

Taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II): dates of transposition and application, date of repeal of certain Directives

2012/0110(COD) - 16/05/2012 - Legislative proposal

PURPOSE: to postpone the date of transposition of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) as regards the dates of its transposition and application and the date of repeal of certain Directives.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: [Directive 2009/138/EC](#) (Solvency II) provides a modern, risk-based system for the regulation and supervision of European insurance and reinsurance undertakings.

The deadline for transposition of Directive 2009/138/EC is 31 October 2012. The existing insurance and reinsurance directives (Directives 64/225/EEC, 73/239/EEC, 73/240/EEC, 76/580/EEC, 78/473/EEC, 84/641/EEC, 87/344/EEC, 88/357/EEC, 92/49/EEC, 98/78/EC, 2001/17/EC, 2002/83/EC and 2005/68/EC, as amended by the acts listed in Part A of Annex VI) that are collectively referred to as Solvency I will be repealed with effect from 1 November 2012.

On 19 January 2011 the Commission adopted a proposal to amend Directive 2009/138/EC in order to take into account the new supervisory architecture for insurance and namely the setting-up of the European Insurance and Occupational Pensions Authority (EIOPA) on 1 January 2011([Omnibus II](#)). It proposes to postpone the transposition deadline of Solvency II to 31 December 2012. These rules are essential in order to ensure a smooth transition to the new regime. In addition and in order to become fully operational, the Solvency II-regime also requires a high number of delegated and implementing acts by the Commission, providing important details on different technical matters. Many of these so-called "level 2"-rules are

closely linked to the Omnibus II-Directive and cannot be presented by the Commission before the publication of Omnibus II.

At the current stage, **there is a risk that the proposed Omnibus II Directive will not be published** and will not have entered into force before the deadline for transposition of Directive 2009/138/EC expires at 31 October 2012. Leaving this date unchanged would imply that the Framework Directive would need to be implemented without the transitional rules and other important adaptations foreseen in Omnibus II. In order to avoid this situation and ensure the legal continuity of the current Solvency provisions (Solvency I) until the complete Solvency II-package is in place, it is proposed that the relevant transposition date in Directive 2009/138/EC is extended to 30 June 2013.

IMPACT ASSESSMENT: this proposal is not accompanied by a separate Impact Assessment as an impact assessment for the Solvency II Directive has already been undertaken and this proposal only aims at avoiding a situation of legal vacuum to arise because of the late publication of Omnibus II in the Official Journal of the European Union.

LEGAL BASIS: Articles 53 (1) and 62 of the Treaty on the Functioning of the European Union.

CONTENT: the proposal does not alter the substance of the current EU legislation: it is restricted to postponing the date for the transposition of Directive 2009/138/EC until **30 June 2013**; in order to avoid a situation of legal uncertainty after the current deadline for transposition (31 October 2012) has expired. It also provides for a new, later application date for Solvency II and consequent repeal of Solvency I (**1 January 2014**).

BUDGETARYIMPLICATION: the proposal has no implication for the EU budget.