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) - 12/09/2012 - Final act

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

LEGISLATIVE ACT: Directive 2012/23/EU of the European Parliament and the Council amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain Directives.

CONTENT: 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 provides a modern, risk-based system for the regulation and supervision of insurance and reinsurance undertakings of the Union. It sets 31 October 2012 as the date for transposition and 1 November 2012 as the date of application. Furthermore, that Directive sets 1 November 2012 as the date of repeal of the existing insurance and reinsurance Directives (collectively referred to as ‘Solvency I’).

On 19 January 2011 the Commission adopted a proposal (the ‘Omnibus II proposal’) to amend, inter alia, Directive 2009/138/EC in order to take into account the new supervisory architecture for insurance, namely the setting-up of the European Supervisory Authority (European Insurance and Occupational Pensions Authority). The Omnibus II proposal also includes provisions to postpone the date for transposition and the date of application of Directive 2009/138/EC, and the date of repeal of Solvency I. Given the complexity of the Omnibus II proposal, there is a risk that it will not have entered into force before the date for transposition and the date of application of Directive 2009/138/EC.

As a result, following an agreement with the European Parliament at first reading, this Directive postpones the date of transposition of Directive 2009/138/EC **until 30 June 2013** in order to avoid a situation of legal uncertainty after the current deadline (31 October 2012) for the transposition of the Directive. It also envisages a later date (**1 January 2014**) for the application of Solvency II and the repeal, as a consequence, of Solvency I.

ENTRY INTO FORCE: 15/09/2012.