

## **Title I General rules on the taking-up and pursuit of direct insurance and reinsurance activities**

### **Chapter I Subject matter, scope and definitions (Articles 1 to 13)**

This chapter sets out what the Directive does and the activities to which it does and does not apply. Article 13 contains definitions for many of the terms used in the Directive.

### **Chapter II Taking-up of business (Articles 14 to 26)**

Chapter II is concerned with insurer authorisation:

*“The taking-up of the business of direct insurance or reinsurance covered by this Directive shall be subject to prior authorisation.” (Article 14(1))*

Principles, scope and conditions of authorisation are specified. With limited exceptions, member states cannot require prior approval or systematic notification of policy conditions and premiums (Article 21).

### **Chapter III Supervisory authorities and general rules (Articles 27 to 39)**

This chapter sets out the principles and scope of supervision. It includes requirements for transparency and accountability, the extent of general supervisory powers and information to be provided for supervisory purposes.

The main objective of supervision is “... *the protection of policyholders and beneficiaries*” (Article 27), although member states must also ensure that supervisory authorities shall consider the potential impact of their decisions on the stability of the EU’s financial systems (Article 28).

Specific Articles cover:

- the supervisory review process (Article 36);
- capital add-ons (Article 37);
- supervision of outsourced functions and activities (Article 38); and
- portfolio transfer (Article 39).

### **Chapter IV Conditions governing business (Articles 40 to 72)**

This chapter states the responsibilities of an insurer’s administrative, management or supervisory body (i.e. board of directors) and conditions that their systems of governance must meet. An insurer is required to:

- Have an effective risk management system (Article 44);
- Conduct its own risk and solvency assessment (ORSA) (Article 45);
- Have in place an effective internal control system (Article 46);
- Provide for an effective internal audit function (Article 47);
- Provide for an effective actuarial function (Article 48);

- Remain fully responsible for discharging Directive obligations when they outsource functions (Article 49).

Other matters covered include:

- Public disclosure and regulatory reporting requirements;
- Notification of an intention to acquire an interest in an insurer;
- Duties of auditors.

#### **Chapter V Pursuit of life and non-life activity (Articles 73 to 74)**

Chapter V prohibits (with exceptions) pursuing life and non-life insurance activities simultaneously.

#### **Chapter VI Rules relating to the valuation of assets and liabilities, technical provisions, own funds, solvency capital requirement, minimum capital requirement and investment rules (Articles 75 to 135)**

This chapter includes many of the most important Solvency II provisions, covering:

- Assets and liabilities – valuation;
- Technical provisions - calculation;
- Own funds – determination, classification and eligibility;
- Solvency Capital Requirement (SCR) – design and calculation, including the standard formula and partial and full internal models;
- Minimum Capital Requirement (MCR) - calculation;
- Investments.

#### **Chapter VII Insurance and reinsurance undertakings in difficulty or in an irregular situation (Articles 136 to 144)**

This chapter covers non-compliance with the chapter VII's requirements on technical provisions, the SCR and the MCR. It sets out the powers that supervisors must have to deal with an insurer's deteriorating financial condition, including withdrawal of authorisation.

Insurers must have procedures in place to identify deteriorating financial conditions and must immediately notify supervisors when such deterioration occurs (Article 136).

#### **Chapter VIII Rights of establishment and freedom to provide services (Articles 145 to 161)**

Chapter VIII re-states provisions in existing EU insurance and reinsurance directives. It sets out conditions that an insurer must meet if it establishes a branch in another member state or pursues business in another member state under the freedom to provide services. There are specific provisions for motor third party liability insurance.

#### **Chapter IX Branches established within the Community and belonging to insurance or reinsurance undertakings with head offices situated outside the Community (Articles 162 to 175)**

*“Member States shall make access to [direct insurance business] by any undertaking with a head office outside the Community subject to an authorisation.” (Article 162(1))*

This chapter sets out the requirements for granting such authorisation.

There is no requirement to make the establishment by a third country undertaking of a reinsurance branch in a member state subject to authorisation: member states can decide whether or not to do so. However, such a branch cannot have more favourable treatment than a reinsurer with a head office in the member state.

Articles 172 – 173 relate to assessment of the equivalence of a third country's solvency regime for reinsurance activities.

#### **Chapter X Subsidiaries of insurance and reinsurance undertakings governed by a third country and acquisitions of holdings by such undertakings (Articles 176 to 177)**

This Chapter requires supervisors to inform the Commission and other EU supervisors of any authorisation of a subsidiary of a third country undertaking (Article 176) and member states to inform the Commission of any general difficulties that insurers encounter doing business in third countries (Article 177).