

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 22/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 593 votes to 80, with 3 abstentions, a legislative resolution amending, under the first reading of codecision procedure, the proposal for a directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (recast) (Solvency II).

The amendments are the result of a compromise agreement between Parliament and Council.

The main amendments are as follows:

Minimum Capital Requirement (MCR): the legislation introduces a new relationship between two key criteria for the amounts of capital insurance companies should hold – the Solvency Capital Requirement (SCR) and the Minimum Capital Requirement (MCR).

The SCR will be calculated according to a risk-based approach: when capital falls below this level, supervisory intervention will be needed. The MCR is lower – the point at which the company's license would need to be withdrawn. As well as setting absolute minimum levels for the MCR for different types of company, the new legislation indicates that the MCR should be between 25% and 45% of the company's SCR, with the exact amount being a calculation based on variables which indicate the company's ability to remain operational.

Surplus funds: the text states that it is current practice in certain Member States that insurance companies sell life insurance products in relation to which the policy holders and beneficiaries contribute to the risk capital of the company in exchange for all or part of the return on the contributions. Those accumulated profits are surplus funds, which are the property of the legal entity in which they are generated. Surplus funds should be valued in line with the economic approach laid down in the Directive. In this respect, a mere reference to the evaluation of surplus funds in the statutory annual accounts will not be sufficient. In line with the requirements on own funds, surplus funds will be subject to the criteria laid down in this Directive on the classification in tiers. This means, inter alia, that only surplus funds which fulfil the requirements for classification in Tier 1 should be considered as Tier 1 capital.

Group support regime: the compromise text does not endorse the group support regime, which had been part of the Commission proposal.

Group supervision: on group supervision, the text as approved by Parliament contains a number of significant improvements as compared to the current system for insurance groups' supervision, even though it does not go as far as introducing the group support regime as initially proposed by the Commission. However, the introduction of a review clause specifically mentioning this regime will enable the Commission to come back to this issue when progress in a number of other areas, connected to the recommendations of the de Larosière report, will have been made and will have brought about a more favourable environment for further reforms on cross-border co-operation between home and host supervisors. To improve supervision and risk management, Parliament sought and obtained the creation of supervisory colleges – made up of the various national supervisors responsible for a group and its subsidiaries – to facilitate cooperation, exchange of information and consultation between the supervisors.

The new supervisory system would also mean economic gains for company. EU companies would no longer need to deal with several national regulators, but just with one group.

Entry into force and review clause: Member States will have to transpose the new directive by 31 October 2012.

2 years after entry into force, the Commission is requested to put forward a legislative proposal to improve, if necessary, the application some aspects of the Directive, including the cooperation of supervisory authorities within the colleges.

3 years after entry into force, the Commission will have to propose legislation to enhance group supervision and capital management within a group of insurance. This would also include the provision, proposed by Parliament representatives, on group support, (i.e. that part of the capital requirement for a subsidiary could be met by a guarantee that funds would be transferred from the group if needed).