

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 I

**GENERAL RULES ON THE TAKING-UP AND PURSUIT OF
DIRECT INSURANCE AND REINSURANCE ACTIVITIES**

CHAPTER IV

Conditions governing business

Section 6

Duties of auditors

Article 72

Duties of auditors

1 Member States shall provide at least that persons authorised within the meaning of Eighth Council Directive 84/253/EEC of 10 April 1984 based on Article 54(3)(g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents⁽¹⁾, who perform in an insurance or reinsurance undertaking the statutory audit referred to in Article 51 of Directive 78/660/EEC, 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 supervisory authorities any fact or decision concerning that undertaking of which they have become aware while carrying out that task and which is liable to bring about any of the following:

- a a material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of insurance and reinsurance undertakings;
- b the impairment of the continuous functioning of the insurance or reinsurance undertaking;
- c a refusal to certify the accounts or to the expression of reservations;
- d non-compliance with the Solvency Capital Requirement;
- e non-compliance with the Minimum Capital Requirement.

The persons referred to in the first subparagraph shall also report any facts or decisions of which they have become aware in the course of carrying out a task as described in the first subparagraph in an undertaking which has close links resulting from a control relationship with the insurance or reinsurance undertaking within which they are carrying out that task.

2 The disclosure in good faith to the supervisory authorities, by persons authorised within the meaning of Directive 84/253/EEC, of any fact or decision referred to in paragraph 1

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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.

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(1) [OJ L 126, 12.5.1984, p. 20.](#)