

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Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC (Text with EEA relevance) (repealed)

TITLE III

CONDITIONS GOVERNING THE BUSINESS OF REINSURANCE

CHAPTER 1

Principles and methods of financial supervision

Section 3

Professional secrecy and exchanges of information

Article 28

Exchange of information with other authorities

1 Articles 24 and 27 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:

- a authorities responsible for the official supervision of credit institutions and other financial organisations and the authorities responsible for the supervision of financial markets,
- b bodies involved in the liquidation and bankruptcy of insurance and reinsurance undertakings and in other similar procedures, and
- c 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, or the disclosure to bodies which administer compulsory winding-up proceedings or guarantee schemes of information necessary to the performance of their duties. The information received by those authorities, bodies and persons shall be subject to the conditions of professional secrecy laid down in Article 24.

2 Notwithstanding Articles 24 to 27, Member States may authorise exchanges of information between the competent authorities and:

- a the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of insurance or reinsurance undertakings and other similar procedures, or
- b the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of insurance or reinsurance undertakings, credit institutions, investment firms and other financial institutions, or
- c independent actuaries of insurance 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:

- a this exchange of information shall be for the purpose of carrying out the overseeing or legal supervision referred to in the first subparagraph;
- b information received in this context shall be subject to the conditions of professional secrecy imposed in Article 24;
- c 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, may only be disclosed 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.

3 Notwithstanding Articles 24 to 27, Member States may, with the aim of strengthening the stability, including the integrity, of the financial system, authorise 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:

- a the information shall be for the purpose of performing the task referred to in the first subparagraph;
- b information received in this context shall be subject to the conditions of professional secrecy imposed in Article 24;
- c 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 laid down in the second subparagraph.

In order to implement point (c) 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.