

Insurance: supplementary supervision of insurance undertakings belonging to a group

1995/0245(COD) - 04/10/1995 - Legislative proposal

OBJECTIVE: To give insurance supervisors more effective instruments to ascertain the true solvency of an insurance undertaking that is part of an insurance group. This will enhance the protection of policy holders and introduce level competitive playing fields amongst insurance undertakings in the Community.

COMMUNITY MEASURE: Proposal for a European Parliament and Council directive on the supplementary supervision of insurance undertakings in an insurance group.

SUBSTANCE: - Definition of the terms 'parent undertaking - subsidiary': this definition refers to undertakings under the terms of the seventh company law directive (83/349/EEC) and also includes any undertaking which in the view of the supervising authorities exercises a dominant influence over another undertaking; - definition of the concept of 'participation': it is proposed that the definition threshold for a participation in another undertaking be set at at least 20% of the capital or voting rights; - the scope of application of the measures is limited to insurance undertakings with their registered office in the Community; - the Member States are required to extend supervision to all other entities that could have a bearing on the financial and operating position of a supervised insurance undertaking; - the competent authorities of the Member States are obliged to exercise any additional functions when an insurance undertaking is part of a group; - the relevant information should be available to the supervising authorities; in each insurance undertaking or financial holding company, that is a parent or holds a participation in one or more insurance undertakings, financial holding companies or related undertakings, there should be adequate internal procedures to produce relevant information; - the insurance supervisors must have a 'droit de suite' guaranteeing them direct access to information held by the enterprises; this right should apply with regard to: . any undertaking of which an insurance undertaking is a parent or a subsidiary, . any undertaking in which an insurance undertaking holds a participation; - the competent authorities may obtain the information either directly or through a supervised insurance undertaking; they may verify on the spot any information received; rules on cooperation between the competent authorities are introduced with regard to acquiring information; - the competent authorities must communicate to each other all relevant information that is likely to simplify their task and allow the supervision of the activity and financial situation of the insurance undertakings under their supervisory responsibility; - the Member States establish in principle that intra-group transactions should be conducted on market terms; the authorities should be informed of intra-group transactions by way of an annual reporting requirement, concerning only significant transactions; - the Member States are required to ensure that an adjusted solvency calculation is carried out, to prevent double gearing of capital; Annex I to the proposal contains a description of the three methods that can be applied to this end; - the Member States must take account of the fact that an insurance holding company at the top of a group or in an intermediate position may impact the financial position of an insurance undertaking; Annex II proposes two methods to apply a capital test to a holding company owning one or more insurance subsidiaries; the choice of method is left to the Member States.