



STATUTORY INSTRUMENTS.

**S.I. No. 384 of 2017**



EUROPEAN UNION (INSURANCE AND REINSURANCE)  
(AMENDMENT) REGULATIONS 2017

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I, PASCHAL DONOHOE, 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 2009/138/EC of the European Parliament and of the Council of 25 November 2009<sup>1</sup> as amended by Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011<sup>2</sup>, Directive 2012/23/EU of the European Parliament and of the Council of 12 September 2012<sup>3</sup>, Council Directive 2013/23/EU of 13 May 2013<sup>4</sup>, Directive 2013/58/EU of the European Parliament and of the Council of 11 December 2013<sup>5</sup> and Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014<sup>6</sup> hereby make the following Regulations:

*Citation*

1. These Regulations may be cited as the European Union (Insurance and Reinsurance) (Amendment) Regulations 2017.

*Amendment of European Union (Insurance and Reinsurance) Regulations 2015*

2. The European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015) are amended—

(a) in Regulation 10, by the insertion of the following paragraph after paragraph (2):

“(3) These Regulations do not apply to an undertaking which—

(a) has its head office in a third country,

(b) is lawfully carrying on reinsurance in that third country, and

(c) is carrying on reinsurance (but no other activity) in the State.”,

(b) by the substitution of the following for Regulation 42:

*“Transfer of portfolio by reinsurance undertaking*

42. (1) A reinsurance undertaking whose head office is in the State may, subject to the approval of the Bank, transfer all or part of its

<sup>1</sup>OJ No. L 335, 17.12.2009, p. 1.

<sup>2</sup>OJ No. L 326, 8.12.2011, p. 113.

<sup>3</sup>OJ No. L 249, 14.9.2012, p. 1.

<sup>4</sup>OJ No. L 158, 10.6.2013, p. 362.

<sup>5</sup>OJ No. L 341, 18.12.2013, p. 1.

<sup>6</sup>OJ No. L 153, 22.5.2014, p. 1.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 25th August, 2017.*

portfolio of contracts, including those concluded either under the right of establishment or the freedom to provide services, to an accepting undertaking whose head office is in the State or another Member State.

(2) A transfer shall not be effected unless the supervisory authority of the home Member State of the accepting undertaking certifies that, after taking the transfer into account, the accepting undertaking possesses the necessary eligible own funds to cover the Solvency Capital Requirement referred to in Regulation 113.”,

(c) in Regulation 176, by the insertion of the following paragraph after paragraph (4):

“(5) (a) When granting an authorisation under paragraph (2), or at any time while such an authorisation has effect, the Bank may, by notice in writing, impose such conditions as it considers appropriate with respect to the conduct of insurance business by the branch of the undertaking to which the authorisation is granted with a view to ensuring that the branch of the undertaking carries out in a proper manner the responsibilities imposed by or under these Regulations.

(b) The Bank may, from time to time, by notice in writing given to an undertaking to which an authorisation is granted under paragraph (2), vary or revoke a condition imposed on the undertaking under subparagraph (a) (including one previously varied under this subparagraph).

(c) In imposing or varying a condition under this paragraph, the Bank shall ensure that the condition, or the condition as varied, is consistent with the objects of these Regulations.

(d) A decision of the Bank imposing or varying a condition under this paragraph is an appealable decision for the purposes of Part VIIA of the Act of 1942.”, and

(d) in Regulation 261—

(i) by the substitution of the following paragraph for paragraph (3):

“(3) (a) An insurance holding company or mixed financial holding company shall notify the Bank of any changes to the identity of the persons referred to in paragraph (1) and shall include with such notification all information required by the Bank to assess whether any new persons appointed to run the company are fit and proper to perform their duties.

(b) The notification referred to in subparagraph (a) shall be provided to the Bank within 5 working days from

the date of the change referred to in that subparagraph.

(c) The information referred to in subparagraph (a) shall be submitted to the Bank in a form specified by the Bank from time to time.

(d) An appointment purporting to effect a change referred to in subparagraph (a) in respect of which a notification has not been made in accordance with this paragraph is void.”,

(ii) by the substitution of the following paragraph for paragraph (4):

“(4) An insurance holding company or mixed financial holding company shall notify the Bank if any of the persons referred to in paragraphs (1) and (3) have been replaced because they no longer comply with any standard of fitness and probity set out in a code issued by the Bank under section 50 of the Act of 2010.”, and

(iii) by the deletion of paragraph (5).

*Amendments of Insurance Act 1989*

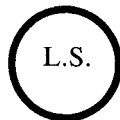
3. The Insurance Act 1989 (No. 3 of 1989) is amended—

(a) in section 14, by the insertion of the following subsection after subsection (2):

“(3) This section shall not apply to an insurance undertaking to which the European Union (Insurance and Reinsurance) Regulations 2015 apply, other than an undertaking to which Regulation 11(1) of those Regulations applies.”, and

(b) in section 15, by the insertion of the following subsection after subsection (8):

“(9) This section shall not apply to an insurance undertaking to which the European Union (Insurance and Reinsurance) Regulations 2015 apply, other than an undertaking to which Regulation 11(1) of those Regulations applies.”.



GIVEN under my Official Seal,  
18 August 2017.

PASCHAL DONOHOE,  
Minister for Finance.

## EXPLANATORY NOTE.

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

These Regulations make certain amendments to the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015) in order to more accurately reflect the text of the Solvency II Directive (Directive 2009/138/EC) as amended.

These Regulations also dis-apply the provisions of Sections 14 and 15 of the Insurance Act 1989 (No. 3 of 1989) to an insurance undertaking to which the aforementioned European Union (Insurance and Reinsurance) Regulations 2015 apply, other than an undertaking to which Regulation 11(1) of those Regulations applies.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
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