

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 8*

**Breach of obligations when exercising the freedom of establishment**

1 Where the competent authority of a host Member State ascertains that an insurance, reinsurance or ancillary insurance intermediary is in breach of the legal or regulatory provisions adopted in that Member State pursuant to the provisions of Chapters V and VI, that authority may take appropriate measures.

2 Where the competent authority of a host Member State has reason to consider that an insurance, reinsurance or ancillary insurance intermediary acting within its territory through an establishment is in breach of any obligation set out in this Directive, and where that competent authority does not have responsibility in accordance with Article 7(2), it shall refer those findings to the competent authority of the home Member State. After assessing the information received, the competent authority of the home Member State shall, where applicable and, if so, at the earliest opportunity take appropriate measures to remedy the situation. It shall inform the competent authority of the host Member State of any such measures taken.

3 Where, despite the measures taken by the home Member State or because those measures prove to be inadequate or are lacking, the insurance, reinsurance or ancillary insurance intermediary persists in acting in a manner that is clearly detrimental to the interests of host Member State consumers on a large scale, or to the orderly functioning of insurance and reinsurance markets, the competent authority of the host Member State may, after informing the competent authority of the home Member State, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing that intermediary from continuing to carry on new business within its territory.

In addition, the competent authority of the home Member State or of the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.

4 Paragraphs 2 and 3 shall not affect the power of the host Member State to take appropriate and non-discriminatory measures to prevent or penalise irregularities committed within its territory, in situations where immediate action is strictly necessary, in order to protect the rights of consumers of the host Member State, and where equivalent measures of the home Member State are inadequate or lacking. In such situations, the host Member State shall have the possibility of preventing the insurance, reinsurance or ancillary insurance intermediary concerned from carrying out new business within its territory.

5 Any measure adopted by the competent authorities of the host Member State under this Article shall be communicated to the insurance, reinsurance or ancillary insurance intermediary concerned in a well-reasoned document and notified to the competent authority of the home Member State, to EIOPA and to the Commission without undue delay.