

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 I

**Subject matter, scope and definitions**

Section 1

**Subject matter and scope**

*Article 2*

**Scope**

1 This Directive shall apply to direct life and non-life insurance undertakings which are established in the territory of a Member State or which wish to become established there.

It shall also apply to reinsurance undertakings which conduct only reinsurance activities and which are established in the territory of a Member State or which wish to become established there with the exception of Title IV.

2 In regard to non-life insurance, this Directive shall apply to activities of the classes set out in Part A of Annex I. For the purposes of the first subparagraph of paragraph 1, non-life insurance shall include the activity which consists of assistance provided for persons who get into difficulties while travelling, while away from their home or their habitual residence. It shall comprise an undertaking, against prior payment of a premium, to make aid immediately available to the beneficiary under an assistance contract where that person is in difficulties following the occurrence of a chance event, in the cases and under the conditions set out in the contract.

The aid may comprise the provision of benefits in cash or in kind. The provision of benefits in kind may also be effected by means of the staff and equipment of the person providing them.

The assistance activity shall not cover servicing, maintenance, after-sales service or the mere indication or provision of aid as an intermediary.

3 In regard to life insurance, this Directive shall apply:

a to the following life insurance activities where they are on a contractual basis:

- (i) life insurance which comprises assurance on survival to a stipulated age only, assurance on death only, assurance on survival to a stipulated age or on

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- earlier death, life assurance with return of premiums, marriage assurance, birth assurance;
- (ii) annuities;
- (iii) supplementary insurance underwritten in addition to life insurance, in particular, insurance against personal injury including incapacity for employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness;
- (iv) types of permanent health insurance not subject to cancellation currently existing in Ireland and the United Kingdom;
- b to the following operations, where they are on a contractual basis, in so far as they are subject to supervision by the authorities responsible for the supervision of private insurance:
  - (i) operations whereby associations of subscribers are set up with a view to capitalising their contributions jointly and subsequently distributing the assets thus accumulated among the survivors or among the beneficiaries of the deceased (tontines);
  - (ii) capital redemption operations based on actuarial calculation whereby, in return for single or periodic payments agreed in advance, commitments of specified duration and amount are undertaken;
  - (iii) management of group pension funds, comprising the management of investments, and in particular the assets representing the reserves of bodies that effect payments on death or survival or in the event of discontinuance or curtailment of activity;
  - (iv) the operations referred to in point (iii) where they are accompanied by insurance covering either conservation of capital or payment of a minimum interest;
  - (v) the operations carried out by life insurance undertakings such as those referred to in Chapter 1, Title 4 of Book IV of the French 'Code des assurances';
- c to operations relating to the length of human life which are prescribed by or provided for in social insurance legislation, in so far as they are effected or managed by life insurance undertakings at their own risk in accordance with the laws of a Member State.