

Directive 2009/138/EC of the European Parliament and of the Council  
of 25 November 2009 on the taking-up and pursuit of the business of  
Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)

TITLE IV

**REORGANISATION AND WINDING-UP OF INSURANCE UNDERTAKINGS**

CHAPTER III

**Winding-up proceedings**

*Article 274*

**Applicable law**

- 1 The decision to open winding-up proceedings with regard to an insurance undertaking, the winding-up proceedings and their effects shall be governed by the law applicable in the home Member State unless otherwise provided in Articles 285 to 292.
- 2 The law of the home Member State shall determine at least the following:
  - a the assets which form part of the estate and the treatment of assets acquired by, or devolving to, the insurance undertaking after the opening of the winding-up proceedings;
  - b the respective powers of the insurance undertaking and the liquidator;
  - c the conditions under which set-off may be invoked;
  - d the effects of the winding-up proceedings on current contracts to which the insurance undertaking is party;
  - e the effects of the winding-up proceedings on proceedings brought by individual creditors, with the exception of lawsuits pending referred to in Article 292;
  - f the claims which are to be lodged against the estate of the insurance undertaking and the treatment of claims arising after the opening of winding-up proceedings;
  - g the rules governing the lodging, verification and admission of claims;
  - h the rules governing the distribution of proceeds from the realisation of assets, the ranking of claims, and the rights of creditors who have obtained partial satisfaction after the opening of winding-up proceedings by virtue of a right in rem or through a set-off;
  - i the conditions for and the effects of closure of winding-up proceedings, in particular by composition;
  - j rights of the creditors after the closure of winding-up proceedings;
  - k the party who is to bear the cost and expenses incurred in the winding-up proceedings; and
  - l the rules relating to the nullity, voidability or unenforceability of legal acts detrimental to all the creditors.