

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 IV

Conditions governing business

Section 5

**Professional secrecy, exchange of information
and promotion of supervisory convergence**

Article 68

Exchange of information with other authorities

- 1 Articles 64 and 67 shall not preclude any of the following:
- a the exchange of information between several supervisory authorities in the same Member State in the discharge of their supervisory functions;
 - b the exchange of information, in the discharge of their supervisory functions, between supervisory authorities and any of the following which are situated in the same Member State:
 - (i) authorities responsible for the supervision of credit institutions and other financial organisations and the authorities responsible for the supervision of financial markets;
 - (ii) bodies involved in the liquidation and bankruptcy of insurance undertakings or reinsurance undertakings and in other similar procedures;
 - (iii) persons responsible for carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings and other financial institutions;
 - (iv) [^{F1}authorities responsible for supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 of the European Parliament and of the Council⁽¹⁾ for compliance with that Directive;]
 - c the disclosure, to bodies which administer compulsory winding-up proceedings or guarantee funds, of information necessary for the performance of their duties.

The exchanges of information referred to in points (b) and (c) may also take place between different Member States.

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The information received by those authorities, bodies and persons shall be subject to the obligation of professional secrecy laid down in Article 64.

2 Articles 64 to 67 shall not preclude Member States from authorising exchanges of information between the supervisory authorities and any of the following:

- a the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of insurance undertakings, reinsurance undertakings and other similar procedures;
- b the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings, credit institutions, investment firms and other financial institutions;
- c independent actuaries of insurance undertakings or reinsurance undertakings carrying out legal supervision of those undertakings and the bodies responsible for overseeing such actuaries.

Member States which apply the first subparagraph shall require at least that the following conditions are met:

- a the information must be for the purpose of carrying out the overseeing or legal supervision referred to in the first subparagraph;
- b the information received must be subject to the obligation of professional secrecy laid down in Article 64;
- c where the information originates in another Member State, it must not be disclosed without the express agreement of the supervisory authority from which it originates and, where appropriate, solely for the purposes for which that authority gave its agreement.

Member States shall communicate to the Commission and to the other Member States the names of the authorities, persons and bodies which may receive information pursuant to the first and second subparagraphs.

3 Articles 64 to 67 shall not preclude Member States from authorising, with the aim of strengthening the stability, and integrity, of the financial system, the exchange of information between the supervisory authorities and the authorities or bodies responsible for the detection and investigation of breaches of company law.

Member States which apply the first subparagraph shall require that at least the following conditions are met:

- a the information must be intended for the purpose of detection and investigation as referred to in the first subparagraph;
- b information received must be subject to the obligation of professional secrecy laid down in Article 64;
- c where the information originates in another Member State, it shall not be disclosed without the express agreement of the supervisory authority from which it originates and, where appropriate, solely for the purposes for which that authority gave its agreement.

Where, in a Member State, the authorities or bodies referred to in the first subparagraph perform their task of detection or investigation with the aid of persons appointed, in view of their specific competence, for that purpose and not employed in the public sector, the possibility of exchanging information provided for in the first subparagraph may be extended to such persons under the conditions set out in the second subparagraph.

In order to implement point (c) of the second subparagraph, the authorities or bodies referred to in the first subparagraph shall communicate to the supervisory authority from which the information originates the names and precise responsibilities of the persons to whom it is to be sent.

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4 Member States shall communicate to the Commission and to the other Member States the names of the authorities, persons or bodies which may receive information pursuant to paragraph 3.

Textual Amendments

- F1** Inserted by [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU \(Text with EEA relevance\).](#)

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- (1) [^{F1}Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).]

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- F1** Inserted by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance).