

Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) (repealed)

TITLE III

**HARMONIZATION OF THE CONDITIONS  
GOVERNING THE BUSINESS OF INSURANCE**

Chapter 1

*Article 9*

Article 13 of Directive 73/239/EEC shall be replaced by the following:

*Article 13*

1 The financial supervision of an insurance undertaking, including that of the business it carries on either through branches or under the freedom to provide services, shall be the sole responsibility of the home Member State.

2 That financial supervision shall include verification, with respect to the insurance undertaking's entire business, of its state of solvency, of the establishment of technical provisions and of the assets covering them in accordance with the rules laid down or practices followed in the home Member State under provisions adopted at Community level.

Where the undertaking in question is authorized to cover the risks classified in class 18 in point A of the Annex, supervision shall extend to monitoring of the technical resources which the undertaking has at its disposal for the purpose of carrying out the assistance operations it has undertaken to perform, where the law of the home Member State provides for the monitoring of such resources.

3 The competent authorities of the home Member State shall require every insurance undertaking to have sound administrative and accounting procedures and adequate internal control mechanisms.

*Article 10*

Article 14 of Directive 73/239/EEC shall be replaced by the following:

*Article 14*

The Member State of the branch shall provide that where an insurance undertaking authorized in another Member State carries on business through a branch the competent authorities of the home Member State may, after having informed the competent authorities of the Member State of the branch, carry out themselves or through the intermediary of persons they appoint for that purpose on-the-spot verification of the information necessary to ensure the financial supervision of the undertaking. The authorities of the Member State of the branch may participate in that verification

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

### Article 11

Article 19 (2) and (3) of Directive 73/239/EEC shall be replaced by the following:

2. Member States shall require insurance undertakings with head offices within their territories to render periodically the returns, together with statistical documents, which are necessary for the purposes of supervision. The competent authorities shall provide each other with any documents and information that are useful for the purposes of supervision.

3. Every Member State shall take all steps necessary to ensure that the competent authorities have the powers and means necessary for the supervision of the business of insurance undertakings with head offices within their territories, including business carried on outwith those territories, in accordance with the Council Directives governing such business and for the purpose of seeing that they are implemented.

These powers and means must, in particular, enable the competent authorities to:

- a. make detailed enquiries regarding an undertaking's situation and the whole of its business, *inter alia*, by:
  - gathering information or requiring the submission of documents concerning its insurance business,
  - carrying out on-the-spot investigations at the undertaking's premises;
- b. take any measures with regard to an undertaking, its directors or managers or the persons who control it, that are appropriate and necessary to ensure that that undertaking's business continues to comply with the laws, regulations and administrative provisions with which the undertaking must comply in each Member State and in particular with the scheme of operations insofar as it remains mandatory, and to prevent or remedy any irregularities prejudicial to the interests of insured persons;
- c. ensure that those measures are carried out, if need be by enforcement and where appropriate through judicial channels.

Member States may also make provision for the competent authorities to obtain any information regarding contracts which are held by intermediaries.

### Article 12

1. Article 11 (2) to (7) of Directive 88/357/EEC is hereby repealed.

2. Under the conditions laid down by national law, each Member State shall authorize insurance undertakings with head offices within its territory to transfer all or part of their portfolios of contracts, concluded either under the right of establishment or the freedom to provide services, to an accepting office established within the Community, if the competent authorities of the home Member State of the accepting office certify that after taking the transfer into account the latter possesses the necessary solvency margin.

3. Where a branch proposes to transfer all or part of its portfolio of contracts, concluded either under the right of establishment or the freedom to provide services, the Member State of the branch shall be consulted.

4. In the circumstances referred to in paragraphs 2 and 3, the competent authorities of the home Member State of the transferring undertaking shall authorize the transfer after obtaining the agreement of the competent authorities of the Member States in which the risks are situated.

5. The competent authorities of the Member States consulted shall give their opinion or consent to the competent authorities of the home Member State of the transferring insurance undertaking within three months of receiving a request; the absence of any response within that

period from the authorities consulted shall be considered equivalent to a favourable opinion or tacit consent.

6 A transfer authorized in accordance with this Article shall be published as laid down by national law in the Member State in which the risk is situated. Such transfers shall automatically be valid against policy-holders, insured persons and any other persons having rights or obligations arising out of the contracts transferred.

This provision shall not affect the Member States' rights to give policy-holders the option of cancelling contracts within a fixed period after a transfer.

#### *Article 13*

Article 20 of Directive 73/239/EEC shall be replaced by the following:

#### *Article 20*

1 If an undertaking does not comply with Article 15, the competent authority of its home Member State may prohibit the free disposal of its assets after having communicated its intention to the competent authorities of the Member States in which the risks are situated.

2 For the purposes of restoring the financial situation of an undertaking the solvency margin of which has fallen below the minimum required under Article 16 (3), the competent authority of the home Member State shall require that a plan for the restoration of a sound financial situation be submitted for its approval.

In exceptional circumstances, if the competent authority is of the opinion that the financial situation of the undertaking will deteriorate further, it may also restrict or prohibit the free disposal of the undertaking's assets. It shall inform the authorities of other Member States within the territories of which the undertaking carries on business of any measures it has taken and the latter shall, at the request of the former, take the same measures.

3 If the solvency margin falls below the guarantee fund as defined in Article 17, the competent authority of the home Member State shall require the undertaking to submit a short-term finance scheme for its approval.

It may also restrict or prohibit the free disposal of the undertaking's assets. It shall inform the authorities of other Member States within the territories of which the undertaking carries on business accordingly and the latter shall, at the request of the former, take the same measures.

4 The competent authorities may further take all measures necessary to safeguard the interests of insured persons in the cases provided for in paragraphs 1, 2 and 3.

5 Each Member State shall take the measures necessary to be able, in accordance with its national law, to prohibit the free disposal of assets located within its territory at the request, in the cases provided for in paragraphs 1, 2 and 3, of the undertaking's home Member State, which shall designate the assets to be covered by such measures.

#### *Article 14*

Article 22 of Directive 73/239/EEC shall be replaced by the following:

#### *Article 22*

1 Authorization granted to an insurance undertaking by the competent authority of its home Member State may be withdrawn by that authority if that undertaking:

- a does not make use of that authorization within 12 months, expressly renounces it or ceases to carry on business for more than six months, unless the Member State concerned has made provision for authorization to lapse in such cases;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- b no longer fulfils the conditions for admission;
- c has been unable, within the time allowed, to take the measures specified in the restoration plan or finance scheme referred to in Article 20;
- d fails seriously in its obligation under the regulations to which it is subject.

In the event of the withdrawal or lapse of authorization, the competent authority of the home Member State shall notify the competent authorities of the other Member States accordingly, and they shall take appropriate measures to prevent the undertaking from commencing new operations within their territories, under either the right of establishment or the freedom to provide services. The home Member State's competent authority shall, in conjunction with those authorities, take all measures necessary to safeguard the interests of insured persons and, in particular, shall restrict the free disposal of the undertaking's assets in accordance with Article 20 (1), (2), second subparagraph, or (3), second subparagraph.

2 Any decision to withdraw authorization shall be supported by precise reasons and communicated to the undertaking in question.

Article 15

[<sup>F1</sup> Member States shall require any natural or legal person or such persons acting in concert (hereinafter referred to as the proposed acquirer), who have taken a decision either to acquire, directly or indirectly, a qualifying holding in an insurance undertaking or to further increase, directly or indirectly, such a qualifying holding in an insurance undertaking as a result of which the proportion of the voting rights or of the capital held would reach or exceed 20 %, 30 % or 50 % or so that the insurance undertaking would become its subsidiary (hereinafter referred to as the proposed acquisition), first to notify in writing the competent authorities of the insurance undertaking in which they are seeking to acquire or increase a qualifying holding, indicating the size of the intended holding and relevant information, as referred to in Article 15b(4). Member States need not apply the 30 % threshold where, in accordance with Article 9(3)(a) of Directive 2004/109/EC, they apply a threshold of one-third.]

<sup>F2</sup>1a .....

[<sup>F12</sup> Member States shall require any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in an insurance undertaking first to notify in writing the competent authorities of the home Member State, indicating the size of his intended holding. Such a person shall likewise notify the competent authorities if he has taken a decision to reduce his qualifying holding so that the proportion of the voting rights or of the capital held would fall below 20 %, 30 % or 50 % or so that the insurance undertaking would cease to be his subsidiary. Member States need not apply the 30 % threshold where, in accordance with Article 9(3)(a) of Directive 2004/109/EC, they apply a threshold of one-third.]

3 On becoming aware of them, insurance undertakings shall inform the competent authorities of their home Member States of any acquisitions or disposals of holdings in their capital that cause holdings to exceed or fall below any of the thresholds referred to in paragraphs 1 and 2.

They shall also, at least once a year, inform them of the names of shareholders and members possessing qualifying holdings and the sizes of such holdings as shown, for example, by the information received at annual general meetings of shareholders or members or as a result of compliance with the regulations relating to companies listed on stock exchanges.

4 Member States shall require that, where the influence exercised by the persons referred to in paragraph 1 is likely to operate against the prudent and sound management

of an insurance undertaking, the competent authorities of the home Member State shall take appropriate measures to put an end to that situation. Such measures may consist, for example, in injunctions, sanctions against directors and managers, or suspension of the exercise of the voting rights attaching to the shares held by the shareholders or members in question.

Similar measures shall apply to natural or legal persons failing to comply with the obligation to provide prior information imposed in paragraph 1. If a holding is acquired despite the opposition of the competent authorities, the Member States shall, regardless of any other sanctions to be adopted, provide either for exercise of the corresponding voting rights to be suspended, or for the nullity of votes cast or for the possibility of their annulment.

#### Textual Amendments

- F1** Substituted by Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (Text with EEA relevance).
- F2** Deleted by Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (Text with EEA relevance).

#### *f<sup>3</sup>* Article 15a

1 The competent authorities shall, promptly and in any event within two working days following receipt of the notification required under Article 15(1), as well as following the possible subsequent receipt of the information referred to in paragraph 2 of this Article, acknowledge receipt thereof in writing to the proposed acquirer.

The competent authorities shall have a maximum of 60 working days as from the date of the written acknowledgement of receipt of the notification and all documents required by the Member State to be attached to the notification on the basis of the list referred to in Article 15b(4) (hereinafter referred to as the assessment period), to carry out the assessment provided for in Article 15b(1) (hereinafter referred to as the assessment).

The competent authorities shall inform the proposed acquirer of the date of the expiry of the assessment period at the time of acknowledging receipt.

2 The competent authorities may, during the assessment period, if necessary, and no later than on the 50th working day of the assessment period, request any further information that is necessary to complete the assessment. Such request shall be made in writing and shall specify the additional information needed.

For the period between the date of request for information by the competent authorities and the receipt of a response thereto by the proposed acquirer, the assessment period shall be interrupted. The interruption shall not exceed 20 working days. Any further requests by the competent authorities for completion or clarification of the information shall be at their discretion but may not result in an interruption of the assessment period.

3 The competent authorities may extend the interruption referred to in the second subparagraph of paragraph 2 up to 30 working days if the proposed acquirer is:

- a situated or regulated outside the Community; or

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- b a natural or legal person not subject to supervision under this Directive or Directives 85/611/EEC<sup>(1)</sup>, 2002/83/EC<sup>(2)</sup>, 2004/39/EC, 2005/68/EC<sup>(3)</sup> or 2006/48/EC<sup>(4)</sup>.

4 If the competent authorities, upon completion of the assessment, decide to oppose the proposed acquisition, they shall, within two working days, and not exceeding the assessment period, inform the proposed acquirer in writing and provide the reasons for that decision. Subject to national law, an appropriate statement of the reasons for the decision may be made accessible to the public at the request of the proposed acquirer. This shall not prevent a Member State from allowing the competent authority to make such disclosure in the absence of a request by the proposed acquirer.

5 If the competent authorities do not oppose the proposed acquisition within the assessment period in writing, it shall be deemed to be approved.

6 The competent authorities may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.

7 Member States may not impose requirements for the notification to and approval by the competent authorities of direct or indirect acquisitions of voting rights or capital that are more stringent than those set out in this Directive.

#### Textual Amendments

- F3** Inserted by Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (Text with EEA relevance).

#### Article 15b

1 In assessing the notification provided for in Article 15(1) and the information referred to in Article 15a(2), the competent authorities shall, in order to ensure the sound and prudent management of the insurance undertaking in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the insurance undertaking, appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following criteria:

- a the reputation of the proposed acquirer;
- b the reputation and experience of any person who will direct the business of the insurance undertaking as a result of the proposed acquisition;
- c the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the insurance undertaking in which the acquisition is proposed;
- d whether the insurance undertaking will be able to comply and continue to comply with the prudential requirements based on this Directive and, where applicable, other Directives, notably, Directives 73/239/EEC, 98/78/EC<sup>(5)</sup>, 2002/13/EC<sup>(6)</sup> and 2002/87/EC<sup>(7)</sup>, in particular, whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities;
- e whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of Article 1 of Directive 2005/60/EC<sup>(8)</sup> is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

2 The competent authorities may oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in paragraph 1 or if the information provided by the proposed acquirer is incomplete.

3 Member States shall neither impose any prior conditions in respect of the level of holding that must be acquired nor allow their competent authorities to examine the proposed acquisition in terms of the economic needs of the market.

4 Member States shall make publicly available a list specifying the information that is necessary to carry out the assessment and that must be provided to the competent authorities at the time of notification referred to in Article 15(1). The information required shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition. Member States shall not require information that is not relevant for a prudential assessment.

5 Notwithstanding Article 15a(1), (2) and (3), where two or more proposals to acquire or increase qualifying holdings in the same insurance undertaking have been notified to the competent authority, the latter shall treat the proposed acquirers in a non-discriminatory manner.

#### Textual Amendments

- F3** Inserted by [Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector \(Text with EEA relevance\)](#).

#### Article 15c

1 The relevant competent authorities shall work in full consultation with each other when carrying out the assessment if the proposed acquirer is one of the following:

- a a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or management company within the meaning of Article 1a, point 2 of Directive 85/611/EEC (hereinafter referred to as the 'UCITS management company') authorised in another Member State or in a sector other than that in which the acquisition is proposed;
- b the parent undertaking of a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State or in a sector other than that in which the acquisition is proposed; or
- c a natural or legal person controlling a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State or in a sector other than that in which the acquisition is proposed.

2 The competent authorities shall, without undue delay, provide each other with any information which is essential or relevant for the assessment. In this regard, the competent authorities shall communicate to each other upon request all relevant information and shall communicate on their own initiative all essential information. A decision by the competent authority that has authorised the insurance undertaking in which the acquisition is proposed shall indicate any views or reservations expressed by the competent authority responsible for the proposed acquirer.]

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

### Textual Amendments

- F3** Inserted by [Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector \(Text with EEA relevance\).](#)

### Article 16

1 The Member States shall provide that all persons working or who have worked for the competent authorities, as well as auditors and experts acting on behalf of the competent authorities, shall be bound by the obligation of professional secrecy. This means that no confidential information which they may receive while performing their duties may be divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual insurance undertakings cannot be identified, without prejudice to cases covered by criminal law.

Nevertheless, where an insurance undertaking has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in attempts to rescue that undertaking may be divulged in civil or commercial proceedings.

2 Paragraph 1 shall not prevent the competent authorities of different Member States from exchanging information in accordance with the Directives applicable to insurance undertakings. Such information shall be subject to the conditions of professional secrecy laid down in paragraph 1.

[<sup>F43</sup> Member States may conclude cooperation agreements providing for exchange of information with the competent authorities of third countries or with authorities or bodies of third countries as defined in paragraphs 5 and 5a only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those referred to in this Article. Such exchange of information must be intended for the performance of the supervisory task of the authorities or bodies mentioned.

Where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.]

[<sup>F54</sup> Competent authorities receiving confidential information under paragraph 1 or 2 may use it only in the course of their duties:

- to check that the conditions governing the taking up of the business of insurance are met and to facilitate monitoring of the conduct of such business, especially with regard to the monitoring of technical provisions, solvency margins, administrative and accounting procedures and internal control mechanisms,
- to impose penalties,
- in administrative appeals against decisions of the competent authorities, or
- [<sup>X1</sup>in court proceedings initiated under Article 56 or under special provisions provided for in this Directive and other Directives adopted in the field of insurance undertakings and reinsurance undertakings.]

5 Paragraphs 1 and 4 shall not preclude the exchange of information within a Member State, where there are two or more competent authorities in the same Member State, or, between Member States, between competent authorities and:

- authorities responsible for the official supervision of credit institutions and other financial organisations and the authorities responsible for the supervision of financial markets,
- bodies involved in the liquidation and bankruptcy of insurance undertakings, reinsurance undertakings and in other similar procedures, and
- persons responsible for carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings and other financial institutions,

in the discharge of their supervisory functions, and the disclosure, to bodies which administer compulsory winding-up proceedings or guarantee funds, of information necessary to the performance of their duties. The information received by those authorities, bodies and persons shall be subject to the obligation of professional secrecy laid down in paragraph 1.]

[<sup>F65b</sup> Notwithstanding paragraphs 1 to 4, Member States may, with the aim of strengthening the stability, including integrity, of the financial system, authorize the exchange of information between the competent authorities and the authorities or bodies responsible under the law for the detection and investigation of breaches of company law.

Member States which have recourse to the option provided for in the first subparagraph shall require at least that the following conditions are met:

- the information shall be for the purpose of performing the task referred to in the first subparagraph,
- information received in this context shall be subject to the conditions of professional secrecy imposed in paragraph 1,
- where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Where, in a Member State, the authorities or bodies referred to in the first subparagraph perform their task of detection or investigation with the aid, in view of their specific competence, of persons appointed for that purpose and not employed in the public sector, the possibility of exchanging information provided for in the first subparagraph may be extended to such persons under the conditions stipulated in the second subparagraph.

In order to implement the final indent of the second subparagraph, the authorities or bodies referred to in the first subparagraph shall communicate to the competent authorities which have disclosed the information, the names and precise responsibilities of the persons to whom it is to be sent.

Member States shall communicate to the Commission and to the other Member States the names of the authorities or bodies which may receive information pursuant to this paragraph.

Before 31 December 2000, the Commission shall draw up a report on the application of the provisions of this paragraph.

- [<sup>F75c</sup> This Article shall not prevent a competent authority from transmitting
- to central banks and other bodies with a similar function in their capacity as monetary authorities,
  - where appropriate, to other public authorities responsible for overseeing payment systems,

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

information intended for the performance of their task, nor shall it prevent such authorities or bodies from communicating to the competent authorities such information as they may need for the purposes of paragraph 4. Information received in this context shall be subject to the conditions of professional secrecy imposed in this Article.]]

[<sup>F56</sup> Notwithstanding paragraphs 1 to 4, Member States may authorise exchanges of information between the competent authorities and:

- the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of assurance undertakings, reinsurance undertakings and other similar procedures, or
- the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings, credit institutions, investment firms and other financial institutions, or
- independent actuaries of insurance undertakings or reinsurance undertakings carrying out legal supervision of those undertakings and the bodies responsible for overseeing such actuaries.

Member States which have recourse to the option provided for in the first subparagraph shall require at least that the following conditions are met:

- this information shall be for the purpose of carrying out the overseeing or legal supervision referred to in the first subparagraph,
- information received in this context shall be subject to the conditions of professional secrecy imposed in paragraph 1,
- where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Member States shall communicate to the Commission and to the other Member States the names of the authorities, persons and bodies which may receive information pursuant to this paragraph.]

#### **Editorial Information**

- X1** Substituted by [Corrigendum to Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC \(Official Journal of the European Union L 323 of 9 December 2005\)](#).

#### **Textual Amendments**

- F4** Substituted by [Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries](#).
- F5** Substituted by [Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC \(Text with EEA relevance\)](#).
- F6** Inserted by [European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities \(Ucits\), with a view to reinforcing prudential supervision](#).

- F7** Substituted by Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

*f<sup>6</sup>Article 16a*

- 1 Member States shall provide at least that:
- a any person authorized within the meaning of Directive 84/253/EEC<sup>(9)</sup>, performing in an insurance undertaking the task described in Article 51 of Directive 78/660/EEC<sup>(10)</sup>, Article 37 of Directive 83/349/EEC or Article 31 of Directive 85/611/EEC or any other statutory task, shall have a duty to report promptly to the competent authorities any fact or decision concerning that undertaking of which he has become aware while carrying out that task which is liable to:
    - constitute a material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorization or which specifically govern pursuit of the activities of insurance undertaking, or
    - affect the continuous functioning of the insurance undertaking, or
    - lead to refusal to certify the accounts or to the expression of reservations;
  - b that person shall likewise have a duty to report any facts and decisions of which he becomes aware in the course of carrying out a task as described in (a) in an undertaking having close links resulting from a control relationship with the insurance undertaking within which he is carrying out the abovementioned task.
- 2 The disclosure in good faith to the competent authorities, by persons authorized within the meaning of Directive 84/253/EEC, of any fact or decision referred to in paragraph 1 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not involve such persons in liability of any kind.]

**Textual Amendments**

- F6** Inserted by European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision.

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- (1) [<sup>F3</sup>Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3). Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.3.2005, p. 9).
- (2) Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1). Directive as last amended by Directive 2007/44/EC.
- (3) Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance (OJ L 323, 9.12.2005, p. 1). Directive as amended by Directive 2007/44/EC.
- (4) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (OJ L 177, 30.6.2006, p. 1). Directive as last amended by Directive 2007/44/EC.
- (5) Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance and reinsurance undertakings in an insurance or reinsurance group (OJ L 330, 5.12.1998, p. 1). Directive as last amended by Directive 2005/68/EC.
- (6) Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings (OJ L 77, 20.3.2002, p. 17).
- (7) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (OJ L 35, 11.2.2003, p. 1). Directive as amended by Directive 2005/1/EC.
- (8) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).]
- (9) [<sup>F6</sup>OJ No L 126, 12.5.1984, p. 20.
- (10) OJ No L 222, 14.8.1978, p. 11. Directive as last amended by Directive 90/605/EEC (OJ No L 317, 16.11.1990, p. 60).]

#### Textual Amendments

- F3** Inserted by Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (Text with EEA relevance).
- F6** Inserted by European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision.