European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

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The Committee on Economic and Monetary Affairs adopted the report by Burkhard BALZ (EPP, DE) on the proposal for a Directive of the European Parliament and of the Council amending Directives 2003/71 /EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

The committee recommended that the European Parliament position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Framework for financial supervision: the report stresses that **financial stability is a prerequisite** if the real economy is to provide jobs, credit and growth. It recalls the **number of resolutions adopted by the European Parliament** before and during the financial crisis calling for a move towards more integrated European supervision (particularly in its resolutions of 13 April 2000, 21 November 2002, 11 July 2007, 23 September 2008 and 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: Future Structure of Supervision.

Amendment of Union legislation: in the follow-up to the de Larosière Report, on 24 November 2010, the European Parliament and the Council adopted three Regulations establishing the European Insurance and Occupational Pensions Authority (EIOPA), the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) (collectively referred to as the European Supervisory Authorities (ESAs), which are part of the European System of Financial Supervision (ESFS).

In order for the ESFS to work effectively, Members stress the need for changes to Union legislation in the field of operation of the three ESAs aiming at the **more effective implementation of micro-level supervision.**

Draft technical standards: the regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption by means of delegated or implementing acts. Directive 2010/78/EU in respect of the powers of the European Supervisory Authorities has identified a first set of such areas. It is proposed that this Directive should identify a further set of areas, in particular for:

- Directive 2002/92/EC on insurance mediation
- Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading;
- Directive 2009/138/EC, on the taking-up and pursuit of the business of insurance and reinsurance (SOLVENCY II); and
- Regulation (EC) No 1060/2009 on credit ratings agencies.

Regulatory technical standards (adopted as delegated acts under Article 290 of the TFEU) and **implementing technical standards** (adopted as implementing acts under Article 291 of the TFEU) should:

- **contribute to a single rulebook** for financial services legislation as endorsed by the European Council in its conclusions of June 2009. Before submitting regulatory or implementing technical standards to the Commission, the ESAs should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits;

- provide for **transitional measures** subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.

In the interests of an early finalisation of measures required to implement the framework rules under Directive 2009/138/EC (Solvency II), the Commission will be allowed, for a **transitional period**, to adopt some of the regulatory technical standards provided for in this Directive, in accordance with the procedure for the **adoption of delegated acts**.

Settlement of disagreements in the framework of the Directive on Solvency II: Directive 2009/138/EC provides for joint decisions in a certain number of areas, such as regards the approval of applications to use an internal model at group and subsidiary levels. In all of these areas, Members propose amendment clearly stating that in the event of disagreement, **EIOPA may resolve the disagreement.**

The EIOPA should not replace the exercise of discretion by the supervisory authorities in compliance with Union law. However, it should be possible for disagreements to be resolved and cooperation to be strengthened before a final decision is taken by the national supervisory authority or issued to an institution. EIOPA should resolve disagreements by **mediating between the conflicting views of the supervisory authorities.**

Better knowledge of the assets held by insurance and reinsurance undertakings: an amendment states that supervisory authorities should be able to require insurance and reinsurance undertakings to submit a **full list of assets** on an item-by-item basis when such information is necessary for them to effectively undertake their supervisory role.

Allowing for the consistent calculation of technical provisions by insurance and reinsurance undertakings: to this end, a central body should be able to derive, publish, and update certain technical information relating to the risk-free interest rate term structure on a regular basis, taking account of observations in the financial market. Members consider that **the manner in which the risk-free interest rate term structure is derived should be transparent** in such a manner that insurance and reinsurance undertakings are able to use this term-structure in their risk management policies.

The risk-free interest rate term structure should be determined on the basis of a **holistic and consistent approach** to the setting of all assumptions and parameters on which the curve is based ensuring **consistency over time** and avoiding artificial volatility of technical provisions and eligible own funds in excess of the capital requirements. The starting point for the extrapolation of risk-free interest rates in euro should be 20 years.

Conditions to be applied to third countries: to encourage international convergence toward risk-based solvency regimes, Members specify the conditions in relation to the treatment of third country regimes in order for these third countries to be recognised temporarily equivalent. Third countries must also have group supervision systems similar to that of the Union.

Health insurance: the calculation of the Solvency Capital Requirement (SCR) for health insurance should reflect national equalisation systems and should also account for changes in the national health legislation, as these are a fundamental part of the insurance system within those national health markets.

Coherent application: in order to achieve coherent application and to assure macro-prudential oversight across the Union, Members propose that the **European Systemic Risk Board** develop principles tailored for the Union economy and be responsible to monitor the application of the counter-cyclical buffer.

Treatment for government bonds: the report notes that the sovereign debt crisis has demonstrated that a zero-risk treatment for government bonds no longer corresponds with economic reality. Accordingly, the Commission should submit a report proposing options to adapt the calculation of own funds requirements for such exposures accordingly as soon as possible, while taking into account potentially destabilising effects of tabling such proposals during periods of market stress.

Transitional periods: in order to allow for a smooth transition under Directive 2009/138/EC to a new regime, the committee wishes to provide for **phasing in** and specific transitional periods.

Occupational pension bodies: in accordance with the principle of subsidiarity the Directive should not, lay down any solvency requirements for occupational pension bodies.

Delegated acts: due to the extensive nature of the delegated acts and the regulatory technical standards provided for in this Directive, the European Parliament and the Council should have **three months** from the date of notification to object to a delegated act or a regulatory technical standard. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by a further three months.

Review: by 1 January 2015 and every year thereafter, the Commission shall submit to the European Parliament and to the Council a report specifying whether the ESAs have submitted the draft regulatory and implementing technical standards provided for in Directives 2002/92/EC, 2003/71/EC and 2009/138/EC.