

Directive (EU) 2016/97 of the European Parliament and of the Council of
20 January 2016 on insurance distribution (recast) (Text with EEA relevance)

CHAPTER III

FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT

Article 6

Exercise of the freedom of establishment

1 Member States shall ensure that any insurance, reinsurance or ancillary insurance intermediary that intends to exercise its freedom of establishment by establishing a branch or permanent presence within the territory of another Member State communicates that to the competent authority of its home Member State and provides that competent authority with the following information:

- a the name, address and, where applicable, the registration number of the intermediary;
- b the Member State within the territory of which the intermediary plans to establish a branch or permanent presence;
- c the category of intermediary and, if applicable, the name of any insurance or reinsurance undertaking represented;
- d the relevant classes of insurance, if applicable;
- e the address in the host Member State from which documents may be obtained;
- f the name of any person responsible for the management of the branch or permanent presence.

Any permanent presence of an intermediary in the territory of another Member State that is equivalent to a branch shall be treated in the same way as a branch, unless the intermediary lawfully sets up such permanent presence in another legal form.

2 Unless the competent authority of the home Member State has reason to doubt the adequacy of the organisational structure or the financial situation of the insurance, reinsurance or ancillary insurance intermediary, taking into account the distribution activities envisaged, it shall, within one month of receiving the information referred to in paragraph 1, communicate that information to the competent authority of the host Member State, which shall acknowledge its receipt without delay. The competent authority of the home Member State shall inform the insurance, reinsurance or ancillary insurance intermediary in writing that the information has been received by the competent authority of the host Member State.

Within one month of receipt of the information referred to in the first subparagraph of this paragraph, the competent authority of the host Member State shall communicate the legal provisions referred to in Article 11(1) through the means referred to in Article 11(3) and (4) which are applicable in its territory to the competent authority of the home Member State. The competent authority of the home Member State shall communicate that information to the intermediary and inform the intermediary that it may commence its business in the host Member State provided that it complies with those legal provisions.

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Where no communication is received within the period provided for in the second subparagraph, the insurance, reinsurance or ancillary insurance intermediary may establish the branch and commence its business.

3 Where the competent authority of the home Member State refuses to communicate the information referred to in paragraph 1 to the competent authority of the host Member State, it shall give reasons for its refusal to the insurance, reinsurance or ancillary insurance intermediary within one month of receiving all the information referred to in paragraph 1.

A refusal as referred to in the first subparagraph or any failure by the competent authority of the home Member State to communicate the information referred to in paragraph 1 shall be subject to a right of appeal to the courts of the home Member State.

4 In the event of a change in any of the particulars communicated in accordance with paragraph 1, an insurance, reinsurance or ancillary insurance intermediary shall notify that change to the competent authority of the home Member State at least one month before implementing the change. The competent authority of the host Member State shall also be informed of that change by the competent authority of the home Member State as soon as is practicable and no later than one month from the date of receipt of the information by the competent authority of the home Member State.