



STATUTORY INSTRUMENTS.

**S.I. No. 593 of 2011**

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EUROPEAN COMMUNITIES (LIFE ASSURANCE) FRAMEWORK  
(AMENDMENT) REGULATIONS 2011

**(Prn. A11/2069)**

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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 2002/83/EC of the European Parliament and of the Council of 5 November 2002<sup>1</sup> concerning life assurance, hereby make the following Regulations:

*Citation and commencement.*

1. (1) These Regulations may be cited as the European Communities (Life Assurance) Framework (Amendment) Regulations 2011.

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

*Definition.*

2. In these Regulations “Principal Regulations” means the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994).

*Amendment of Article 2(1) of Principal Regulations.*

3. Article 2(1) of the Principal Regulations is amended by inserting the following after the definition of “Minister”:

“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 Non-Life Insurance Framework Regulations;

‘non-life insurance’ has the same meaning as in the Non-Life Insurance Framework Regulations;

‘Non-Life Insurance Framework Regulations’ means the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994);”.

*Amendment of Article 6 of Principal Regulations.*

4. Article 6 of the Principal Regulations is amended by substituting the following for sub-article (4):

“(4) (a) An insurance undertaking, whose head office is situated in the State, may be authorised to carry on both the business of life assurance and non-life insurance falling within non-life classes 1 and 2, where—

<sup>1</sup>OJ No. L 345 of 19.12.2002, p. 1

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

- (i) it has been authorised in accordance with the Non-Life Insurance Framework Regulations to conduct such insurance,
  - (ii) the business of life assurance and non-life insurance are managed separately in accordance with Article 6A, and
  - (iii) the undertaking only carries out non-life insurance to which the non-life classes 1 and 2 relate.
- (b) Notwithstanding Article 7(2)(a) of the Non-Life Insurance Framework Regulations or any other provision of those Regulations or of the Insurance Acts (within the meaning of 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)), an insurance undertaking authorised under these Regulations shall not be prohibited from carrying on the business of life assurance (or any operation arising directly therefrom) as a consequence of being authorised to carry on the business of non-life classes 1 and 2 of the Non-Life Insurance Framework Regulations.
- (4A) (a) An insurance undertaking authorised to carry on both the business of life assurance and non-life insurance shall comply with the accounting rules governing life insurance for all of its activities.
- (b) Activities relating to non-life classes 1 and 2 business carried on by insurance undertakings shall be subject to the rules applicable to life insurance activities in the event of a winding up or reorganisation of an insurance undertaking.
- (c) The required solvency margin for non-life classes 1 and 2 shall be submitted to the Bank, using Form 29 as set out in Schedule 4, at the same time as the life accounts.
- (d) An insurance undertaking authorised to carry on both the business of life assurance and the business of non-life insurance shall provide to the Bank a breakdown of non-life classes 1 and 2, where appropriate, in any relevant form in Schedules 1 to 5.
- (e) An insurance undertaking that has obtained an authorisation in accordance with sub-article (4) of this Article is prohibited from carrying on health insurance business as defined under section 2(1) of the Health Insurance Act 1994 (No. 16 of 1994).”.

*Separation of life insurance and non-life insurance management.*

5. The Principal Regulations are amended by inserting the following after Article 6:

“6A. (1) The separate management referred to in Article 6(4)(a)(ii) shall be organised in such a way that the activities covered by these Regulations are distinct from the activities covered by the Non-Life Insurance Framework Regulations in order that—

- (a) the respective interests of life policyholders and non-life policyholders are not prejudiced and, in particular, that profits from life insurance benefit life policyholders as if the undertaking only carried on the business of life assurance, and
- (b) the minimum financial obligations, in particular solvency margins, in respect of each of the 2 activities, namely the activity under these Regulations and the activity under the Non-Life Insurance Framework Regulations, are not borne by the other activity.

(2) Notwithstanding sub-article (1), as long as the relevant minimum financial obligations are fulfilled in accordance with that sub-article, and provided the Bank is informed, the undertaking may use those explicit items of the solvency margin which are still available in respect of the activity covered by these Regulations and the activity covered by the Non-Life Insurance Framework Regulations, and to which Article 19 of the Directive relates.

(3) The Bank shall analyse the results of both activities referred to in sub-article (2) of an insurance undertaking to ensure that this Article is complied with.

(4) An insurance undertaking to which this Article relates shall draw up accounts—

- (a) showing separately the sources of the accounting results of the life assurance business and non-life insurance business, including a breakdown of the origin of—
  - (i) all income (in particular premiums, payments by re-insurers and investment income), and
  - (ii) all expenditure (in particular insurance settlements, additions to technical provisions, reinsurance premiums, operating expenses in respect of insurance business).
- (b) showing other items that are common to both activities entered in accordance with methods of apportionment acceptable to the Bank.

(5) An insurance undertaking shall, on the basis of its accounts, prepare a statement clearly identifying the items making up each solvency margin, in accordance with Annex II to these Regulations and Annex II to the Non-Life Insurance Framework Regulations.

(6) If one of the solvency margins is insufficient, the Bank shall apply to the deficient activity the measures provided for in the relevant regulations, whatever the results in the other activity. By way of derogation from subsection (1)(b), these measures may involve the authorisation of a transfer from one activity to the other.”.

*Amendment of Article 10 of Principal Regulations.*

6. Article 10 of the Principal Regulations is amended by substituting the following for sub-article (3)-

“(3) Every insurance undertaking shall have and maintain sound and adequate administrative and accounting procedures and internal control mechanisms.”.

*Amendment of Article 12 of Principal Regulations.*

7. Article 12 of the Principal Regulations is amended by substituting for sub-articles (7) and (8) the following:

“(7) (a) Where a life insurance undertaking is authorised in accordance with the Non-Life Insurance Framework Regulations to write non-life classes 1 and 2, the undertaking shall keep separate registers for the assets representing its life and non-life obligations.

(b) The register or registers to which this Article relates shall be kept and maintained at the principal office of the insurance undertaking in the State and shall contain up-to-date details of the assets representing reserves in respect of life assurance business carried out in the State and, where an insurance undertaking is authorised to write non-life classes 1 and 2, the assets representing the non-life business.

(8) The register or registers kept and maintained by the insurance undertaking concerned under this Article shall be made available for inspection by an officer or officers of the Bank during normal business hours.”.



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 (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994). The Regulations provide for the part transposition of a national discretion under Articles 18 and 19 of Directive 2002/83/EC in relation to allowing life insurance companies conduct non-life classes 1 and 2 business where authorised to do so.

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DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
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€2.54

