



STATUTORY INSTRUMENTS.

**S.I. No. 354 of 2007**

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EUROPEAN COMMUNITIES (NON-LIFE INSURANCE) FRAMEWORK  
(AMENDMENT) REGULATIONS 2007

**(Prn. A7/1184)**

EUROPEAN COMMUNITIES (NON-LIFE INSURANCE) FRAMEWORK  
(AMENDMENT) REGULATIONS 2007

I, BRIAN COWEN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), as amended by the European Communities (Amendment) Act 1993 (No. 25 of 1993), and for the purpose of giving effect to Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance, hereby make the following Regulations:

*Citation and commencement*

1. (1) These Regulations may be cited as the European Communities (Non-Life Insurance) Framework (Amendment) Regulations 2007.

(2) These Regulations come into operation on 1 June 2007.

*Interpretation*

2. In these Regulations, “Principal Regulations” means the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994).

*Amendment of Article 2 of the Principal Regulations (Interpretation)*

3. Article 2 of the Principal Regulations is amended—

(a) by inserting in sub-article (1) the following definition after the definition of “the Court”;

“‘Credit Institutions Directive’ means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;”

(b) by inserting in sub-article (1) the following definitions after the definition of “the Regulations of 1991”:

“‘reinsurance’ and ‘reinsurance business’ have the same meanings as in the Reinsurance Directive;

‘Reinsurance Directive’ means Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance;

‘Reinsurance Regulations’ means the European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006);

‘reinsurance undertaking’ means a reinsurance undertaking authorised or taken to have been authorised by the Bank under the European

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 29th June, 2007.*

Communities (Reinsurance) Regulations 2006 or by a competent authority of another Member State of the European Communities under a law of that State corresponding to those Regulations;”;

- (c) by substituting in the definition of “the Second Directive” in sub-article (1), “Directive 88/357/EEC;” for “Directive 88/357/EEC.”;
- (d) by inserting in sub-article (1) the following definitions after the definition of “the Second Directive”:

“ ‘special purpose reinsurance vehicle’ has the same meaning as in the Reinsurance Regulations;

‘third country insurance undertaking’ means an undertaking that would require authorisation as an insurance undertaking if it had its registered office in a Member State;

‘third country reinsurance undertaking’ means an undertaking that would require authorisation as a reinsurance undertaking if it had its registered office in a Member State.”.

*Amendment of Article 13 of the Principal Regulations (Technical reserves provisions, solvency margin, valuation of assets, Register of assets)*

4. Article 13 of the Principal Regulations is amended:

- (a) by inserting the following sub-articles after sub-article (4):

“(4A) As soon as practicable after the commencement of Regulation 4 of the European Communities (Non-Life Insurance) Framework (Amendment) Regulations 2007, the Bank shall prescribe the conditions under which reinsurance cessions entered into with third country reinsurance undertakings may be deducted from the technical reserves.

(4B) For the purpose of sub-article (4A)—

“ ‘reinsurance cession’ has the same meaning as in the Reinsurance Regulations.”;

- (b) by substituting the following sub-articles for sub-article (5):

“(5) Each insurance undertaking shall cover its technical reserves and equalisation reserves by equivalent assets valued in accordance with the rules set out in Annex III to these Regulations. The matching rules set out in Annex IV to these Regulations apply to those assets.

(5A) Sub-article (5) also applies to the equalisation reserves referred to in Article 14(8)(a) of the Regulations of 1976.”.

*Amendment of Article 16A of the Principal Regulations (Insurance undertaking to provide plan for restoring its finances if required to do so by the Bank)*

5. Article 16A of the Principal Regulations (as inserted by Regulation 4 of the European Communities (Non-Life Insurance) Framework (Amendment) Regulations 2004 (S.I. No 728 of 2004)) is amended by substituting the following sub-article for sub-article (6):

“(6) The Bank may reduce the reduction, based on reinsurance, to the required solvency margin as determined in respect of the undertaking in accordance with this Part if—

- (a) the nature or quality of the undertaking’s reinsurance contracts has changed significantly since the end of its last financial year, or
- (b) no risk, or only a limited risk transfer, arises under the undertaking’s reinsurance contracts.”.

*Amendment of Article 20 of the Principal Regulations (Interpretation: Part 3)*

6. Article 20 of the Principal Regulations (as substituted by Regulation 5 of the European Communities (Non-Life Insurance) Framework (Amendment) Regulations 2004 (S.I. No. 728 of 2004)) is amended—

- (a) in the heading to the Article, by substituting “Part 3” for “Part 4”;
- (b) in sub-article (1), by substituting the following definition for the definition of “prescribed entity”:

“‘prescribed entity’ means any of the following:

- (a) an insurance undertaking, a reinsurance undertaking, a credit institution or an investment firm authorised by a competent authority of another Member State;
- (b) the parent undertaking of such an undertaking, institution or firm;
- (c) a person (whether natural or legal) that controls such an undertaking, institution or firm;”.

*Amendment of Part A of Annex II of the Principal Regulations (Solvency Margins and Guarantee Funds)*

7. Part A of Annex II of the Principal Regulations (as substituted by Regulation 6 of the European Communities (Non-Life Insurance) Framework (Amendment) Regulations 2004 (S.I. No. 728 of 2004)) is amended—

- (a) by substituting the following sub-subparagraph for paragraph 2(3)(b):

“(b) reserves (including both statutory reserves and free reserves) not corresponding to underwriting liabilities or classified as equalisation reserves;”;

(b) by substituting the following sub-subparagraph for paragraph 5(2)(a):

“(a) participations that the insurance undertaking holds in—

- (i) an insurance undertaking, or
- (ii) a reinsurance undertaking, or
- (iii) a third country insurance undertaking, or
- (iv) a third country reinsurance undertaking, or
- (v) an insurance holding company, or
- (vi) a credit institution, or
- (vii) a financial institution, or
- (viii) an investment firm;”;

(c) by substituting the following subparagraph for paragraph 5(6):

“(6) In this paragraph—

‘credit institution’ means a credit institution within the meaning of Article 4(1) of the Credit Institutions Directive;

‘financial institution’ means a financial institution within the meaning of Article 4(5) of the Credit Institutions Directive;

‘insurance holding company’ has the same meaning as in Regulation 3(1) of the European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007 (S.I. No. [ ] of 2007);

‘investment firm’ means an investment firm within the meaning of Article 4(1) of Directive 2004/39/EC<sup>1</sup>;

‘participation’ has the same meaning as in Article 1(f) of Directive 98/78/EC<sup>2</sup>.”;

(d) by inserting the following subparagraph after paragraph 7(3):

“(4) When applying subparagraph (2) of this paragraph, amounts recoverable from special purpose reinsurance vehicles may be deducted as reinsurance, but only with the prior approval of the Bank.

<sup>1</sup>Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC. OJ L 145, 30/4/2004, p. 1.

<sup>2</sup>Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group. OJ L 330, 05/12/1998, p. 1.

The Bank may decline to give approval if the undertaking fails to provide supporting evidence to the Bank’s satisfaction.”;

(e) by inserting the following sub-paragraph after paragraph 8(3):

“(4) When applying subparagraph (1) of this paragraph, amounts recoverable from a special purpose reinsurance vehicle may be deducted as reinsurance, but only with the prior approval of the Bank. The Bank may decline to give approval if the undertaking fails to provide supporting evidence to the Bank’s satisfaction.”.

*Further Amendment of Annex II to the Principal Regulations (Solvency Margins and Guarantee Funds)*

8. Annex II to the Principal Regulations is amended by inserting the following Part after Part C:

“PART D

GUARANTEE FUND FOR INSURANCE UNDERTAKINGS  
CONDUCTING REINSURANCE BUSINESS

*Insurance undertakings to which this Part applies*

1. This Part applies to an authorised insurance undertaking that is established in the State and carries on reinsurance business, but only if—

- (a) the total reinsurance premiums that it collects in a year exceed 10 per cent of its total income from premiums collected by it during that year, or
- (b) the total reinsurance premiums that it collects in a year exceed €50,000,000, or
- (c) the technical reserve resulting from its reinsurance acceptances exceed 10 per cent of its total technical reserves as at the end of a year.

*Insurance undertakings to which this Part applies to establish minimum guarantee fund*

2. An insurance undertaking to which this Part applies shall establish in respect of its entire business a minimum guarantee fund that complies with Schedule 2 to the Reinsurance Regulations.

*What happens if amounts used for calculating required solvency margin are increased*

3. If, in accordance with Article 56(c) of the Reinsurance Directive, the European Commission decides to increase the amounts used for calculating the required solvency margin of a reinsurance undertaking,

the Bank shall apply to each insurance undertaking to which this Part applies the provisions of Schedule 1 to the Reinsurance Regulations but only as regards its reinsurance acceptances.”.

*Amendment of Annex III to the Principal Regulations (Valuation of assets)*

9. Annex III to the Principal Regulations is amended—

(a) in paragraph 1 of section 2 (Application), by substituting “An undertaking may cover its technical reserves and equalisation reserves only with the following categories of assets:” for “An undertaking may cover its technical reserves only with the following categories of assets:”;

(b) by substituting the following item for item (f) of paragraph 1 of section 2:

“(f) debts owed by reinsurance undertakings and by special purpose reinsurance vehicles;”.

(c) by substituting the following paragraph for paragraph 2 of section 13 (Assets that may be taken into account only to a specified extent):

“2. Assets or categories of assets of an undertaking of any of the descriptions specified in Schedule 2 are to be taken into account for the purpose of representing the technical reserves and equalisation reserves only to the extent that the value of those assets or categories of assets does not exceed—

(a) for an individual asset of a description specified in column 1 of Part I, an amount equal to the percentage of the technical reserves and equalisation reserves specified in column 2 for an asset of that description, and

(b) for the aggregate of assets of a description specified in column 1 of Part I, an amount equal to the percentage of the technical reserves specified in column 3 for assets of that description, and

(c) for the aggregate of the assets of a description specified in column 1 of Part II, an amount equal to the percentage of the net premium income of the undertaking specified in column 3 (other than premiums in respect of treaty reinsurance accepted for the 12 months preceding the relevant date).”.



GIVEN under my Official Seal,  
31 May 2007

BRIAN COWEN  
Minister for Finance

#### EXPLANATORY NOTE

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

These Regulations give effect to a number of provisions in Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amends Council Directive 73/239/EEC and 92/49/EEC which specifically apply to non-life insurance undertakings.



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