplete date of birth.
3. Provisions will be made for the publication of a consolidated list of any policies issued by a German insurance company outside of Germany, where the information is available.

## **III. List of Jewish policyholders in Germany derived from the 1938 asset declarations**

The Foundation commits itself to generate an additional list of Jewish policyholders residing in Germany (mainly using 1938 asset declarations) to complement those already discovered through the ICHEIC archive research

program. The Foundation will use its best efforts to supplement the 1938 asset declarations through research of other appropriate archives and records. Exhibit 2 sets out the additional archives which are intended to be searched for this purpose. The advisory group will recommend priorities for this effort.

#### **IV. Matching of the company policyholder list with the comprehensive list of Jewish residents who lived in Germany between 1933 to 1945**

The Foundation will appoint a competent expert group to carry out the matching of the company policyholder list with the list of Jewish residents in Germany. The matching process will be conducted in Germany and will be monitored by the advisory group. The matching process should be done on the basis of three criteria: family name, first name, and date of birth where these are contained in both lists. If there is no complete date of birth available in one or other or both of the two lists, the matching will be done on the basis of a match between the family names and the first names in the two lists. The matching process will be carried out following the written recommendations of the experts in the Berlin Meeting.

#### **V. Matching with ICHEIC Claims Database**

A procedure to match the ICHEIC database of submitted claims with the companies' policyholders list, while protecting the confidentiality of the companies' list, has been agreed as provided in Exhibit 3.

#### **VI. Publication of List of Policyholders in Germany**

1. The list to be published will have three components:
  - (a) the match of the companies' policyholders list and the list of Jewish residents in Germany,
  - (b) the list of Jewish policyholders described in III above, and

(c) the match of the companies' policyholders list and the list of Righteous Gentiles compiled by Yad Vashem.

One single comprehensive list to be published would be advisable. The list to be published will only contain the family name, the first name of the Holocaust victims, and year of birth and will not contain any statement regarding the actual status of the policy, i.e., whether the policy was paid or unpaid, compensated or uncompensated.

2. The list to be published will be made available on the ICHEIC website, with the warning appearing on the ICHEIC website, as set out in Exhibit 4.

## **VII. Claims Handling**

The lists, as published on the ICHEIC website, are to be used to assist potential claimants. The data on this list will be in an electronic format. All actual claims will be researched by the companies using all of their records, whether or not the names are in an electronic format.

## Annex H

### Exhibit 1

#### Sources for a list of names of Jewish citizens of the German Reich under the Nazi rule (1933 – 1945) discussed at the Berlin-Meeting on May 6-7, 2002

##### I) Part One

##### Archives and other sources suggested by ICHEIC:

Yaacov Lozowick, Yad Vas hem (1)

Hadassah Assouline, Central Archives (2)

Yoram Mayorek (3)

Lawrence Weinbaum (4)

<b>Name of archive</b>	<b>content</b>
BEG (Bundesentschädigungsgesetz) (1)	
Israel Ministry of the Interior – Population Registry (1)	Capability of creating a databank with names of everyone who was born in Germany before a certain date and who immigrated to Israel
OFD West Berlin (resides in Potsdam) (1)	Files on property of Jewish families – 40,000 files (38,000 already digitized by Yad Vashem). Remaining 2,000 could be computerized
OFD East Berlin (resides in Potsdam) (1)	Property – between 12,000 and 20,000 files. Could create databank
OFD Staatsarchiv Hamburg (1)	Property – 11,000 files. Copies at Yad Vashem. Could create databank
Gesamtverzeichnis der Ausbürgerungslisten, 1933-1938 (1)	List of people (mostly Jews) whose German citizenship was revoked, 10,000 names. Yad Vashem owns a copy. Could create databank
I 56-Archives of the Central British Fund for World Jewish Relief 1933-1960 (1)	20,000 names of emigrants. Yad Vashem owns a copy. Could create databank
Archival collection from lawyers whose clients were restitution seeking former German Jews	1,000 – 2,000 files. Could create databank.
OFD Staatsarchiv München (1)	11,500 files. „Steuerakten der ehemals rassisch Verfolgten“. Could probably be computerized quickly.
Hessisches Hauptstaatsarchiv (1)	36-38,000 files “Landesamt für Vermögenskontrolle und Wiedergutmachung in Hessen“. Could probably be computerized quickly.

<b>Name of archive</b>	<b>content</b>
OFD Landesarchiv Magdeburg (1)	At least 3,600 files. "Oberfinanzdirektion Mitteldeutschland". Could probably be computerized quickly.
OFP Hannover, Niedersächsisches Hauptstaatsarchiv (1)	6,600 files. Could probably be computerized quickly.
OFD Westfalen, Staatsarchiv Münster (1)	2,000 files. Could probably be computerized quickly.
OFD Leipzig(1)	At least 1,400 files. Could probably be computerized quickly.
YIVO New York. RG-247 National Coordinating Committee for Aid to Refugees coming from Germany (1)	Names of German emigrants. Could be computerized.
YIVO New York. RG-245.4 HIAS and HICEM Main offices, New York (1)	Could be computerized
YIVO New York. RG-245.5 HICEM Main Office in Europe (1)	Could be computerized
YIVO New York. RG-248 National Refugee Service 1938-1946 (1)	69 reels. Could be computerized
YIVO New York. RG 447 Carl Schurz Foundation-Oberlaender Trust Fund (1)	6 reels. Could be computerized.
American Joint Distribution Committee, New York (AJDC). Emigration Germany. File 658: Register of names of emigrants 1933-1938. (1)	Could be computerized
AJDC, New York, Emigration Germany, Files 674-676 HICEM (1)	Could be computerized
AJDC, New York. Emigration Germany. Files 683-688: Refugees -United States (1)	Could be computerized
Central Archives for the History of the Jewish People, Jerusalem. Centralverein deutsche Buerger juedischen Glaubens (2)	Lists of members
Central Archives, Jerusalem. Jewish marriage records from Germany (2)	
Central Archives, Jerusalem. Danzig community files (2)	Lists of taxpayers from 1929-1937

Central Archives, Jerusalem. Papers from Erwin Lichtenstein, Tel Aviv reparations lawyer (2)	1400 files of former Danzig residents
Central Archives, Jerusalem. Hamburg Jewish community papers (2)	3 files containing genealogical and tax lists for years 1922-1938.
Central Archives, Jerusalem. Darmstadt Jewish community papers (2)	Community membership and tax lists for years 1936-1940
Central Archives, Jerusalem. HIAS – papers of Far Eastern Jewish Central Information Bureau, Shanghai (2)	1000 pages of lists of refugees in Shanghai in 1943 and 1945
Israel State Archives, Jerusalem. Record group 11. Palestine Government Migration Dept. (3)	508 boxes of naturalization cases
Israel State Archives, Jerusalem. Record group 73, Ministry of the Interior, Population registration. (3)	Population census of November 1948 and personal files of deceased Israeli citizens, 1948-1980.
Central Zionist Archives, Jerusalem. Record group SP6 (3)	Personal Files of prospective immigrants
Central Zionist Archives, Jerusalem. Record group S6 (3)	Immigration Dept. of the Jewish Agency: various lists of immigrants
Central Zionist Archives, Jerusalem. Record group S7. Central Bureau for the Settlement of German Jews in Palestine (3)	Various lists of German-Jewish immigrants
Central Zionist Archives, Jerusalem. Record group S75. Youth Aliyah Department (3)	Card index of the pupils
National Archives, Washington D.C. Record group 265. The Office of Foreign Assets Control (3)	Return of the 1943 census of foreign assets owned by US residents.
London Metropolitan Archives. Archives of the Jewish Temporary Shelter (3)	
Jewish Refugees committee, London (3)	Personal files of Jewish refugees in Great Britain
Association of Immigrants from Central Europe, Israel (4)	Records of German Jews who joined organization in 1930's

## II Part Two

### Archives and other sources suggested by the Bundesarchiv (Federal Archives of the Federal Republic of Germany)

Sources, data base	Repository	Estim. number of names
Census data base 1939 (without Austria)	Bundesarchiv (Remarks: Rhine province (acc. to statistical information 33.779) and Thuringian (2.758) data not preserved)	276.205
Basic data for the first edition of the Memorial Book 1986	International Tracing Service, Bundesarchiv (Remarks: Includes the time before 1939, but does not contain information on the territory of the former GDR)	495.220
Memorial Book 1986	Bundesarchiv (Remarks: Includes the FRG before German unity, East and West Berlin)	128.136
Jewish inhabitants of Thuringia	Bildungsring Geschichte Erfurt e.V., Prof. Wolf	4.000
Jewish inhabitants of Berlin	Foundation "Neue Synagoge Berlin-Centrum Judaicum"	179.854
Memorial Book Riga	Volksbund für Kriegsgräberfürsorge and Foundation "Neue Synagoge Berlin-Centrum Judaicum" (Remarks: Deportation to Riga)	31.770
Memorial Book Theresienstadt	Terezinska Indiciativa (Remarks: Deportation to Theresienstadt)	42.124
Emigrants to France 1933-1939	Published by Julia Franke, Berlin 2000	1.369
List of emigrants to Shanghai	Published by Armbrüster et al (Remarks: States only the age of the person in 1944)	7.800
Jews from Hamburg	Staatsarchiv Hamburg (Remarks: Information from Facts & Files)	10.000/2.000
Survivor Registry and other sources	U.S. Holocaust Memorial Museum (Remarks: Information from Facts & Files)	2.000
ICHEIC Research database, German entries	ICHEIC/Facts & Files (Remarks: Information from Facts & Files)	8.000/1.000
Databases for Memorial Books of German cities (Leipzig, Cologne)	Various Institutions (Remarks: Information needed most urgently for the territory of the former GDR)	
<b>Total</b>		<b>1.186.478/1.171.478</b>

General Remarks:

All databases which contain information in particular on life insurance policies of victims of the Holocaust in German archives are not included in this list, since for methodical accuracy the list of names and the research into information on life insurance policies should be prepared in two procedures. Insofar the Federal Archives agrees to the proposal of Facts & Files in principle.

All figures cannot be more than just rough estimates, since a major amount of names of the same person is contained in more than one record group or database. Attention is drawn to the publication of Heinz Boberach, *Die Zahl der jüdischen Opfer des Nationalsozialismus aus dem Deutschen Reich*. In: *Beiträge zur rheinischen Landesgeschichte und zur Zeitgeschichte*, Koblenz 2001.

From the viewpoint of the Federal Archives special care should be taken of the Rhine province, this means information from the Central State Archives in Düsseldorf and Koblenz. Prof. Jersch-Wenzel will report on the situation in Polish archives insofar the former German territories east of the Oder and Neisse rivers are concerned.

If there is time for additional research we should follow the sound philosophy to consult library materials first (in particular the books available in the special library *Germania Judaica* administered by the University Library of Cologne) and t h e n consult further archives at the regional and local levels.

## Annex H

### Exhibit 2

#### Archives to be searched to supplement the list of Jewish policy holders

Federal State	Archive	Location	Response		Name of collection and more detailed description	Relevant	Quantity	Approx. no. of files
Baden-Württemberg	Staatsarchiv Freiburg	Freiburg	Have files relating to asset control and compensation	These contain some tax files, all are accessible	Regional Revenue Office, Freiburg	x	145 m	4,500
Baden-Württemberg	General-landesarchiv Karlsruhe	Karlsruhe	Have tax files		Tax offices have approx. 200 m of files Regional Office for Compensation has approx. 460 m of files	x	660 m	3,000
Baden-Württemberg	Staatsarchiv Ludwigsburg	Ludwigsburg	Regional Revenue Office, Stuttgart		Regional Revenue Office, Stuttgart	x	100 m	3,000
Baden-Württemberg	Staatsarchiv Sigmaringen	Sigmaringen	Have tax office files		Wü 126/2 (tax office, Biberach) T 1 Wü 126/7 (tax office, Horb) T 1	x		543
Bavaria	Staatsarchiv Amberg	Amberg	1,209 tax files of people who were persecuted on grounds of race		Tax files of people who were persecuted on grounds of race are held by the tax offices in Amberg, Cham, Neumarkt, Neunburg v. Wald, Regensburg, Schwandorf, Waldsassen, Weiden	x	1,209 files	1,209
Bavaria	Staatsarchiv Bamberg	Bamberg	Have asset control files from the Bavarian Regional Office for Property Administration and Compensation, 2,128 files. Tax files of 1,300 people who were persecuted on grounds of race from the Regional Revenue Office in Ansbach	Tax files are held in Coburg, property control files in Bamberg	Tax files of people who were persecuted on grounds of race in the regions of the tax offices in Bamberg, Bayreuth, Forchheim, Hof, Kulmbach, Lichtenfels, Wunsiedel	x	1,300 files	1,300
Bavaria	Staatsarchiv Coburg	Coburg	32 tax files of people who were persecuted on grounds of race	Tax files of the Staatsarchiv Bamberg are kept in Coburg		x	32 files	32
Bavaria	Staatsarchiv Landshut	Landshut	24 tax files have survived	Are kept in a depot elsewhere	Tax files kept by Lower Bavarian tax offices relating to people who were persecuted or expelled by the Nazis	x	24 files	24
Bavaria	OFD Nuremberg	Nuremberg	Property Sales Unit files		8,000 files of the Property Sales Unit are held at the Regional Revenue Office in Munich	x	8,000 files	8,000
Bavaria	Staatsarchiv Würzburg	Würzburg	Have forwarded tax files of people who were persecuted on grounds of race to Würzburg via the District Revenue Office in Ansbach and the Staatsarchiv in Nuremberg		Tax offices in Amorbach, Aschaffenburg, Bad Kissingen, Ebern, Gerolzhofen, Hammelburg, Hofheim i. Ufr., Kitzingen, Klingenberg, Lohr a.M., Marktheidenfeld, Schweinfurt and Bad Brückenau	x	600 files	600
Berlin	Landesarchiv Berlin	Berlin	Have confiscation files		Tax office Moabit-West	x	5,000 files	5,000
Brandenburg	Brandenburgisches Landesarchiv	Potsdam	No reply		40,000 files of the Property Sales Unit and Foreign Currency Office, 8 m of tax files	x	20,000 files	20,000

Federal State	Archive	Place	Response	Name of collection and more detailed description	Relevant	Quantity	Approx. no. of files	
Hamburg	Staatsarchiv der Freien und Hansestadt Hamburg	Hamburg	Tax office files with the "atonement" payment and punitive tax on Jews clearly indicated	Files on "atonement" payment by Jews, punitive tax on Jews, files on individual cases relating to the "Reichsfluchtsteuer"	313-4 I tax administration I, 313-8 Regional tax office department I, 313-9 tax offices	x	36 files	36
Hesse	Hessisches Staatsarchiv Marburg	Marburg	Unrecorded income tax files, mainly of Jewish citizens, unrecorded files on real estate transactions and the punitive tax on Jews	Are stored in Wiesbaden	Tax offices in Eschwege, Korbach	x	2.5 m	200
Hesse	Hessisches Hauptstaatsarchiv, Wiesbaden	Wiesbaden	Tax office files with "atonement" payment and punitive tax on Jews clearly indicated		Land Property Control and Compensation Office in Hesse, tax office files, department 519/F Tax office Wiesbaden I Tax office Frankfurt-Stiftstrasse Tax office Frankfurt-Taunustor	x	14 m 880 files 3,000 files 306 files	9,000
Hesse	Hessisches Staatsarchiv Darmstadt	Darmstadt	Have tax office files		Tax offices in Alsfeld, Bensheim-Heppenheim, Darmstadt, Friedberg, Fürth i. O., Giessen, Gross-Gerau, Lauterbach, Michelstadt, Offenbach a.M., Seligenstadt	x	8 m	500
Lower Saxony	Niedersächsisches Staatsarchiv in Aurich	Aurich	Have tax office files	Reference to compensation records		x	39.90 m, with some unexplained sets of data	2,500
Lower Saxony	Niedersächsisches Staatsarchiv in Bückeburg	Bückeburg	48 tax office files	Reference to special inventory on the history of the Jews in Schaumburg	Files from the collection of the tax office in Rinteln (H44) on the punitive tax on Jews, also files on the administration of confiscated assets, forced sales, "Reichsfluchtsteuer", restitution claims and compensation	x	48 files	48
Lower Saxony	Niedersächsisches Hauptstaatsarchiv in Hannover	Hanover	Have foreign currency files and Property Sales Unit files	Are mouldy, ask the Regional Revenue Office in Münster again whether they have any other files	Chief Regional Finance Officer of Hanover, Foreign Currency Office, emigration files (approx. 3,000 files), Regional Revenue Office of Weser-Ems, Property Sales Unit (files covering approx. 12,000 individual cases)	x	15,000 files	15,000
Lower Saxony	Niedersächsisches Hauptstaatsarchiv in Hannover	Oldenburg	Tax office records only date back to 1950	Claims for the return of Jewish property available, 4 files on confiscated property	Very small number of individual files, Jewish businesses, claims for the return of Jewish property, confiscated assets, files on the whereabouts of Jewish property in Dalmenhorst, Oldenburg and Wilhelmshaven	x	approx. 50 files	50
Lower Saxony	Niedersächsisches Staatsarchiv in Osnabrück	Osnabrück	Have tax office files	Referred to Staatsarchiv Oldenburg research project to collate all sources of Jewish history in the Weser-Ems region	Restitution. Tax office, Lingen. List of assets of 14 people, land sales, forced auctions	x		50

Federal State	Archive	Location	Response	Name of collection and more detailed description	Relevant	Quantity	Approx. no. of files	
North-Rhine/Westphalia	Nordrhein-Westfälisches Staatsarchiv Detmold and Nordrhein-Westfälisches Personensstandsarchiv Westfalen-Lippe	Detmold	Have tax office files	Punitive tax on Jews and "Reichsfluchtsteuer"	Files available – D 26 – tax offices from 1888 to 1984, 770 boxes = approx. 6,600 archive volumes from 1888 to 1984. Reference book D26 and accession book. Files on administrative office and personnel administration, income tax, turnover tax, business tax, corporation tax, capital transfer tax, emergency aid, wealth tax, tax on land acquisition, "Reichsfluchtsteuer", punitive tax on Jews and property lists from the tax offices in Bielefeld-Innenstadt, Bielefeld-Aussenstadt, Bünde, Detmold, Herford, Höxter, Lemgo, Lübbecke, Minden, Paderborn, Warburg and Wiedenbrück	x		3,000
North-Rhine/Westphalia	Nordrhein-Westfälisches Hauptstaatsarchiv Düsseldorf	Düsseldorf	Tax files available	Punitive tax on Jews and "Reichsfluchtsteuer", foreign currency files	Tax offices have 1,000 files; in particular, the tax office in Cologne Altstadt has files from the regional revenue office in Düsseldorf on "Reichsflucht" and currency control	x		1,500
North-Rhine/Westphalia	Nordrhein-Westfälisches Staatsarchiv Münster	Münster	Tax files available	Files on punitive tax on Jews and "Reichsfluchtsteuer"	Tax offices from 1936-1980. Have been organised at district level since 1919, with a subordinate authority of the Reich tax revenue responsible for collecting property and transport tax. Approx. 15,000 files (approx. 1,200 boxes), unregistered (B 155). Files not accessible for use. Tax matters concerning the following tax offices: Ahaus, Altena, Arnsberg, Bochum-Mitte, Bochum-Süd, Borken, Bottrop, Brilon, Coesfeld, Dortmund-Hoerde, Dortmund-Ost, Dortmund-Unna, Dortmund-West, Gelsenkirchen-Nord, Gelsenkirchen-Süd, Gladbeck, Hagen, Hamm, Herne-Ost, Herne-West, Ibbenbüren, Iselohn, Lippstadt, Lüdenscheid, Lüdinghausen, Marl, Meschede, Münster-Innenstadt, Münster-Aussenstadt, Olpe, Recklinghausen, Schwelm, Siegen, Soest, Steinfurt, Wanne-Eickel, Witten; files on punitive tax on Jews from Ahaus tax office (reference book B 155)	x	1,000 files	1,000

Federal State	Archive	Location	Response	Name of collection and more detailed description	Relevant	Quantity	Approx. no. of files	
North-Rhine/Westphalia	Vermögensabteilung der Oberfinanzdirektion Köln, Aussenstelle Münster	Münster	Referred to by the Staatsarchiv Münster	"Reichsfluchtsteuer" and foreign currency files	Foreign currency unit and "Reichsfluchtsteuer"	x	90 m	1,800
Rhineland-Palatinate	Landeshauptarchiv Koblenz	Koblenz	Tax files available	Punitive tax on Jews and "Reichsfluchtsteuer"	1,946 files on confiscation and restitution, mainly concerning real estate; various other relevant file collections – see publication of the Regional Archive Department	x	2,000 files	2,000
Rhineland-Palatinate	Landesarchiv Speyer	Speyer	Tax files available	Punitive tax on Jews and "Reichsfluchtsteuer"	Return of Jewish property, punitive tax on Jews, files on individual cases, files on general tax assessment, enforcement files to secure claims by the tax administration on individual Jewish firms and private individuals	x	1,000 files	1,000
Saxony	Sächsisches Hauptstaatsarchiv	Dresden		Punitive tax on Jews and "Reichsfluchtsteuer"	Some files are to be forwarded to Chemnitz	x		30
Saxony	Sächsisches Staatsarchiv Leipzig	Leipzig		Punitive tax on Jews and "Reichsfluchtsteuer"	Tax office Grimma	x	5 m	
Schleswig-Holstein	Landesarchiv Schleswig-Holstein	Schleswig	Have foreign currency files and some tax files	Foreign Currency Office at the Regional Revenue Office in Nordmark	Only some tax files dating back to before 1945 are available, files may be used to obtain information about individuals or individual firms; information may also be obtained through the tax office	x		1,000
Thuringia	Thüringisches Staatsarchiv Gotha	Gotha	Have forwarded the tax files of people who were persecuted on grounds of race to Würzburg via the District Revenue Office in Ansbach and the Staatsarchiv in Nuremberg	Punitive tax on Jews and "Reichsfluchtsteuer"	Files at the tax office in Eisenach and Nordhausen, Schleusingen	x	3 m	60
Thuringia	Thüringisches Staatsarchiv Rudolstadt	Rudolstadt	Have tax office files		Electronic search assistance, tax files of the tax offices in Rudolstadt, Arnstadt and Saalfeld, no details as to whether these relate to Jewish property; it is only possible to make a targeted search for individuals and firms	x		50

## **ANNEX H EXHIBIT 3**

### **MATCHING**

#### Principles of the ICHEIC – GDV Agreement

The matching process is undertaken to achieve our common goal of paying valid claims – and in particular to provide a process that assists in overcoming the obstacles in identifying and paying claims.

1. Named and unnamed company claims in the ICHEIC claimant database relating to policies likely to have been issued by German companies will be matched under the ICHEIC matching process against the comprehensive electronic list of insurance policies compiled by the BAFin, pursuant to Annex H of the Agreement among ICHEIC, the German Foundation and the GDV.
2. The confidentiality of the list of German companies' holocaust era insurance policies will be protected respecting all data protection regulations. The matches found will be used in the claims process, as described below.
3. All matches, as defined by the matching process, will be categorized into MT0 – MT10 by ICHEIC.
4. All matches in categories MT0 – MT5 and MT7 will be reviewed by ICHEIC and divided into four categories: exact match, high probability match, possible match and no match.
5. ICHEIC will send exact matches under MT0 to the companies as part of the agreed claims handling process.
6. ICHEIC will send matches in categories MT1 – MT5 and MT7 that have been confirmed as high probability matches to the companies as part of the agreed claims handling process.
7. Where the ICHEIC matching process identifies more than one match for a specific policy, ICHEIC will send only the best of these matches to the company concerned, other than in exceptional circumstances (eg, two claimants who are members of the same family).
8. Unless they can provide evidence that shows the match is invalid, the companies will treat exact matches in paragraph 5 as meeting the Relaxed Standards of Proof so far as the existence of a policy issued to the policyholder named by the claimant is concerned.
9. Matches in paragraph 6 above will be taken by the companies as providing strong evidence that the policyholder named by the claimant owned the policy in the match. If a company rejects the match, this fact and the reasons for the rejection will be disclosed to the claimant in the denial letter.

10. Once a match is found, the procedures for named company claims, including appeals, will apply.
11. Possible matches will be examined by ICHEIC to determine the feasibility of resolving if any are high probability matches if such examination is determined to be useful considering time, effort and cost.
12. In the event of a match as set out above, the company is entitled to reject the claim where it can show that the policy was paid or compensated in accordance with the provisions of the Agreement between ICHEIC, the Foundation and the GDV.
13. The total number of matches to be sent to the companies under this process is not expected to exceed the total number of relevant claims received by ICHEIC and likely to have been issued by German companies.
14. ICHEIC will be responsible for the costs of performing the matching, prior to sending the matched policies to the companies.
15. The ICHEIC matching process will be performed in an efficient and cost effective manner and, if necessary, in Germany.

## ANNEX H

### Exhibit 4

#### IMPORTANT INFORMATION ABOUT THE LISTS

The International Commission on Holocaust Era Insurance Claims (ICHEIC) has compiled the following lists of names from several different sources, including but not limited to names received from insurance company members of ICHEIC, the Dutch SJOA Foundation and German insurance companies not belonging to ICHEIC and from various public archives. The names provided by German companies result from a collaborative effort between ICHEIC, the German Foundation "Remembrance, Responsibility and the Future" and the German companies.

The names on the published lists are those of people who had or may have had a life insurance policy of any kind (including education, dowry, endowment or pension/annuity policies) during the relevant period (1920-1945) and who are thought likely to have suffered any form of racial, religious or political persecution during the Holocaust.

**The fact that a name appears on the published list is not a guarantee that the individual named or his or her heirs or beneficiaries are entitled to payment.** This is for several reasons. For example, investigation and/or research of the claim might reveal that the claim has been settled, that it was paid by the insurer to beneficiaries or to the insured, that loans were taken out against the policy, that the insurance contract did not materialize or lapsed afterwards for reasons unconnected with the Holocaust, or that the claim was compensated or settled through post-war government restitution programs, in particular those of the Federal Republic of Germany.

By the same token, because the surviving records are incomplete, these lists are unlikely to include all the names of Holocaust victims who had insurance policies during the relevant period. People should not be discouraged from filing claims simply because their name or the names of family members do not appear on any published lists. Anyone who believes he or she has a valid life, education or dowry policy is encouraged to present the claim to ICHEIC.

ICHEIC is continuing its international efforts to locate and review sources of information from which lists can be compiled. This site should be re-checked periodically, since ICHEIC will publish these lists via the Internet as they become available.

## ANNEX I

### AUDIT OF GERMAN NON-MOU INSURANCE COMPANIES

1. The Bundesanstalt für Finanzdienstleistungsaufsicht (the BAFin) and the International Commission on Holocaust Era Insurance Claims (ICHEIC) have discussed the arrangements for auditing certain German insurance companies (not belonging to ICHEIC) as a part of the overall agreement among the German Foundation, ICHEIC and the GDV (the “Agreement”) and have reached the understandings, set out in the rest of this Annex, on the following issues:

- companies to be audited;
- objectives and methodology of the audits;
- certification and reports by the BAFin;
- the role of the observer(s) appointed by ICHEIC to be members of the BAFin audit teams;
- a procedure for resolving any disagreements between the BAFin and the ICHEIC observer(s).

(a) **Companies to be audited**

2. The agreed objective is to audit those companies which are most likely to receive a significant number of “named company claims” from ICHEIC. Exhibit 1 contains a list of 8 non-MOU German companies which meet this criterion. ICHEIC and the BAFin will agree on the names of two more companies to be added to this list. The BAFin and ICHEIC will consult with each other if it appears for any reason that any changes should be made to this list.

(b) **Objectives and Methodology of the Audits**

3. The BAFin will conduct its audit on the basis of the standards set out in Exhibit 2 in accordance with the provisions of, and under the powers given to it by, Sections 81 and 83 of the German Insurance Regulatory Law.
4. The BAFin will make a written assessment, giving its opinion on whether the companies satisfactorily meet each of the agreed standards set out in paragraphs 1 – 5 of Exhibit 2 in investigating all claims sent to them in accordance with the provisions of the Agreement.
5. For the purpose of making its assessments in relation to Exhibit 2 the BAFin will make full use of the information about the companies' archives and records which it acquired from the enquiries and on-the-spot investigations it carried out in 1998 and 1999, though any changes in or additions to the archives and records which had occurred subsequently will be checked by the BAFin. The BAFin will supplement the enquiries made by it in 1998 and 1999 by further audits of how each company actually investigated claims in order to enable it to determine whether the standards in paragraphs 1 to 5 of Exhibit 2 have been met. The BAFin intends to conduct these audits by examining a statistically valid sample of both named company and unnamed company claims once 15% of such claims sent to it by ICHEIC through the GDV have been processed by each company.

(c) **Certification and Reports by the BAFin**

6. Subject to the results of the audit being agreed to be satisfactory by both the BAFin and the ICHEIC observer(s), the BAFin will provide ICHEIC with a certificate ("Testat") for each of the companies audited, stating that the named company complies with each of the agreed standards described in the five

paragraphs set out in Exhibit 2. This certificate would be in the form of an assurance that:

“Following its investigations the BAFin has determined that [name of company] is, in all material respects, in compliance with the standards ...”

7. If the BAFin finds that a company is not compliant in some material respect with one or more of the agreed standards in Exhibit 2 the BAFin will require the company immediately to remedy the defect(s) before issuing an opinion. If the BAFin and the ICHEIC observer(s) disagree as to whether a company is compliant, the procedure set out in paragraphs 11 to 23 below will apply.
8. In addition to the opinion the BAFin will supply ICHEIC with one anonymised report setting out what each company has done to comply with the agreed standards of Exhibit 2. Should the ICHEIC observer(s) have reasoned doubts, the BAFin will in good faith try to resolve the disagreement concerning the report before submitting it. This report will not, however, identify the companies concerned by name, if it contains information which was subject to the confidentiality requirements of Section 84 of the German Insurance Regulatory Law. The report will be made available to ICHEIC in both German and English.

**(d) Role of the ICHEIC Observer(s)**

9. ICHEIC has the right to choose and propose one - or if desired up to two - suitably qualified observer(s) to be included by the BAFin in any of the above-mentioned audits of the BAFin. The observer(s) must affirm to the President of the BAFin that they will maintain confidentiality according to Section 84 of the German Insurance Regulatory Law pertaining to the procedures in this agreement.
10. The observer(s) will:

- participate actively and fully throughout the audit. In particular, they will be able to put whatever questions they want to the insurance companies and to the BAFin and to contribute their views to the assessments of the companies' compliance with the standards;
- like all other members of the BAFin audit team, be provided with all information obtained in Holocaust-related enquiries carried out by the BAFin in 1998 and 1999 and needed for the preparation of the auditing of the company in question;
- participate in the preparation of the initial BAFin-questionnaire sent to a company in advance of an on-site investigation visit and in the formulation of the additional work to be done by the audit team, taking into account the results of the BAFin's earlier investigations.
- participate in the preparation of the reports and opinions referred to in paragraphs 4 to 8 above. In particular they will contribute to answering the question whether the insurer is appropriately processing the claims with the legitimate interests of the victim in mind and is in compliance with the agreed standards, set out in Exhibit 2.

(e) **Procedure for Resolving Disagreements Between the BAFin and an ICHEIC Observer**

11. In the event that there is a disagreement between the ICHEIC observer(s) and the BAFin either regarding the adequacy of the audit procedures or on whether the company concerned complies with the agreed standards relevant for the claims processing, the ICHEIC observer(s) shall, in good time before the completion of the audit, set out in writing to the leader of the audit team the reasons for the disagreement and any proposals for resolving it. The ICHEIC observer(s) and the BAFin shall endeavour in good faith to resolve any such disagreement. If the

disagreement cannot be resolved the ICHEIC observer(s) may appeal to the Appeal Panel (Panel).

12. The ICHEIC observer(s) shall, within four weeks after they and the BAFin have determined that they are unable to resolve the disagreement, notify the Panel in writing of his (their) intention to submit the disagreement to the Panel for resolution. The ICHEIC observer(s) shall then within a further four weeks from the date of the initial notification, file a written statement to the Panel, giving a full explanation of the facts and reasons which lead him (them) to consider that the company concerned may not be in compliance with the agreed standards. The Panel may on a reasoned request of the observer(s) allow a short extension of the four week deadline.
13. The Panel shall consider all appeals filed within the four week filing period (paragraph 12 above); the Panel may reject an appeal if it was not timely filed. The Panel and all other participants involved in this procedure shall strictly protect the confidentiality of all documents or other information received by them in connection with the appeal.
14. Copies of the observer's written statement shall be sent to the BAFin and the company concerned. The Panel shall invite the BAFin and the company concerned to file a written response to the observer's written statement within a period of four weeks.
15. The Panel shall provide the written statements of the ICHEIC observer(s) and of the company and of the BAFin to the Chairman of ICHEIC and to not more than 8 other ICHEIC representatives named by the Chairman and to a designated member of the board of the Foundation and shall invite them to present their views on each appeal.
16. To protect the confidentiality of the information in these documents the Panel shall require that:

- the recipients of the documents each sign a confidentiality undertaking;
  - the documents (which shall be numbered) shall only be read in secure circumstances and that no copies shall be taken;
  - the documents shall all be returned to the Panel on completion of the appeal procedure in each case.
17. The Panel shall review each appeal, based on ICHEIC's observer's report and on any responses received from the company and the BAFin and taking into account the views presented by the Chairman of ICHEIC and the member of the Board of the Foundation. The Panel may reject or accept the appeal in whole or in part, setting forth its reasoned decision in writing.
18. The Panel shall determine whether the auditing standards set out in Exhibit 2 have been complied with. If the Panel determines that additional documents, evidence or information is needed in order to properly evaluate if the agreed auditing standards were met, it may request such documents, evidence or information.
19. If a company fails to provide requested existing documents, evidence or information, the Panel may, after taking all relevant facts into account, render a decision as it seems just and fair in the circumstances.
20. If the Panel, when determining an appeal, has a substantial basis for believing that the company concerned has not complied with the agreed auditing standards, it shall notify the company concerned of its decision and of the measures it considers necessary to remedy the non-compliance. The company shall implement the measures considered necessary by the Panel as quickly as possible, informing the Panel, the BAFin, the Foundation, the Chairman of ICHEIC and the appellant observer(s) that it is doing so. The company shall inform the Panel, the BAFin, the Foundation, the Chairman of ICHEIC and the appellant observer(s) when the measures have been fully implemented.

21. The Panel shall also state whether it considers it necessary for the company concerned to reexamine any decisions which it has already taken on named claims where those decisions may have been affected by the company's non-compliance. If the Panel detects in the framework of deciding the observer's appeal that a company has not complied with the standards set out in Exhibit 2 in investigating a particular claim the Panel shall remedy this non-compliance by directing the company to make an award to the claimant or claimants concerned in accordance with the Appeal Guidelines.
22. The Panel shall notify the company concerned, the BAFin, the Foundation, the appellant observer(s) and the Chairman of ICHEIC of its decision in writing within 14 days of the date of the decision. The decision shall be kept confidential by all parties and persons involved in the appeal. The decision of the Panel is final and shall not be appealable to any court.
23. The BAFin may issue a "Testat" when both it and the ICHEIC observer(s) are satisfied that the company has complied with the Panel's decision.

**ANNEX I**

**EXHIBIT 1**

**TO BE SUPPLIED ACCORDING  
TO A SIDE LETTER BETWEEN  
ICHEIC AND THE BAFin**

## ANNEX I

### EXHIBIT 2

**The audits shall be conducted according to Sections 81 and 83 of the German Insurance Regulatory law, on the basis of the standards set out in the following 5 paragraphs:**

1. Whether the companies have established an accurate “family tree” identifying all their relevant companies and branches operating during the period 1920-1945. This “family tree” should cover all life insurance branch offices and subsidiaries of the company operating inside Germany or in other relevant territories occupied by the Third Reich in the period 1938-1945 and also any portfolio acquired from other companies which includes policies in force during the 1920-1945 period. Relevant companies should include any subsidiary or branch office where a control-relationship exists today or, in countries where nationalisation occurred, where control existed before nationalisation. The family tree should be authenticated by the supervisory authority.<sup>1</sup>
2. Whether the companies have made all reasonable efforts to find, secure and organise all relevant archive sites, containing archives and records relevant to policies in force in the period 1920-1945.<sup>2</sup>
3. Whether the companies have made all reasonable efforts to identify and secure all surviving relevant policy files and other company records. “Other company records”

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<sup>1</sup> Since the BAFin has complete records of the past history of insurance company mergers and acquisitions they will be able to verify authoritatively whether the companies’ “family trees” are accurate.

<sup>2</sup> It is recognised that for those German companies which sold policies in occupied territories other than Germany – in particular in Eastern Europe – any records still in the hands of the companies may be incomplete and that records still held in Eastern Europe may not always be accessible.

is to be widely interpreted as covering eg, name cards, life policy registers, reserving registers, correspondence, compensation files and any other document likely to contain details about the policyholders of life insurance policies, whether paid or unpaid, which were in force in the period 1920-1945.

4. Whether the companies have or have established electronic or manual databases which they can use to carry out an effective search of their records of relevant life insurance policies, wherever reasonably possibly solely on the basis of the policyholder names submitted by the claimants.
5. Whether the companies have developed fair and efficient systems and procedures for the investigation of all claims received in accordance with the provisions of the Agreement, with the investigation system described in a work-flow chart.<sup>3</sup> It is desirable that each claims file will contain a completed audit trail allowing auditors to validate, on a sample basis, whether the investigation has been carried out in accordance with the agreed claims handling procedures and with the other relevant provisions of the Agreement.

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<sup>3</sup> It is recognised that each insurer can have different procedures in place for the investigation and handling of claims tailored to its individual circumstances.

**[ICHEIC LETTERHEAD]**

October 15, 2002

Mr. Sanio, President  
Bundesanstalt für Finanzdienstleistungsaufsicht  
Graurheindorfer Str. 108  
53117 Bonn, Germany

Dear Mr. Sanio:

Thank you for your letter dated October 11, 2002.

I very much welcome your proposal and willingness to help. Like yourself, I see your proposal as providing substantial support towards the fulfillment of the objectives of the ICHEIC.

I am also aware that, because of the legal framework within which you work, you are very much dependent on a stringent protection of confidentiality. The ICHEIC understands and will respect the rules set out in your letter and the attachment for this purpose.

I am happy to agree with your proposal to make available our exchange of letters (with the attachments) as an Annex to the Agreement between ICHEIC and the Foundation.

Best wishes.

Sincerely,

/s/

Lawrence S. Eagleburger  
Chairman

## Translation of Letter from the President of BaFin

To the Chairman of ICHEIC

Dear Chairman:

It is a matter of concern to me to contribute to the fulfillment of important humanitarian objectives of the ICHEIC.

Detailed, trustful discussions have taken place between the ICHEIC and the Governmental Office for Financial Services Supervision ((BaFin) to try and establish how this contribution can be best achieved. The result is formulated in the attached text. I give you my assurance that the BaFin will act in accordance to the rules established in this text.

If you so agree, this letter, along with the attachments to it and your response, will be annexed to the agreement between the ICHEIC and the Foundation.

Best wishes.

/s/

## ANNEX J

### ICHEIC STAGE II PEER REVIEW AUDIT

**Purpose:** The second stage audit is to verify that MoU companies are processing actual claims received in accordance with agreed ICHEIC standards.

#### I. Audit Structure

- One ICHEIC peer review auditor will conduct each company second stage audit.
- A statistically valid random sample of claims will be audited. (Estimated to be approximately 300- subject to change.)
- A first sample will be taken on instruction from ICHEIC after each company has made final decisions on a sufficient number of claims.
- Assuming a company is proven compliant in the initial samples, further sampling will be delayed until close to the end of the process, when a similar size sample will be taken on the remaining claims processed. (There will be further sampling as necessary.)
- In cases where the first sample identifies material or recurring problems in a company's decision-making process (which require corrective action or review of past decisions) or ICHEIC becomes aware from other sources of such problems, there may be a need for further interim samples.

#### II. Auditor's Reports

- ICHEIC/Capita London Markets Services, Ltd. (CLMS) will, as a prior step, work together with the insurers to establish that

1. all claims sent by ICHEIC/CLMS to date have been entered on each insurers' claims database; and
  2. that the CLMS database is up to date in recording the decisions made by the companies on these claims.
- Although audits may vary from company to company, the specific work of the auditor will include:
    1. review of the audited company's compliance with ICHEIC standards and decisions in its evaluation of claims;
    2. review of the accuracy of any necessary transfer by the company of the claim information received from CLMS to the company's claims database;
    3. determination of the inclusion of a completed company's audit trail (as approved for Audit Standard 5) showing that all appropriate agreed procedures in the company's work-flow chart, as agreed in the first stage of the audit, had been carried out in sequence;
    4. repeat of the matching process for an agreed proportion of the claims and records; (For claims in the sample where no match has been found by the company and the claimant has no evidence, no further review by the auditor would be needed.)
    5. repeat of the processing carried out by the company (including implementation of ICHEIC standards and decisions) to determine whether the auditor's results are the same as the company's in the case of any claims in the sample where either initial complete or partial matches were made by the company or matches were provided from CLMS or there is

documentary evidence of a policy which the company has subsequently rejected; and

6. review of cases of named company claims in the sample to check whether the company's decision letter has:

- given reasons for the denial;
- included copies of any relevant documents found by the company during the investigation of the claim;
- included a valuation sheet in the case of offers;
- informed the claimant of his/her rights to an appeal and included an appeal form.

### **III. Letter of Engagement**

- ICHEIC's letters of engagement with the peer review auditors will be based upon the guidelines in this Annex J and will be agreed within ICHEIC in accordance with ICHEIC procedures.

## ANNEX K

### ICHEIC – Monitoring Group – Terms of Reference

In order to ensure that the ICHEIC claims process successfully accomplishes the goals of the MOU, the following terms of reference describe the role of the ICHEIC Monitoring Group, which shall apply only to the MOU companies.

1. Lord Archer of Sandwell (or his successor) is the Chairman of the Monitoring Group.
2. The Monitoring Group consists of representatives appointed by the insurance companies, the US regulators, and the Jewish groups/the State of Israel.
3. The Monitoring Group will receive periodic reports from ICHEIC relating to problems or issues arising from the processing of claims.
4. The Monitoring Group will, from time to time, be charged by either the Chairman of ICHEIC or the Chairman of the Monitoring Group, with reviewing and verifying that all members of ICHEIC are complying with ICHEIC rules, procedures and decisions, including decisions of the Chairman, and are doing so as effectively and efficiently as possible.
5. The Chairman of ICHEIC or the Chairman of the Monitoring Group will direct the Monitoring Group to commence its review based upon:
  - (a) information of a pattern of non-compliance by a company or companies; or
  - (b) a concern relating to the consistency or effectiveness of claims processing.

Such information or concerns may be identified by any member of ICHEIC, the appeals panel or the audit process.

6. All findings and recommendations shall be reported to the ICHEIC Chairman, who will forward a copy of the report to the German Foundation.