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To the kind attention of:

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Brussels, 10th November 2017

Sofia, 16th November 2017

Concerning: Bulgarian MTPL (Green Card) market situation

[Topic is misleading, cf. *infra*]

Dear Ms Berger,

Dear Ms Berger,

For clarity and ease DallBogg replies in paginated contrast bellow:

§ 1: Authors of the originally undisclosed letter, attacking DallBogg as a non-addressee, invite the regulatory revision of the Green Card system across Europe. In the era of massive car, services and people free movement and the

rapidly growing insurance frauds, this is the right time to commence such work and wrap up regulatory changes for securing ever-higher street victims' protection and healthy competition environment in the insurance sector.

§ 2: The upfront motive for the present CoB's action of retaliation against DallBogg (a small-to-mid-size European, fastest growing Bulgarian insurer), that is instigated by the Bulgarian Bureau ('NBBMI') and Bulgarian Guarantee Fund, is to mask their disrespect to enforceable court decisions and the breach of the Fund's obligation to pay the indemnification to street victims of accidents, involving non-insured vehicles, for which purpose it was created by the Bulgarian Code of Insurance ("CI") and Directive 2009/103/EC. DallBogg conducts an insurance anti-fraud campaign and declares loud and clear that no right to indemnity of any street victim was ever affected by our activity. The elevation of an non-existing issue of "*adequate protection of victims' rights under the European Motor Insurance Directive (MID)*" to the European Commission is to camouflage the Bulgarian Guarantee Fund inability or blatant unwillingness to respect law and order in Europe and in Bulgaria particularly, as well as the NBBMI mismanagement in self-interest.

§ 3: Importantly, this letter and initiative are, most of all, an arrogant attempt to exercise undue influence and pressure over the Bulgarian regulator – Financial Supervision Commission – and even over the Bulgarian Government!

§ 4: Key speculation in place is that the issue can '*potentially hinder the efficient and timely compensation of victims*'. None of this ever happened as a result of any action of DallBogg. DallBogg keeps on paying against all demands for reimbursement and guarantee calls issued – 100% – and maintains a record-high bank guaranty as the law requires. Bulgarian Guarantee Fund, instigated by NBBMI/CoB, simply refuses to fulfill its obligations to pay the indemnification to street victims of accidents, involving non-insured vehicles, as provided by the Code of Insurance and Directive 2009/103/EC.

We contact you in connection with a set of recent developments in the Bulgarian MTPL market which have been brought to the attention of the Council of Bureaux and which, in our view, cause concern for the adequate protection of victims' rights under the European Motor Insurance Directive (MID) and the fulfilment of requirements thereby foreseen. Moreover, these developments risk endangering the functioning of the Green Card system in Bulgaria and the country's continued membership in the Green Card system.

The Council of Bureaux has, for an extensive period of time now, been concerned with the situation on the Bulgarian MTPL insurance market, specifically that of certain individual insurers. In August 2017, a number of international claims handling offices (correspondents) representing the Bulgarian insurer *Dallbogg Zhivot i Zdrave* in several large European markets received instructions from Dallbogg limiting their autonomy in handling claims on behalf of the insurer, as well as applying adjustments to the amounts of compensations paid to victims of cross-border road traffic accidents.

[§ 5: The correspondents are obliged to act in the insurer's best interest as stipulated in Art. 3, paragraph 4 of IRCOB¹ and no interference other than instructions to reduce overpricing in calculations and discretionally priced services were ever issued, let alone fulfilled. Based on unilaterally determined reserves and various overblown indemnifications in lousy claim handling process, some correspondents/Bureaux act extremely in self-interest abusing the percentage-based remuneration scheme and turning their 'autonomy' into an uncontrolled cash dispenser] In addition, around the same time of the year, Dallbogg unilaterally declared more than 800 MTPL policies as null and void *ab initio*, which can potentially hinder the efficient and timely compensation of victims of cross-border road traffic accidents previously occurred under these policies. **[§ 6: This is a speculative dislocation of facts and process: The efficient and timely compensation of victims is not endangered in any way, as these persons receive payment from correspondents or a National Bureau, which in turn are entitled for compensation by the Guarantee Fund or, if valid insurance ever existed, by the insurer. By these allegations the corporate interest of correspondents/Bureaux is perversely misrepresented as the public interest of the victims!]** The Council of Bureaux is currently in possession of verified information that the insurer systematically refuses to confirm insurance cover under these policies or withdraws previously given confirmations, confronts claims handling offices with undue and arbitrary requirements in order to avoid or delay reimbursement of compensations paid to victims. **[§ 7: Every instruction and statement of DallBogg is in accordance and within the timeframe and limits established by the IRCOB and was never targeted to affect street victims' rights, rather to improve the correspondents' quality of work.]**

Another major Bulgarian MTPL insurer, *Lev Ins*, is also known to exercise, either presently or in the past, similar undue influence on the claims handling autonomy of correspondents in various European countries, in manifest violation of Green Card rules and regulations. Both Dallbogg's and Lev Ins's failure to reimburse correspondents in time has already led to accumulations of overdue liabilities and subsequent guarantee calls towards the Bulgarian Green Card Bureau, thus endangering its financial stability and the efficient functioning of the Green Card system in Bulgaria. **[§ 8: Those are absurd allegations. The financial stability of NBBMI is in no way close to be endangered and quite on the contrary – in any event of Guarantee call the financial stability is further strengthened because DallBogg was asked and promptly provided a record-high for Bulgaria €1.2 million bank guarantee in favor of NBBMI, which whenever drawn upon has momentarily been refilled and always maintained in full.]**

Notwithstanding past action taken by the Bulgarian Green Card Bureau to prevent this phenomenon, the unacceptable practice continues on the Bulgarian market. Such actions and declarations are in indisputable breach of the basic principles of the Green Card system and in clear violation of the Internal Regulations of the Council of Bureaux, and therefore unacceptable. **[§ 9: These are blank and ungrounded allegations. Neither violation of IRCOB nor of the principles of Green Card systems exist! Legal defense before the competent courts is a constitutional right of each and**

¹ 4. All claims shall be handled by the bureau with complete autonomy in conformity with legal and regulatory provisions applicable in the country of accident relating to liability, compensation of injured parties and compulsory insurance in the best interests of the insurer who issued the Green Card or policy of insurance or, if appropriate, the bureau concerned.

every entity. Not recognizing and disregarding enforceable court decisions, within each and every EU legislation, is a crime. Supremacy of law and order is recognized and enshrined in all and across EU legislation. This approach by the insurers threatens to have far-reaching consequences not only for the whole Green Card system, but also for the protection of victims' rights under the European Motor Insurance Directive and the way such victims are being compensated. **[§ 10: Correspondents, no doubt, compensate victims in the first place or in transitional periods – the Bureaux, and thus the victim's rights are in no way close to be endangered. CoB adopted a systemic line of speculating with the victim's right in order to freely pitch the self-interest of its bureaucracy.]**

Furthermore, we have been informed by our Member Bureaux that several major international claims handling organisations have terminated their agreements with Dallbogg **[§ 11: Actually DallBogg terminated the contracts due to the poor quality of correspondents' handling services.]** to act as their correspondents (for Green Card claims) and/or claims representatives (for 4th MID claims) in other countries. As a result, according to the web site of the Bulgarian Information Centre (<http://quaranteefund.org/en/component/qf/?country=&insurer=30&inPlace=eu>) in as many as 25 Member States of the EEA, Dallbogg would not have appointed a claims representative and would thus be in breach of the obligations emanating from the MID (Directive 2009/103/EC, recital 39 of the preamble: the appointment of representatives responsible for settling claims should be one of the conditions for access to and carrying on the activity of MTPL insurance). **[§ 12: DallBogg was given a fix term of time from the Bulgarian Regulator to contract new correspondents and the deadline will be met. As a matter of fact, several dozens of very good correspondents apply and readily negotiate competitive terms and conditions to work with DallBogg.]** The Council of Bureaux is also in possession of verified information that the insurer is currently extending offers for new appointments of claims representatives and/or correspondents, with commercial terms that are in manifest contradiction with the fundamental principles of victims' protection and adequate compensation underlying the rules of the Green Card system and the Motor Insurance Directive. **[§ 13: Such statement is a complete distortion, for a lack of better word like 'rubbish': freedom to negotiate is even stipulated in the Art. 4, paragraph 7 of IRCOB². Furthermore, no such clauses with correspondents are agreed. Apparently the lavish 'status quo' standard financial schemes established by CoB are manifestly disguised behind 'the fundamental principles of victims' protection and adequate compensation']** As an example, Dallbogg quotes 'success bonuses' in their offers, whereby potential claims representatives or correspondents would receive additional remuneration based on the negative difference between the insurance indemnification paid to the victim and the actual amount due for sustained damage **[§ 14: This is purposefully perverted and misinterpreted: these success bonuses are applicable only if indemnifications are accepted by the victims or determined by the courts. The 'success fees', discussed in DallBogg's proposals, concern only and only out of court settlements or court decisions.**

² 7. Subject to the provisions of Article 4(4), the correspondent is free to agree with the insurer that requested its approval the conditions for reimbursement of sums paid to injured parties and the method for calculating its handling fees, which agreement, however, shall not be enforceable against any bureau.

This is legitimate and massive practice in the insurance industry that has systematically been burden with overblown demands for indemnifications, very high and rising regulatory requirements, and greedy intermediaries.] Essentially, Dallbogg is offering its prospective claims representatives and correspondents higher remuneration for *purposefully and systematically under-compensating victims*, which is unacceptable at the minimum **[§ 15: All such allegations are misinterpreted and subjective and yet again misrepresent the facts. It is an obvious fact and well-known practice that correspondents/Bureaux are interested in overcompensating the victims (sometimes with no single fact-finding document in place) because of the outdated pricing model of calculating handling fees: 15% of insurance indemnification, capped to max EUR €3'500 and min €200. This obviously puts some correspondents and some Bureaux in the position, particularly regarding the great mass of small claims (up to €5'000), to abuse their directional position and undermine their obligation to defend the insurer's best interest, envisaged in Art. 3, paragraph 4 of IRCOB. The constant and rising tendency is to overprice auto parts, paint and garage labor, and rapidly overblow the realistic indemnification for bodily injuries, sufferings, pain and discomfort. Such an unfair and fraud-fostering practice is overwhelmingly damaging to the entire insurance industry. It is based on the currently outdated IRCOB, often and increasingly interpreted in a perverted facet.]** Once again, such an approach seriously endangers the prospect of adequate compensation to cross-border traffic victims, which is in clear contradiction with the letter and the spirit of the European Directive. **[§ 16: Nothing is endangered. DallBogg is trying to secure a proper and lawful victim claim handling process and eventually the Guarantee Fund's law obligations execution.]**

Similarly, based on the web site of the Bulgarian Information Centre (<http://auaranteefund.org/en/component/gf/?country=&insurer=22&inPlace=euV> Lev Ins would not have appointed claims representatives in at least five EEA Member States.

According to recent information received from our Member Bureaux, the outstanding liabilities of Dallbogg towards correspondents and Green Card Bureaux in 36 countries (out of 47 Green Card member countries excluding Bulgaria) would be around EUR 13.5 million including reserves for open claims. **[§ 17: Distributing entirely false and misleading information for DallBogg in an attempt to inflict a reputational damage invites further legal action against the authors of such writings. DallBogg already provided NBBMI with data concerning all currently pending claims and is available for further review.]** More than EUR 4 million of these liabilities are related to the insurance contracts declared by Dallbogg as null and void. **[§ 18: Indemnifications stemming from null and void policies are being paid by DallBogg, and will be furthermore recollectd in an additional enforcement procedure against the Guarantee Fund.]** In addition, the liabilities (including reserves for open claims) of Lev Ins to current and former correspondents as well as Green Card Bureaux in only seven countries would comprise at least EUR 51 million according to our most recent information.

For baseline comparison, according to the Bulgarian Financial Supervision Commission (FSC), the MTPL gross written premium of Dallbogg in 2016 was less than EUR 34 million, while MTPL claims payments for the same period totalled less than EUR 5 million. This essentially means that Dallbogg's outstanding liabilities in relation to Green Card claims *only*- without taking into account liabilities related to domestic MTPL and 4th MID accidents, and missing data from 11 countries of the Green Card system - comprise **at least 40% of its annual MTPL premium and 270% of annual MTPL claims payments.** **[§ 19: Particularly these in-bold insinuations address the Bulgarian regulator FSC to instigate punitive measures against a very solid and financially sound Bulgarian insurer. DallBogg has already been audited several times and covers all requirements under Solvency II for capital adequacy. There is a next audit scheduled at the year-end. Such groundless allegations are rejected outright as absurd and misrepresenting.]** For Lev Ins, MTPL gross written premium and claims payments in 2016 were, respectively, circa EUR 73 million and EUR 39 million. The comparable ratios of outstanding liabilities for Lev Ins would therefore be almost **70% of premium and 130% of claims paid**, respectively (based on data from only seven countries).

Both of these insurers are major players on the Bulgarian MTPL (Green Card) insurance market: according to FSC data as of 31/08/2017, Dallbogg had a market share of 10% in MTPL insurance (including Green Card and frontier insurance), and Lev Ins had circa 24%. Dallbogg is also active, or intends to set up activities, in several EEA Member States on the basis of freedom to provide services (FoS): based on information received from the Bulgarian Bureau (source: FSC), notification has been given by Dallbogg for operations in MTPL under FoS in 16 countries; the CoB has data on registered and active FoS entities in Belgium, Greece, Italy, the Netherlands, and Romania. It is evident, therefore, that any adverse development in the solvency or liquidity status of these insurers would not only hurt the Bulgarian market itself, but also have a multiplied negative effect throughout the whole Green Card system. **[§ 20: Another misleading, abusive and putrid allegation: the activity of DallBogg in these countries, if commenced, proves nothing else but the insurer's high standing, its financial stability and professional capabilities.]** It is also worthwhile to mention here that, while the vehicle fleet of the country comprises slightly above 0.5% of that of all Green Card countries combined, Bulgarian vehicles are responsible for more than 5% of Green Card accidents annually (based on statistics and estimates on vehicle fleets and Green Card accidents, provided to the Council of Bureaux by Member Bureaux). **[§ 21: Those are unverified statistics, which are irrelevant for the issue at hand and simply redeploy and distort the discussion for the upcoming meeting at the European Commission. On the merits: the innocent and modern DallBogg insurer cannot be held responsible for the safe driving skills and motor capacity of an entire nation – it must, on the contrary, be commended for taking up and carrying on successfully a heavy and costly anti-fraud campaign in several Member States.]**

These and related issues have been a subject of attention and concern for the Council of Bureaux repeatedly, including in the previous years. It has to be mentioned here that already in June 2017 the General Assembly of the Council of Bureaux took a decision to mandate the Management Committee to place the Bureau of Bulgaria under

"Monitored" status at any time, if the development of the solvency and/or liquidity situation of the Bureau of Bulgaria so warrants. [§ 22: The solvency and liquidity of every Bulgarian insurer is monitored on a daily basis. DallBogg capital adequacy has been time and again ascertained by first class international auditors more than once, that always confirmed that DallBogg has never had any liquidity issues.]

Further, taking into account, as described in detail above:

- the repeated actions and declarations of individual Bulgarian insurers in violation of the European Motor insurance Directive as well as the Internal Regulations of the Council of Bureaux, [§ 23: It is unsurprising that CoB is hiding behind general slogans, because they could not simply come up and say the fraudulently fabricated insurance policies are valid. CoB/NBBMI and the Guarantee Fund are informed and have copies of the court decisions in force, proclaiming those 'null & void' *ab initio* – from the day one of their ill-conceived and fabricated inception. DallBogg has identified others and it is only a question of time to obtain court decisions with the same jurisprudential result. Simply underlying facts seeks for justice to be delivered. Where is the 'violation of the European Motor insurance Directive as well as the Internal Regulations of the Council of Bureaux' here, as CoB is entangled to allege?]
- the persistent disregard, by individual insurers, of the time limits and standard procedures for honouring their liabilities, [§ 24: Again, CoB's member NBBMI, notoriously mismanaged, should have rerouted the demands for reimbursement to the Guarantee Fund for null and void policies, instead of conducting its game of thrones by abusively drawing upon DallBogg's bank guaranty, under the pretext that there is a dispute between the fund and the insurer. Abusive interpretation of NBBMI and Guarantee Fund of Art. 499, paragraph 5 BIC *de facto* and *de jure* is a brutal disregard of the court decisions adjudicating upon the invalidity of the said insurance contracts. In reality there is no dispute and no dispute is possible – courts already delivered the verdict. Those cars are uninsured and in respect with Art. 519 BIC, therefore the Bulgarian Guarantee Fund should compensate the correspondents/foreign national Bureau handling the claims.]
- the extent of system-wide liabilities of individual Bulgarian insurers, and , [§ 25: *p/s see above*. Through such a fake underling assertion CoB/NBBMI are hoping to, in order to put the regulator and the Government, attack DallBogg and somehow justify their own disrespect to the endorsable court rulings, based on undeniable facts.]
- the prolonged lack of corrective action on the part of said members to demonstrate the necessary change of business practice, [§ 26: Actually, 'at guaranty withdrawals gun point' DallBogg keeps on paying undue compensations to correspondents instead of the Guarantee Fund in order to prevent further complications. In turn, NBBMI's abortive attempt to further aggravate the situation by employing the lobbying services of CoB in involving the regulator deserves the attention of the European Commission and law and order enforcement agencies.]

the Council of Bureaux is now seriously concerned about imminent risk of material adverse effect on the liquidity and solvency situation of the Bureau of Bulgaria. [§ 27: **This is entirely misleading as far as DallBogg is concerned. DallBogg maintains scrupulously at any given time a record-high – € 1.2 million – bank guarantee in favor of NBBMI. If, however, the allegation goes and real grounded concerns are in place about ‘the liquidity and solvency situation of the Bureau of Bulgaria’, then it is time for its members to audit the management results and question the conflict of interest and style of the present chairman. As made, the present allegations only deceive and mask the reality. The present situation of hysteria by design and mistrust is superciliously created by the management of NBBMI led by Mr Orlin Penev, Executive Director of Allianz Bulgaria.]**

While we acknowledge the close cooperation of the Bulgarian Bureau, which repeatedly intervened to resolve these issues to the extent of its capacities, nevertheless the worrisome developments on the market and the unacceptable behaviour of some of its members continue. [§ 28: **DallBogg is a highly professional insurer, who is in a constant cooperation with FSC and sincerely attempted to cooperate with NBBMI, irrespective its management ungrounded demands and present attacks and reputational encroachments on DallBogg, which only exercises its lawful and constitutional rights]** The Council of Bureaux cannot remain passive in view of the systematic nature of these phenomena, as they risk not only to have a potentially significant adverse effect on the solvency of the Bulgarian Bureau and consequently on the fulfilment of the obligations of the Bulgarian market towards other members of the Green Card system, but also, as a consequence, a direct negative impact on the full and timely compensation of road traffic victims. [§ 29: **DallBogg, as a member of NBBMI was never informed about any real liquidity risk and solvency at NBBMI. On the record, we would just like to confirm here that the automatic guaranty system in place is functioning smoothly and the Green Card system itself secures all collection of receivables due to correspondents/Bureaux. Full and timely compensation of road traffic victims is secured, as repeatedly reaffirmed. Quality of the NBBMI management goes without further comment.]**

Therefore, absent conclusive evidence that the situation has been systematically addressed and remedied in a definitive and sustainable manner, the Management Committee of the Council of Bureaux may be obliged to exercise the mandate given by the General Assembly to put the Bulgarian Bureau under “Monitored” status. This would entail mandatory provision of a bank guarantee (cash deposit) for the benefit of the Council of Bureaux, as well as strict reinsurance requirements for the Bureau and the whole market. [§ 30: **This unwarranted threat by design is camouflaging the mounting pressure to FSC to take ‘corrective’ measures, while there is no need and nothing more lawfully could be done. Realistically, no such legal scenario could happen in a well-grounded way. Behind these unrealistic prognoses are hidden, DallBogg suspects, the group and corporative interests of the screenwriters of this apocalyptic scenario.]**

More importantly, a “Monitored” status would not only entail additional significant financial cost but also reflect on the reputation of the Bulgarian Bureau throughout the

Green Card system, as well as limit the ability of Bulgarian insurers to conduct Green Card related business. Should the situation continue to deteriorate, we cannot exclude the possibility of more severe sanctions in the future. The Constitution of the Council of Bureaux namely foresees the possibility to suspend a Bureau's membership in the Green Card system, which, if exercised towards the Bulgarian Bureau, will preclude Bulgarian insurers from issuing Green Cards valid for countries that are not signatories to the Multilateral Agreement (cf. Article 8 of the MID). **[§ 31: Ostensibly these narratives are aiming to sweep the path for big and powerful international insurance companies, divide and discourage smaller local insurers and to banish a well-working and prosperous Bulgarian Insurance company. Attempting to make a scapegoat out of DallBogg will encounter our defiance and meet resolute protection of law and order and modernity loving European community. If further deepen in this particular situation, the European Commission can easily discover that the entire Green Card system is being used for serving high level ambiguous anti-competition corporate interests.]**

The Council of Bureaux continues to cooperate closely with the Bulgarian Green Card Bureau, to the extent of the capacities of both entities, to ensure the continued functioning of the Green Card system in Bulgaria. In the meantime, the possible involvement of competent bodies within the European Commission as well as the Bulgarian government is more than encouraged, with a view to a more efficient and sustainable resolution of the identified issues. **In order to discuss the matter in due detail, we would therefore like to propose to arrange a joint meeting between EC and CoB representatives in the near future. [§ 31: DallBogg would readily participate in such a meeting and should in respect of equal treatment principle be especially invited.]** If feasible for you, the President of the Council of Bureaux will be in Brussels on 6th December and would welcome the opportunity to meet with you then.

We remain at your disposal for any further information you may require as well as close cooperation in the future,

Dear Ms Berger, our intention is to fully cooperate with the Commission, Bulgarian Government and FSC in order to set aside the rumors and intrigues, to help maintain the present high respect to the street victims' rights, to protect and safeguard the interest of the entire Bulgarian insurance community, and develop sustainably – in healthy competition – the Bulgarian market.

Sincerely,


Rossen Mladenov and Biser Ivanov, Executive Directors

With kind regards,

Jean Zenners
President

Greet Floré
Secretary General