

Directive 2001/24/EC of the European Parliament and of the Council of
4 April 2001 on the reorganisation and winding up of credit institutions

TITLE II

REORGANISATION MEASURES

A.

Credit institutions having their head offices within the Community

Article 3

Adoption of reorganisation measures — applicable law

1 The administrative or judicial authorities of the home Member State shall alone be empowered to decide on the implementation of one or more reorganisation measures in a credit institution, including branches established in other Member States.

2 The reorganisation measures shall be applied in accordance with the laws, regulations and procedures applicable in the home Member State, unless otherwise provided in this Directive.

They shall be fully effective in accordance with the legislation of that Member State throughout the Community without any further formalities, including as against third parties in other Member States, even where the rules of the host Member State applicable to them do not provide for such measures or make their implementation subject to conditions which are not fulfilled.

The reorganisation measures shall be effective throughout the Community once they become effective in the Member State where they have been taken.

Article 4

Information for the competent authorities of the host Member State

The administrative or judicial authorities of the home Member State shall without delay inform, by any available means, the competent authorities of the host Member State of their decision to adopt any reorganisation measure, including the practical effects which such a measure may have, if possible before it is adopted or otherwise immediately thereafter. Information shall be communicated by the competent authorities of the home Member State.

Article 5

Information for the supervisory authorities of the home Member State

Where the administrative or judicial authorities of the host Member State deem it necessary to implement within their territory one or more reorganisation measures,

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they shall inform the competent authorities of the home Member State accordingly. Information shall be communicated by the host Member State's competent authorities.

Article 6

Publication

1 Where implementation of the reorganisation measures decided on pursuant to Article 3(1) and (2) is likely to affect the rights of third parties in a host Member State and where an appeal may be brought in the home Member State against the decision ordering the measure, the administrative or judicial authorities of the home Member State, the administrator or any person empowered to do so in the home Member State shall publish an extract from the decision in the *Official Journal of the European Communities* and in two national newspapers in each host Member State, in order in particular to facilitate the exercise of the right of appeal in good time.

2 The extract from the decision provided for in paragraph 1 shall be forwarded at the earliest opportunity, by the most appropriate route, to the Office for Official Publications of the European Communities and to the two national newspapers in each host Member State.

3 The Office for Official Publications of the European Communities shall publish the extract at the latest within twelve days of its dispatch.

4 The extract from the decision to be published shall specify, in the official language or languages of the Member States concerned, in particular the purpose and legal basis of the decision taken, the time limits for lodging appeals, specifically a clearly understandable indication of the date of expiry of the time limits, and the full address of the authorities or court competent to hear an appeal.

5 The reorganisation measures shall apply irrespective of the measures prescribed in paragraphs 1 to 3 and shall be fully effective as against creditors, unless the administrative or judicial authorities of the home Member State or the law of that State governing such measures provide otherwise.

Article 7

Duty to inform known creditors and right to lodge claims

1 Where the legislation of the home Member State requires lodgement of a claim with a view to its recognition or provides for compulsory notification of the measure to creditors who have their domiciles, normal places of residence or head offices in that State, the administrative or judicial authorities of the home Member State or the administrator shall also inform known creditors who have their domiciles, normal places of residence or head offices in other Member States, in accordance with the procedures laid down in Articles 14 and 17(1).

2 Where the legislation of the home Member State provides for the right of creditors who have their domiciles, normal places of residence or head offices in that State to lodge claims or to submit observations concerning their claims, creditors who have their domiciles, normal places of residence or head offices in other Member States shall also have that right in accordance with the procedures laid down in Article 16 and Article 17(2).

B.

Credit institutions having their head offices outside the Community

Article 8

Branches of third-country credit institutions

1 The administrative or judicial authorities of the host Member State of a branch of a credit institution having its head office outside the Community shall without delay inform, by any available means, the competent authorities of the other host Member States in which the institution has set up branches which are included on the list referred to in Article 11 of Directive 2000/12/EC and published each year in the *Official Journal of the European Communities*, of their decision to adopt any reorganisation measure, including the practical effects which that measure may have, if possible before it is adopted or otherwise immediately thereafter. Information shall be communicated by the competent authorities of the host Member State whose administrative or judicial authorities decide to apply the measure.

2 The administrative or judicial authorities referred to in paragraph 1 shall endeavour to coordinate their actions.