

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 V

**Pursuit of life and non-life insurance activity**

*Article 73*

**Pursuit of life and non-life insurance activity**

1 Insurance undertakings shall not be authorised to pursue life and non-life insurance activities simultaneously.

2 By way of derogation from paragraph 1, Member States may provide that:

- a undertakings authorised to pursue life insurance activity may obtain authorisation for non-life insurance activities for the risks listed in classes 1 and 2 in Part A of Annex I;
- b undertakings authorised solely for the risks listed in classes 1 and 2 in Part A of Annex I may obtain authorisation to pursue life insurance activity.

However, each activity shall be separately managed in accordance with Article 74.

3 Member States may provide that the undertakings referred to in paragraph 2 shall comply with the accounting rules governing life insurance undertakings for all of their activities. Pending coordination in this respect, Member States may also provide that, with regard to rules on winding-up, activities relating to the risks listed in classes 1 and 2 in Part A of Annex I pursued by those undertakings shall be governed by the rules applicable to life insurance activities.

4 Where a non-life insurance undertaking has financial, commercial or administrative links with a life insurance undertaking, the supervisory authorities of the home Member States shall ensure that the accounts of the undertakings concerned are not distorted by agreements between those undertakings or by any arrangement which could affect the apportionment of expenses and income.

5 Undertakings which on the following dates pursued simultaneously both life and non-life insurance activities covered by this Directive may continue to pursue those activities simultaneously, provided that each activity is separately managed in accordance with Article 74:

- a 1 January 1981 for undertakings authorised in Greece;
- b 1 January 1986 for undertakings authorised in Spain and Portugal;
- c 1 January 1995 for undertakings authorised in Austria, Finland and Sweden;
- d 1 May 2004 for undertakings authorised in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia, and Slovenia;
- e 1 January 2007 for undertakings authorised in Bulgaria and Romania;

f 15 March 1979 for all other undertakings.

The home Member State may require insurance undertakings to cease, within a period to be determined by that Member State, the simultaneous pursuit of life and non-life insurance activities in which they were engaged on the dates referred to in the first subparagraph.

#### *Article 74*

### **Separation of life and non-life insurance management**

1 The separate management referred to in Article 73 shall be organised in such a way that the life insurance activity is distinct from non-life insurance activity.

The respective interests of life and non-life policy holders shall not be prejudiced and, in particular, profits from life insurance shall benefit life policy holders as if the life insurance undertaking only pursued the activity of life insurance.

2 Without prejudice to Articles 100 and 128, the insurance undertakings referred to in Article 73(2) and (5) shall calculate:

- a a notional life Minimum Capital Requirement with respect to their life insurance or reinsurance activity, calculated as if the undertaking concerned only pursued that activity, on the basis of the separate accounts referred to in paragraph 6; and
- b a notional non-life Minimum Capital Requirement with respect to their non-life insurance or reinsurance activity, calculated as if the undertaking concerned only pursued that activity, on the basis of the separate accounts referred to in paragraph 6.

3 As a minimum, the insurance undertakings referred to in Article 73(2) and (5) shall cover the following by an equivalent amount of eligible basic own-fund items:

- a the notional life Minimum Capital Requirement, in respect of the life activity;
- b the notional non-life Minimum Capital Requirement, in respect of the non-life activity.

The minimum financial obligations referred to in the first subparagraph, in respect of the life insurance activity and the non-life insurance activity, shall not be borne by the other activity.

4 As long as the minimum financial obligations referred to in paragraph 3 are fulfilled and provided the supervisory authority is informed, the undertaking may use to cover the Solvency Capital Requirement referred to in Article 100, the explicit eligible own-fund items which are still available for one or the other activity.

5 The supervisory authorities shall analyse the results in both life and non-life insurance activities so as to ensure that the requirements of paragraphs 1 to 4 are fulfilled.

6 Accounts shall be drawn up so as to show the sources of the results for life and non-life insurance separately. All income, in particular premiums, payments by reinsurers and investment income, and expenditure, in particular insurance settlements, additions to technical provisions, reinsurance premiums and operating expenses in respect of insurance business, shall be broken down according to origin. Items common to both activities shall be entered in the accounts in accordance with methods of apportionment to be accepted by the supervisory authority.

Insurance undertakings shall, on the basis of the accounts, prepare a statement in which the eligible basic own-fund items covering each notional Minimum Capital

Requirement as referred to in paragraph 2 are clearly identified, in accordance with Article 98(4).

7 If the amount of eligible basic own-fund items with respect to one of the activities is insufficient to cover the minimum financial obligations referred to in first subparagraph of paragraph 3, the supervisory authorities shall apply to the deficient activity the measures provided for in this Directive, whatever the results in the other activity.

By way of derogation from the second subparagraph of paragraph 3, those measures may involve the authorisation of a transfer of explicit eligible basic own-fund items from one activity to the other.