

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 II

**Reorganisation measures**

*Article 269*

**Adoption of reorganisation measures applicable law**

1 Only the competent authorities of the home Member State shall be entitled to decide on the reorganisation measures with respect to an insurance undertaking, including its branches.

2 The reorganisation measures shall not preclude the opening of winding-up proceedings by the home Member State.

3 The reorganisation measures shall be governed by the laws, regulations and procedures applicable in the home Member State, unless otherwise provided in Articles 285 to 292.

4 Reorganisation measures taken in accordance with the legislation of the home Member State shall be fully effective throughout the Community without any further formalities, including against third parties in other Member States, even where the legislation of those other Member States does not provide for such reorganisation measures or alternatively makes their implementation subject to conditions which are not fulfilled.

5 The reorganisation measures shall be effective throughout the Community once they become effective in the home Member State.

*Article 270*

**Information to the supervisory authorities**

The competent authorities of the home Member State shall inform as a matter of urgency the supervisory authorities of that Member State of their decision on any reorganisation measure, where possible before the adoption of such a measure and failing that immediately thereafter.

The supervisory authorities of the home Member State shall inform as a matter of urgency the supervisory authorities of all other Member States of the decision to adopt reorganisation measures including the possible practical effects of such measures.

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*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.*

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### Article 271

#### **Publication of decisions on reorganisation measures**

1 Where an appeal is possible in the home Member State against a reorganisation measure, the competent authorities of the home Member State, the administrator or any person entitled to do so in the home Member State shall make public the decision on a reorganisation measure in accordance with the publication procedures provided for in the home Member State and, furthermore, publish in the *Official Journal of the European Union* at the earliest opportunity an extract from the document establishing the reorganisation measure.

The supervisory authorities of the other Member States which have been informed of the decision on a reorganisation measure pursuant to Article 270 may ensure the publication of such decision within their territory in the manner they consider appropriate.

2 The publications provided for in paragraph 1 shall specify the competent authority of the home Member State, the applicable law as provided in Article 269(3) and the administrator appointed, if any. They shall be made in the official language or in one of the official languages of the Member State in which the information is published.

3 The reorganisation measures shall apply regardless of the provisions concerning publication set out in paragraphs 1 and 2 and shall be fully effective as against creditors, unless the competent authorities of the home Member State or the law of that Member State provide otherwise.

4 Where reorganisation measures affect exclusively the rights of shareholders, members or employees of an insurance undertaking, considered in those capacities, paragraphs 1, 2 and 3 shall not apply unless the law applicable to the reorganisation measures provides otherwise.

The competent authorities shall determine the manner in which the parties referred to in the first subparagraph are to be informed in accordance with the applicable law.

### Article 272

#### **Information to known creditors right to lodge claims**

1 Where the law of the home Member State requires a claim to be lodged in order for it to be recognised or provides for compulsory notification of a reorganisation measure to creditors whose habitual residence, domicile or head office is situated in that Member State, the competent authorities of the home Member State or the administrator shall also inform known creditors whose habitual residence, domicile or head office is situated in another Member State, in accordance with Article 281 and Article 283(1).

2 Where the law of the home Member State provides for the right of creditors whose habitual residence, domicile or head office is situated in that Member State to lodge claims or to submit observations concerning their claims, creditors whose habitual residence, domicile or head office is situated in another Member State shall have the same right in accordance with Article 282 and Article 283(2).