



EVERYTHING MATTERS

AIDA Europe Conference, Zurich, 22 October 2009
Supervisory laws and European-cross border issues after the implementation of
the Reinsurance Directive

Reinsurance Directive 2005/68Ce
"Third Country" reinsurers
Brief overview of the Italian supervisory rules

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EC Directive 2005/68 ("Reinsurance Directive")



implemented by



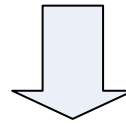
Legislative Decree 29 February 2008, no. 56



amending the Insurance Code ("I.C.")

(Legislative Decree 7 September 2005, no. 209)

Main novelty introduced in the Italian legislation following the implementation of the Reinsurance Directive

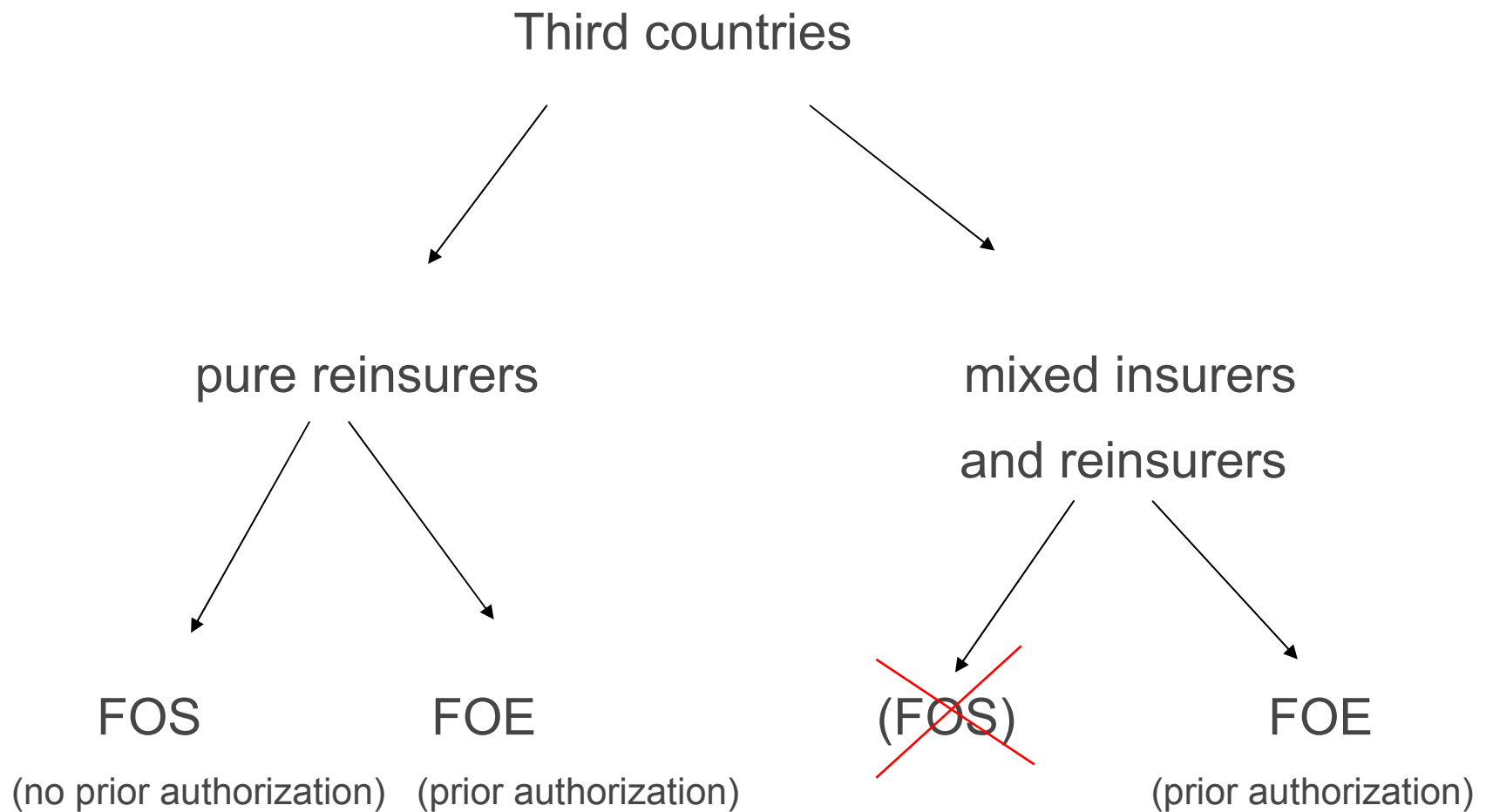


cancellation of the ISVAP* prior authorization to pursue reinsurance business under the FOE or FOS regime by EU/EEA reinsurers. The "Home Country Control" principle now applies also in the matter of reinsurance.

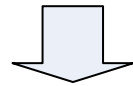
The Reinsurance Directive does not apply to reinsurance undertakings whose head office is based outside the EU/EEA; their treatment remains a matter for each Member State.

*The Italian entity having supervisory authority over insurance and reinsurance undertakings and insurance and reinsurance intermediaries.

REINSURANCE DIRECTIVE 2005/68CE
THIRD COUNTRY REINSURERS
BRIEF OVERVIEW OF THE ITALIAN SUPERVISORY RULES



Third countries - Pure reinsurers

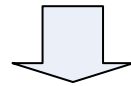


FOS*

- no prior authorization by ISVAP is required (Section 61, I.C.);

*Commission Interpretative Communication 2000/C, 43/03 (freedom to provide services and the general good in the insurance sector)

Third countries - Pure reinsurers



FOE

- prior authorization by ISVAP is required (Section 60*bis*, I.C.);
- authorization process: ISVAP Regulation no. 10/2008 (Title III, Articles 28 and the following);
- duration of the authorization process: 90 days from the date of the relevant application;
- the authorization is limited to the Italian territory, without prejudice of the "cross border business" under the freedom of services regulation.

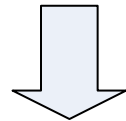
Third countries - Pure reinsurers



FOE

- **Main requirements for pursuing reinsurance business under the freedom of establishment regulations:**
 - establishment of a branch
 - appointment of a general representative having authority to: represent the undertaking before third parties; bind it; issue the required guarantees, etc.
 - compliance with the I.C. provisions regarding, *inter alia*, organizational requirements; technical reserves; solvency margins applicable to domestic reinsurance undertakings (Section 67, I.C.)
 - compliance by the State of Origin of the undertaking concerned of the principle of equality of treatment and of reciprocity vis-à-vis domestic undertakings;
 - existence in the State of Origin of the undertaking concerned of adequate regulations on prudential controls over undertakings' financial stability;
 - existence of agreements on the exchange of information and that there are no obstacles to the exchange of information with the home Supervisory Authorities.
- **Authorization is limited to the Italian Territory, without prejudice of the "cross border business" under the freedom of services regulations.**

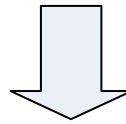
Third countries - Mixed insurers and reinsurers



FOE

Mixed insurers and reinsurers are subject to the rules applicable to primary insurers (Sections 57 and 28, I.C.); therefore, prior authorization by ISVAP is needed and the requirements listed under slide no. 7 must be met.

Third countries - Mixed insurers and reinsurers



FOS

They are subject to the rules applicable to primary insurers (Section 57, I.C.); therefore:

- absolute prohibition to pursue business under the FOS regime (Section 29 and Section 57, I.C.)
- absolute prohibition for individuals and entities to enter into contracts with undertakings pursuing business in violation of the said prohibition. Such contracts, if entered into, are null and void (Section 29, I.C.)
- absolute prohibition of any kind of mediation activity with regard to the above contracts

THANK YOU

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