Framework for the recovery and resolution of insurance and reinsurance undertakings

2021/0296(COD) - 23/09/2021 - Legislative proposal

PURPOSE: to establish a European framework for the recovery and resolution of insurance and reinsurance undertakings.

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: insurance policies form an integral part of the daily life of European citizens. For many social and economic activities, holding an insurance policy is necessary to protect against potential risks. They also include savings products, which will determine the long-term welfare of their holders. The **disorderly failure** of insurers can therefore have a significant impact on policy holders, beneficiaries, injured parties or affected businesses. The management of a near-failure or the failure of certain insurers, particularly large cross-border groups, or the simultaneous failure of multiple insurers can also lead to or amplify financial instability.

Although Directive 2009/138/EC (Solvency II Directive) of the European Parliament and of the Council aimed at strengthening the financial system in the EU and the resilience of insurance and reinsurance undertakings, it did not completely eliminate the possibility of failures of such insurance and reinsurance undertakings.

Moreover, there are currently **no harmonised procedures at European level for resolving insurers**. This results in considerable substantive and procedural differences between the laws, regulations and administrative provisions that govern the failure of insurers in the Member States. A regime is therefore needed to provide authorities with a credible set of resolution tools to **intervene sufficiently early and quickly if insurers are failing** or likely to fail to ensure a better outcome for policy holders, while minimising the impact on the economy, the financial system and any recourse to taxpayers' money.

CONTENT: the proposed Directive seeks to **harmonise national laws on recovery and resolution of insurers** or introduces such a framework if there is none yet, to the extent necessary to ensure that Member States have the same tools and procedures to address failures. The harmonised framework would also safeguard the interests of policy holders and preserve the real economy. It would contribute to financial stability and trust in the internal market for insurance and reinsurance.

The proposal addresses crisis management and provides for a comprehensive package of measures including, *inter alia*, the following elements:

Prevention and preparedness

The proposal requires insurance and reinsurance undertakings established in the EU and subject to the 'Solvency II' regulatory framework to develop preventive recovery plans, in order to be better prepared for a possible crisis and to be able to take prompt remedial action if a crisis occurs.

Set-up of resolution authorities

This proposal requires Member States to set up insurance **resolution authorities**, equipped with a minimum harmonised set of powers to undertake all the relevant preparatory and resolution actions. The proposal does not specify the particular authority that should be appointed and can therefore be for example national central banks, competent ministries, public administrative authorities or other authorities entrusted with public administrative powers.

Resolution tools

The framework would provide national authorities with resolution tools to intervene early and quickly enough in the event of failure or risk of failure of insurers. These instruments would maintain insurance cover for policyholders, beneficiaries and injured parties and allocate losses in a fair and predictable manner.

Cross-border group resolution

To take account of the cross border nature of some insurance groups and create a comprehensive and integrated framework for recovery and resolution actions in the Union, **resolution colleges** will be established under the leadership of the group resolution authority and with the participation of the European Insurance and Occupational Pensions Authority (EIOPA). The objective of the colleges is to coordinate preparatory and resolution measures among national authorities to ensure optimal solutions at Union level.

Changes to the Solvency II Directive

This proposal clarifies supervisory authorities' powers to impose preventive measures to insurers in cases of deteriorating financial positions or breaches of regulatory requirements, to avoid the escalation of the problems at a sufficiently early stage of deterioration.

Penalties

In order to ensure compliance by insurers, those who effectively control their business and their administrative, management or supervisory body with the obligations deriving from this proposal, Member States should provide for administrative sanctions and other administrative measures which are effective, proportionate and dissuasive. EIOPA should maintain a central database of all administrative sanctions.

Implementation

The proposal requires Member States to transpose the recovery and resolution rules in their national laws within 18 months from the entry into force of this proposal. National authorities should report to EIOPA on the application of simplified obligations on an annual basis, which EIOPA should in turn disclose.