

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 II

SPECIFIC PROVISIONS FOR INSURANCE AND REINSURANCE

CHAPTER IV

Rules specific to reinsurance

Article 210

Finite reinsurance

1 Member States shall ensure that insurance and reinsurance undertakings which conclude finite reinsurance contracts or pursue finite reinsurance activities are able to properly identify, measure, monitor, manage, control and report the risks arising from those contracts or activities.

[^{F12} The Commission may adopt delegated acts in accordance with Article 301a specifying the provisions referred to in paragraph 1 of this Article with respect to the monitoring, management and control of risks arising from finite reinsurance activities.]

3 For the purposes of paragraphs 1 and 2 finite reinsurance means reinsurance under which the explicit maximum loss potential, expressed as the maximum economic risk transferred, arising both from a significant underwriting risk and timing risk transfer, exceeds the premium over the lifetime of the contract by a limited but significant amount, together with at least one of the following features:

- a explicit and material consideration of the time value of money;
- b contractual provisions to moderate the balance of economic experience between the parties over time to achieve the target risk transfer.

Textual Amendments

- F1** Substituted by [Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations \(EC\) No 1060/2009, \(EU\) No 1094/2010 and \(EU\) No 1095/2010 in respect of the powers of the European Supervisory Authority \(European Insurance and Occupational Pensions Authority\) and the European Supervisory Authority \(European Securities and Markets Authority\).](#)

Article 211

Special purpose vehicles

1 Member States shall allow the establishment within their territory of special purpose vehicles, subject to prior supervisory approval.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

[^{F12} The Commission shall adopt delegated acts in accordance with Article 301a specifying the following criteria for supervisory approval:

- a the scope of authorisation;
- b mandatory conditions to be included in all contracts issued;
- c fit and proper requirements, as referred to in Article 42, of the persons running the special purpose vehicle;
- d fit and proper requirements for shareholders or members having a qualifying holding in the special purpose vehicle;
- e sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements;
- f accounting, prudential and statistical information requirements;
- g solvency requirements.

2a In order to ensure uniform conditions of application of Article 211(1) and (2), EIOPA shall develop draft implementing technical standards on the procedures for granting supervisory approval to establish special purpose vehicles and on the formats and templates to be used for the purposes of point (f) of paragraph 2.

EIOPA shall submit those draft implementing technical standards to the Commission by 31 October 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

2b In order to ensure uniform conditions of application of Article 211(1) and (2), EIOPA may develop draft implementing technical standards on the procedures for the cooperation and exchange of information between supervisory authorities, where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the insurance or reinsurance undertaking is authorised.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

3 Special purpose vehicles authorised before 31 December 2015 shall be subject to the law of the Member State that authorised the special purpose vehicle. However, any new activity commenced by such a special purpose vehicle after that date shall be subject to paragraphs 1, 2 and 2a.]

Textual Amendments

- F1** Substituted by [Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations \(EC\) No 1060/2009, \(EU\) No 1094/2010 and \(EU\) No 1095/2010 in respect of the powers of the European Supervisory Authority \(European Insurance and Occupational Pensions Authority\) and the European Supervisory Authority \(European Securities and Markets Authority\).](#)