



STATUTORY INSTRUMENTS.

S.I. No. 594 of 2011

EUROPEAN COMMUNITIES (REORGANISATION AND WINDING-UP
OF INSURANCE UNDERTAKINGS) (AMENDMENT) REGULATIONS
2011

(Prn. A11/2070)

EUROPEAN COMMUNITIES (REORGANISATION AND WINDING-UP OF INSURANCE UNDERTAKINGS) (AMENDMENT) REGULATIONS 2011

I, MICHAEL NOONAN, 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 further effect to Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001¹, hereby make the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Reorganisation and Winding-up of Insurance Undertakings) (Amendment) Regulations 2011.

(2) These Regulations come into operation on 18 November 2011.

Definition.

2. In these Regulations “Principal Regulations” means the European Communities (Reorganisation and Winding-up of Insurance Undertakings) Regulations 2003 (S.I. No.168 of 2003).

Amendment of Regulation 2 of Principal Regulations.

3. Regulation 2 of the Principal Regulations is amended—

(a) by substituting the following for the definition of “Insurance Acts”:

“‘Insurance Acts’ has the same meaning that it has in section 2 of the Insurance Act 1989 (No. 3 of 1989) (as amended by section 3 of the Insurance Act 2000 (No. 42 of 2000));”

and

(b) by inserting the following in paragraph (1) after the definition of “liquidator”:

“non-life classes 1 and 2” means non-life insurance falling within either or both classifications 1 and 2 of Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994);”

Amendment of Regulation 9 of Principal Regulations.

4. The Principal Regulations are amended by substituting the following for Regulation 9:

¹OJ No. L 110 of 20.4.2001, p. 28

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 18th November, 2011.

“9. (1) Insurance claims shall, with respect to assets representing the technical reserves of an insurance undertaking authorised by the Bank, take absolute precedence over any other claims on the insurance undertaking including claims accorded preference under section 285 of the Companies Act 1963 (No. 33 of 1963).

(2) Without prejudice to Regulation 9(1), where a life assurance undertaking is authorised to write non-life classes 1 and 2, then insurance claims in relation to—

- (a) the life business of such undertaking shall, with respect to the assets representing the life technical reserves of such undertaking, take absolute precedence over any claims in relation to the non-life classes 1 and 2 business of such undertaking, and
- (b) the non-life classes 1 and 2 business of such undertaking shall, with respect to the assets representing the non-life technical reserves of such undertaking, take absolute precedence over any claims in relation to the life business of such undertaking.

(3) Notwithstanding paragraphs (1) and (2), expenses arising out of the winding-up proceedings shall take precedence over insurance claims to the extent that the assets of the undertaking, other than the assets representing the technical reserves, are insufficient to meet such expenses. In such a situation where a life insurance undertaking writes non-life classes 1 and 2 business, such expenses shall be divided proportionally between the assets representing the life technical reserves and non-life technical reserves.

- (4) (a) Subject to paragraphs (b) and (c), an insurance undertaking authorised by the Bank shall keep a register showing the assets representing the technical reserves required to be maintained by it by or under the Insurance Acts.
- (b) Where a life insurance undertaking is allowed to write non-life classes 1 and 2 business, the undertaking shall keep separate registers for the assets representing the life obligations and non-life obligations.
- (c) Any register kept, immediately before the commencement of the European Communities (Reorganisation and Winding-up of Insurance Undertakings) (Amendment) Regulations 2011, for the purposes of this Regulation shall continue to be the register for the purpose of this Regulation after that commencement.

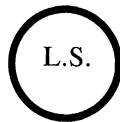
(5) Every register to which paragraph (4) relates shall be maintained at the principal office in the State of the insurance undertaking concerned and shall contain up-to-date details of the assets representing the technical reserves relevant to the register concerned.

(6) The total value of the assets, valued in accordance with the Insurance Acts, entered in each register to which paragraph (4) relates shall at no time be less than the value of the technical reserves relevant to the register concerned.

(7) Where an asset entered in a register to which paragraph (4) relates is subject to a right in rem in favour of a creditor or a third party, with the result that part of the value of the asset is not available for the purpose of covering commitments, that fact shall be recorded in the register concerned and the amount not available shall not be included in the total value referred to in paragraph (6).

(8) Every register to which paragraph (4) relates shall be open for inspection by an authorised officer of the Bank (being an authorised officer under section 59 of the Insurance Act 1989 for the purposes of the Insurance Acts) during normal business hours.

(9) Every insurance undertaking authorised by the Bank shall furnish to the Bank a certificate of the value of the assets (being the value of the assets entered in each register to which paragraph (4) relates and in the accounts and the balance sheets) on the closing date for which the accounts and balance sheets of the insurance undertaking are furnished to the Bank.”.



GIVEN under my Official Seal,
17 November 2011.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the European Communities (Reorganisation and Winding-up of Insurance Undertakings) Regulations 2003 (S.I. No. 168 of 2003). The Regulations are being amended to ensure that in circumstances where a life insurance company has been authorised to conduct non-life classes 1 and 2 business, the life business of such an undertaking shall, with respect to the assets representing the life technical reserves, take absolute precedence over any claim in relation to non-life classes 1 and 2 business and vice versa.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€2.54

