

Directive 2009/138/EC of the European Parliament and of the Council
of 25 November 2009 on the taking-up and pursuit of the business of
Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)

TITLE I

**GENERAL RULES ON THE TAKING-UP AND PURSUIT OF
DIRECT INSURANCE AND REINSURANCE ACTIVITIES**

CHAPTER VIII

Right of establishment and freedom to provide services

Section 1

Establishment by insurance undertakings

Article 145

Conditions for branch establishment

1 Member States shall ensure that an insurance undertaking which proposes to establish a branch within the territory of another Member State notifies the supervisory authorities of its home Member State.

Any permanent presence of an undertaking in the territory of a Member State shall be treated in the same way as a branch, even where that presence does not take the form of a branch, but consists merely of an office managed by the own staff of the undertaking or by a person who is independent but has permanent authority to act for the undertaking as an agency would.

2 Member States shall require every insurance undertaking that proposes to establish a branch within the territory of another Member State to provide the following information when effecting the notification provided for in paragraph 1:

- a the Member State within the territory of which it proposes to establish a branch;
- b a scheme of operations setting out, at least, the types of business envisaged and the structural organisation of the branch;
- c the name of a person who possesses sufficient powers to bind, in relation to third parties, the insurance undertaking or, in the case of Lloyd's, the underwriters concerned and to represent it or them in relations with the authorities and courts of the host Member State (the authorised agent);
- d the address in the host Member State from which documents may be obtained and to which they may be delivered, including all communications to the authorised agent.

With regard to Lloyd's, in the event of any litigation in the host Member State arising out of underwritten commitments, the insured persons shall not be treated less favourably than if the litigation had been brought against businesses of a conventional type.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After
IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

3 Where a non-life insurance undertaking intends its branch to cover risks in class 10 in Part A of Annex I, not including carrier's liability, it shall produce a declaration that it has become a member of the national bureau and the national guarantee fund of the host Member State.

4 In the event of a change in any of the particulars communicated under point (b), (c) or (d) of paragraph 2, an insurance undertaking shall give written notice of the change to the supervisory authorities of the home Member State and of the Member State where that branch is situated at least one month before making the change so that the supervisory authorities of the home Member State and the supervisory authorities of the Member State where that branch is situated may fulfil their respective obligations under Article 146.