

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 252 final - SYN291

Brussels, 4 June 1992

Re-examined proposal for a

## THIRD COUNCIL DIRECTIVE

on the coordination of laws, regulations  
and administrative provisions relating to direct insurance  
other than life assurance and amending Directives  
73/239/EEC and 88/357/EEC

(presented by the Commission pursuant to Article 149.2(d)  
of the EEC treaty)

## EXPLANATORY MEMORANDUM

On 25 February 1992, the Council adopted a common position which took over the text of the amended proposal of 24 February 1992<sup>(1)</sup> for a third Council Directive on the coordination of laws, regulations and administrative provisions relating to direct insurance other than Life assurance and amending Directives 73/239/EEC and 88/357/EEC.

On 13 May 1992, the Parliament approved the common position and proposed one amendment in order to clarify that the admissibility of cumulative preferential shares and subordinated loans in the solvency margin is a Member State option.

This solution was also adopted in the directive on a definition of own funds for credit institutions and was approved by unanimity at the time of adoption of the common position. Unfortunately, the drafting of this point remains ambiguous.

The Commission entirely supports parliament's objective and thus proposes to amend in Article 16 of Directive 73/239/EEC, as modified by Article 24 of the present directive, the introductory sentence of the seventh indent of paragraph 1.

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(1) COM (92) 63 final SYN 291. O.J. C 93 of 13 April 1992, p. 1

PROVISION

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In Article 24, the introductory sentence to the 7th indent of paragraph 1 of Article 16 of Directive 73/239/EEC is replaced by the following :

*"- cumulative preferential share capital and subordinated loan capital may be included but, if so, only up to 50 % of the margin, no more than 25 % of which shall consist of subordinated loans with a fixed maturity of fixed-term cumulative preferential share capital, if the following minimum criteria are met :"*



ISSN 0254-1475

COM(92) 252 final

# DOCUMENTS

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Catalogue number : CB-CO-92-262-EN-C

ISBN 92-77-44998-5

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Office for Official Publications of the European Communities  
L-2985 Luxembourg