

Directive 2002/83/EC of the European Parliament and of
the Council of 5 November 2002 concerning life assurance

TITLE VI

**RULES APPLICABLE TO SUBSIDIARIES OF PARENT UNDERTAKINGS
GOVERNED BY THE LAWS OF A THIRD COUNTRY AND TO THE
ACQUISITIONS OF HOLDINGS BY SUCH PARENT UNDERTAKINGS**

[^{F1} Article 58

Information from Member States to the Commission

The competent authorities of the Member States shall inform the Commission and the competent authorities of the other Member States:

- (a) of any authorisation of a direct or indirect subsidiary, one or more of whose parent undertakings are governed by the laws of a third country;
- (b) whenever such a parent undertaking acquires a holding in a Community assurance undertaking which would turn the latter into its subsidiary.

When the authorisation referred to in point (a) is granted to the direct or indirect subsidiary of one or more parent undertakings governed by the law of third countries, the structure of the group shall be specified in the notification which the competent authorities shall address to the Commission and to the other competent authorities.]

Textual Amendments

- F1** Substituted by [Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees \(Text with EEA relevance\).](#)

Article 59

Third-country treatment of Community assurance undertakings

1 The Member States shall inform the Commission of any general difficulties encountered by their assurance undertakings in establishing themselves or carrying on their activities in a third country.

2 Periodically, the Commission shall draw up a report examining the treatment accorded to Community assurance undertakings in third countries, in the terms referred to in paragraphs 3 and 4, as regards establishment and the carrying-on of insurance activities, and the acquisition of holdings in third-country insurance undertakings. The Commission shall submit those reports to the Council, together with any appropriate proposals.

3 Whenever it appears to the Commission, either on the basis of the reports referred to in paragraph 2 or on the basis of other information, that a third country is not granting Community

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assurance undertakings effective market access comparable to that granted by the Community to insurance undertakings from that third country, the Commission may submit proposals to the Council for the appropriate mandate for negotiation with a view to obtaining comparable competitive opportunities for Community assurance undertakings. The Council shall decide by a qualified majority.

4 Whenever it appears to the Commission, either on the basis of the reports referred to in paragraph 2 or on the basis of other information, that Community assurance undertakings in a third country are not receiving national treatment offering the same competitive opportunities as are available to domestic insurance undertakings and that the conditions of effective market access are not being fulfilled, the Commission may initiate negotiations in order to remedy the situation.

In the circumstances described in the first subparagraph, it may also be decided at any time, and in addition to initiating negotiations, in accordance with the procedure laid down in Article 65(2), that the competent authorities of the Member States must limit or suspend their decisions:

- regarding requests pending at the moment of the decision or future requests for authorisations, and
- regarding the acquisition of holdings by direct or indirect parent undertakings governed by the laws of the third country in question.

The duration of the measures referred to may not exceed three months.

Before the end of that three-month period, and in the light of the results of the negotiations, the Council may, acting on a proposal from the Commission, decide by a qualified majority whether the measures shall be continued.

Such limitations or suspension may not apply to the setting up of subsidiaries by assurance undertakings or their subsidiaries duly authorised in the Community, or to the acquisition of holdings in Community assurance undertakings by such undertakings or subsidiaries.

5 Whenever it appears to the Commission that one of the situations described in paragraphs 3 and 4 has arisen, the Member States shall inform it at its request:

- a of any request for the authorisation of a direct or indirect subsidiary one or more parent undertakings of which are governed by the laws of the third country in question;
- b of any plans for such an undertaking to acquire a holding in a Community assurance undertaking such that the latter would become the subsidiary of the former.

This obligation to provide information shall lapse whenever an agreement is reached with the third country referred to in paragraph 3 or 4 when the measures referred to in the second and third subparagraphs of paragraph 4 cease to apply.

6 Measures taken under this Article shall comply with the Community's obligations under any international agreements, bilateral or multilateral, governing the taking up and pursuit of the business of insurance undertakings.