

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

2007/0143(COD) - 25/11/2009 - Final act

PURPOSE: strengthening the supervision of insurance companies and prudential regulation, given that existing solvency rules are well out of date.

LEGISLATIVE ACT: Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

CONTENT: following an agreement reached at first reading with the European Parliament, the Council adopted a directive setting new solvency rules for insurance companies – the "Solvency II" directive – in order to reflect the latest developments in prudential supervision, actuarial science and risk management and to allow for updates in the future.

The new rules are intended to:

- increase the integration of the EU insurance market;
- strengthen protection of policyholders and beneficiaries;
- enhance the competitiveness of EU insurers and re-insurers; and
- encourage improved legislation in this sector.

It also establishes a new framework for EU regulation through the recasting of 14 existing insurance directives into a single legal text.

This ground-breaking revision of EU insurance law designed to improve consumer protection, modernise supervision, deepen market integration and increase the international competitiveness of European insurers. Under the new system, known as 'Solvency II', insurers would be required to **take account of all types of risk** to which they are exposed and to **manage those risks** more effectively.

Group supervision: the Directive 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 Larosi re 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. The Solvency II Directive establishes a new control system for insurance groups. All insurance and reinsurance groups subject to group supervision should have a **group supervisor** appointed from among the supervisory authorities involved. The rights and duties of the group supervisor should comprise appropriate coordination and decision-making powers. The authorities involved in the supervision of insurance and reinsurance undertakings belonging to the same group should establish coordination arrangements

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 college of supervisors shall ensure that cooperation, exchange of information and consultation processes among the supervisory authorities that are members of the college of supervisors, are effectively applied, with a view to promoting the convergence of their respective decisions and activities. The establishment and functioning of the college of supervisors shall be based on coordination arrangements concluded by the group supervisor and the other supervisory authorities concerned. CEIOPS shall elaborate guidelines for the operational functioning of colleges of supervisors on the basis of comprehensive reviews of their work in order to assess the level of convergence between them. Such reviews shall be carried out at least every three years. Member States shall ensure that the group supervisor transmits to CEIOPS the information on the functioning of the colleges of supervisors and on any difficulties encountered that are relevant for those reviews.

Implementation: The Solvency II Directive is a framework Directive, which confines itself to setting out the principles to which the new system would be subject. On a large number of issues, more detailed implementing measures will be set down by the Commission, following consultations with market participants and Member States, under the scrutiny of the European Parliament. The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) will continue to play an important role in the further implementation of Solvency II.

CEIOPS shall, where necessary, provide for non-legally binding guidelines and recommendations concerning the implementation of the provisions of this Directive and its implementing measures in order to enhance the convergence of supervisory practices. In addition, CEIOPS shall report regularly and at least every two years to the European Parliament, the Council and the Commission on the progress of the supervisory convergence in the Community.

Evaluation: Member States shall transpose the Directive by 31 October 2012. By 31 October 2014, the Commission shall make an assessment of the application of this Directive, in particular as regards the cooperation of supervisory authorities within, and functionality of, the college of supervisors, the legal status of CEIOPS, and the supervisory practices concerning setting the capital add-ons, and shall present a report to the European Parliament and the Council, accompanied, where appropriate, by proposals for the amendment of this Directive. The Commission shall submit to the European Insurance and Occupational Pensions Committee and the European Parliament, by 31 October 2015, a report on the application of the approach and the supervisory authorities' practices, accompanied, where appropriate, by adequate proposals. That report shall address, in particular, cross-border effects of the use of that approach with a view to preventing regulatory arbitrage by insurance and reinsurance undertakings.

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