

Taking-up and pursuit of the business of insurance and reinsurance (Solvency II): dates of transposition and application; date of repeal of certain directives

2013/0327(COD) - 02/10/2013 - Legislative proposal

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) and the date of repeal of certain Directives.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with 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.

On 19 January 2011, the Commission adopted a proposal to amend Directive 2009/138/EC ([Omnibus II](#)) in order to:

- take into account the new supervisory architecture for insurance and namely the setting up of the European Insurance and Occupational Pensions Agency (EIOPA) on 1 January 2011;
- adapt Directive 2009/138/EC to the entry into force of the Lisbon Treaty which required the adjustment of empowerments for the Commission to adopt implementing measures to empowerments for the Commission to adopt implementing and delegated acts.

The deadline for transposition and application of Directive 2009/138/EC was initially 31 October 2012 and 1 November 2012 respectively, but pending the outcome of the on-going legislative negotiations on Omnibus II, [Directive 2012/23/EU](#) (Quick Fix) postponed these dates to 30 June 2013 and 1 January 2014 respectively.

In view of the fact that the **negotiations on Omnibus II have not yet been finalised**, the date of transposition of 30 June 2013, which has already elapsed, should be extended one last time. The aim is to **avoid continued legal uncertainty** and ensure the legal continuity of the current Solvency provisions (Solvency I) until the complete Solvency II package is in place.

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.

This proposal is necessary to avoid an uncertain legal situation after 1 January 2014. In the absence of this Directive, a gap would exist between the EU legal system (Solvency II) and that of Member States (where Solvency I as transposed would remain in force) leading to legal uncertainty for supervisory authorities, undertakings and Member States.

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

CONTENT: the proposed Directive does not alter the substance of the current EU legislation: it is restricted to postponing the date of transposition of Directive 2009/138/EC until **31 January 2015**; in order to avoid continued legal uncertainty now that the current deadline for transposition (30 June 2013) has expired.

It also provides for a new, later application date for Solvency II and consequent repeal of Solvency I (**1 January 2016**).

BUDGETARY IMPLICATION: the proposal has no implication for the EU budget.