

Insurance: reorganisation and winding-up of undertakings, mutual recognition

1986/0080(COD) - 23/12/1986 - Legislative proposal

PURPOSE: to harmonize Member State provisions concerning the compulsory winding-up of insurance companies. **CONTENT:** The proposed Directive concerns insurance companies which fall within the scope of the first non-life coordination Council Directive 73/239/EEC or of the first "life coordination" Council Directive 79/267/EEC. The proposal provides for the following: - an obligation on direct insurance companies to keep registers of assets representing technical reserves corresponding to direct insurance transactions and to reinsurance acceptances; - two types of compulsory winding-up are envisaged, depending on the company's situation with regard to assets: normal compulsory winding-up and special compulsory winding-up. A company will be wound up according to the principles of unity of procedure and universality of effects. - normal compulsory winding-up procedure: this must be carried out by the company except where this task is not performed satisfactorily, in which case the supervisory authority in the home Member State may appoint an administrator or propose such an appointment. The grounds for such a decision must be clearly and precisely stated. In order to protect insurance creditors, notice of withdrawal of authorization will be published in the Official Journal of the European Communities and in two nationally distributed newspapers in the Member States in which there are creditors. Similarly, Member States must take the necessary steps to ensure that the winding-up is carried out as rapidly as possible. The normal compulsory winding-up procedure is applicable to all Member States. - special compulsory winding-up in the event of insolvency: this will be carried out by appointed liquidators under supervision of the competent authorities of the Member State in which the company's head office is situated. As with normal compulsory winding-up, Member States must take the necessary steps to ensure that the special compulsory winding-up is effective and is publicized. The liquidators may not transfer a portfolio without the prior authorization of the supervisory authority of the courts. - rules governing the treatment of insurance creditors when winding-up takes place and the settlement of claims. This Directive is applicable to branches of direct insurance companies from third countries doing business in the Community.