



STATUTORY INSTRUMENTS

S.I. No. 276 of 2009

EUROPEAN COMMUNITIES (INSURANCE AND REINSURANCE
GROUPS SUPPLEMENTARY SUPERVISION) (AMENDMENT)
REGULATIONS 2009

(Prn. A9/1020)

EUROPEAN COMMUNITIES (INSURANCE AND REINSURANCE
GROUPS SUPPLEMENTARY SUPERVISION) (AMENDMENT)
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I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998¹ and Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Insurance and Reinsurance Groups Supplementary Supervision) (Amendment) Regulations 2009.

2. The European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007 (S.I. No. 366 of 2007) are amended—

(a) in Regulation 3(1), by substituting for the definition of “Insurance Acts” the following:

“ ‘Insurance Acts’ means—

(a) the Insurance Acts 1909 to 2000 and any later Act (or part thereof) required to be read as one with any or all of those Acts,

(b) regulations made thereunder, and

(c) regulations relating to insurance and reinsurance made under section 3 of the European Communities Act 1972 (No. 27 of 1972);”,

(b) in Regulation 6(3), by substituting “paragraph (2)” for “paragraph (1)”,

(c) in Regulation 9—

(i) in paragraph (2), by substituting “Regulation 5(2)” for “Regulation 4(2) or (3)”,

(ii) in paragraph (3), by substituting “either paragraph (1) or (2), or both” for “paragraph (1)”, and

¹OJ No. L330, 5.12.1998, p. 1.

²OJ No. L323, 9.12.2005, p. 1.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 28th July, 2009.*

(iii) in paragraph (5), by substituting “undertaking” for “insurer or reinsurer” in the first 2 places where it occurs,

(d) by substituting for Regulation 13(2)(a) the following:

“(a) all undertakings related to the insurance holding company;”

(e) in Schedule 1—

(i) in paragraph 3(2), by substituting “do not provide for it” for “do not prevent the double use of those elements”,

(ii) in paragraph 4(2)(a), by substituting “undertaking” for “insurer or reinsurer”, and

(iii) in paragraph 14(2)(b), by substituting “Life Insurance Framework Regulations” for “Life Insurance Regulations”,

and

(f) in Schedule 2, by substituting the following for paragraphs 1 to 6:

“Bank to co-operate with competent authorities of other Member States.

1. The Bank shall co-operate as necessary with the competent authorities of other Member States to ensure that the method referred to in this Schedule is applied in a consistent manner in cases where an insurance holding company or a third country insurer or reinsurer is the parent undertaking of—

(a) one or more insurers or reinsurers referred to in Regulation 4(2), and

(b) one or more insurers or reinsurers that are established in another Member State.

Frequency of supplementary supervision.

2. The Bank shall exercise supplementary supervision with the same frequency as prescribed by—

(a) the Non-Life Insurance Business Directive,

(b) the Insurance Undertakings Accounting Directive,

(c) the Life Assurance Business Directive, and

(d) the Reinsurance Directive,

for calculating the solvency margin of an insurer or reinsurer.

Waiver of calculation by Bank.

3. (1) The Bank may waive the calculation provided for by this Schedule in relation to an insurer or reinsurer—

(a) if—

- (i) the insurer or reinsurer is a related undertaking of another insurer or reinsurer, and
- (ii) the insurer or reinsurer is taken into account in making the calculation for that other insurer or reinsurer, as provided for by this Schedule, or

(b) if—

- (i) the insurer or reinsurer and one or more other insurers or reinsurers that are established in the State have as their parent undertaking the same insurance holding company, or third country insurer or reinsurer, and
- (ii) the insurer or reinsurer is taken into account in making the calculation for one of those other undertakings, as provided for by this Schedule, or

(c) if—

- (i) the insurer or reinsurer and one or more other insurers or reinsurers established in other Member States have as their parent undertaking the same insurance holding company, or the same third country insurer or reinsurer, and
- (ii) an agreement conferring on the competent authority of another Member State responsibility for exercising supplementary supervision of the insurer or reinsurer has been entered into in accordance with Regulation 6(2).

(2) In the case of successive participations (for example, an insurance holding company or a third country insurer or reinsurer that is itself owned by another insurance holding company or a third country insurer or reinsurer), the calculations provided for by this Schedule are, if the Bank so directs, to be applied only at the level of the ultimate parent undertaking of the insurer or reinsurer that is an insurance holding company or a third country insurer or reinsurer.

Level at which calculations are made.

4. (1) Calculations analogous to those specified in Schedule 1 are to be made at the level of the relevant insurance holding company or third country insurer or reinsurer.

(2) In making those calculations, the general principles and methods prescribed by Schedule 1 are to be applied at the level of the relevant insurance holding company or third country insurer or reinsurer.

(3) For the purpose only of making such a calculation, the parent undertaking is to be treated as if it were an insurer or reinsurer that—

- (a) in the case of an insurance holding company—is subject to a zero solvency requirement,
- (b) in the case of a third country insurer or reinsurer—is subject to a solvency requirement calculated according to the principles of paragraph 14 of Schedule 1,

and, as regards the elements eligible for calculating the relevant solvency margin—is subject to the same conditions as those prescribed by—

- (i) Annex II to the Non-Life Insurance (Framework) Regulations,
- (ii) Annex II to the Life Assurance Framework Regulations, or
- (iii) Schedule 1 to the Reinsurance Regulations,

as the case requires.

Where information is not available to Bank.

5. If—

- (a) information concerning a related undertaking that has its registered office in another Member State, or in a third country, is required for making a calculation required by this Schedule, and
- (b) that information is for any reason not available to the Bank,

the book value of that undertaking in the participating undertaking is to be deducted from the elements that would otherwise be eligible for making the calculation. In that case, the unrealised gains arising from the participation shall not be treated as an element that is eligible for making the calculation.”.



GIVEN under my Official Seal,
21 July 2009.

BRIAN LENIHAN,
Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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