# Amendments to the Solvency II Directive

2021/0295(COD) - 23/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 549 votes to 56, with 9 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macro-prudential tools, sustainability risks, group and cross-border supervision.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

***Objectives***

The amended text clarified the main objectives of the Directive which are to provide incentives for insurers to contribute to the long-term sustainable financing of the economy, to improve risk-sensitivity, to mitigate excessive short-term volatility in insurers' solvency positions, to enhance the quality, consistency and coordination of insurance supervision across the Union and improve protection of policyholders and beneficiaries, and to better address the potential build-up of systemic risk in the insurance sector.

***Granting of authorisations***

Prior to the granting of authorisation to an insurance or reinsurance undertaking that is a subsidiary undertaking of an undertaking located in another Member State, or that will be under the control of the same legal or physical person as another insurance or reinsurance undertaking located in another Member State, the supervisory authority of the Member State which grants the authorisation should consult the supervisory authorities of any Member States concerned. The decision to grant the authorisation remains the competence of the supervisory authority of the home Member State in which the undertaking concerned seeks authorisation. However, the results of the joint assessment should be taken into consideration when making that decision.

***Smaller and less complex undertakings***

To facilitate the proportionate application of the Directive to undertakings which are smaller and less complex than the average undertaking, and to ensure that they are not subject to disproportionately burdensome requirements, it is necessary to provide **risk-based criteria** that allow for their identification.

It should be possible for undertakings complying with the risk-based criteria to be classified as small and non-complex undertakings in accordance with a simple notification process. Where, within a period of time not exceeding two months after such notification, the supervisory authority does not oppose the classification for duly justified reasons linked to the assessment of the relevant criteria, that undertaking should be deemed a small and non-complex undertaking.

Once classified as a small and non-complex undertaking, in principle, it should automatically benefit from identified proportionality measures on reporting, disclosure, governance, revision of written policies, calculation of technical provisions, own-risk and solvency assessment, and liquidity risk management plans.

***Governance system***

Members of the administrative, management and supervisory bodies of the insurance or reinsurance undertaking should at all times be of **good repute** and possess collectively sufficient knowledge, skills and experience to perform their duties. They should have been convicted of any serious offence or repeated offences relating to money laundering or terrorist financing or other offences that would bring into question their good repute, in, at least, the ten years preceding the year in which they are or would be performing their duties in the undertaking.

Insurance and reinsurance undertakings should put in place a policy promoting diversity in the administrative, management or supervisory body, including setting individual quantitative objectives related to gender-balance.

***Risk management***

Insurance and reinsurance undertakings should explicitly take into account the **short-, medium- and long-term horizon** when assessing sustainability risks. The supervisory authorities should ensure that undertakings, as part of their risk management, have strategies, policies, processes and systems for the identification, measurement, management and monitoring of sustainability risks over the short, medium and long term.

Member States should ensure that insurance and reinsurance undertakings develop and monitor the implementation of **specific plans, quantifiable targets, and processes** to monitor and address the financial risks arising in the short, medium, and long term from sustainability factors, including those arising from the process of adjustment and transition trends towards the relevant Member States and Union regulatory objectives and legal acts in relation to sustainability factors.

The targets, processes and actions to address the sustainability risks included in the plans, should be proportionate to the nature, scale, and complexity of the sustainability risks of the business model of the insurance and reinsurance activities.

***Policy holder protection***

The amended text aims to improve policyholder protection through **enhanced cooperation** between supervisory authorities, and to continue to prevent insurers from failing, thereby contributing to the stability of the financial sector.

Cooperation and information-sharing between the supervisory authority of the home Member State that granted authorisation to an insurance or reinsurance undertaking and the supervisory authorities of the Member States where that undertaking pursues activities by establishing branches or by providing services, should be strengthened in order to better prevent potential problems affecting consumer rights and to enhance the protection of policyholders across the Union. That enhanced cooperation is particularly important where there are significant cross-border activities, and should increase transparency and the regular mandatory exchange of information between supervisory authorities concerned.

Where the supervisory authority of a host Member State has serious concerns regarding the solvency position of an insurance or reinsurance undertaking which carries out significant cross-border activities in its territory, it should have the power to request the carrying out of **a joint on-site inspection** together with the supervisory authority of the home Member State, where there is a non-compliance with the Solvency Capital Requirement or the Minimum Capital Requirement.

***The European Insurance and Occupational Pensions Authority (EIOPA)***

The amended text entrusts EIOPA with a number of new tasks, in particular as regards the development of various aspects of technical standards, i.e. the secondary legislation that will provide a framework for more precise and harmonised implementation of the Directive in the Member States.