Basic information

2007/0143(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast Repealing Directive 2001/17/EC 1986/0080(COD) Repealing Directive 98/78/EC 1995/0245(COD) Repealing Directive 2002/83/EC 2000/0162(COD) Repealing Directive 2005/68/EC 2004/0097(COD) Amended by 2010/0232(COD) Amended by 2011/0006(COD) Amended by 2012/0110(COD) Amended by 2013/0327(COD) Amended by 2015/0226(COD) Amended by 2017/0231(COD) Amended by 2020/0268(COD) Amended by 2021/0295(COD) Amended by 2021/0296(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.05 Insurance, pension funds 2.50.10 Financial supervision	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	SKINNER Peter (PSE)	04/07/2006

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	BOWLES Sharon (ALDE)	19/11/2007

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2972	2009-11-10
Economic and Financial Affairs ECOFIN	2872	2008-06-03
Economic and Financial Affairs ECOFIN	2911	2008-12-02
Economic and Financial Affairs ECOFIN	2940	2009-05-05
Economic and Financial Affairs ECOFIN	2836	2007-12-04
Economic and Financial Affairs ECOFIN	2894	2008-10-07

Commission DG	Commissioner

European Commission		
	Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie

Key events

Date	Event	Reference	Summary
10/07/2007	Initial legislative proposal published	COM(2007)0361	Summary
24/09/2007	Committee referral announced in Parliament, 1st reading		
04/12/2007	Debate in Council		
26/02/2008	Legislative proposal published	COM(2008)0119	Summary
03/06/2008	Debate in Council		
07/10/2008	Debate in Council		
07/10/2008	Vote in committee, 1st reading		Summary
16/10/2008	Committee report tabled for plenary, 1st reading	A6-0413/2008	
02/12/2008	Debate in Council		
22/04/2009	Decision by Parliament, 1st reading	T6-0251/2009	Summary
22/04/2009	Results of vote in Parliament		
22/04/2009	Debate in Parliament		
10/11/2009	Act adopted by Council after Parliament's 1st reading		
25/11/2009	Final act signed		
25/11/2009	End of procedure in Parliament		
17/12/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/0143(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2001/17/EC 1986/0080(COD) Repealing Directive 98/78/EC 1995/0245(COD) Repealing Directive 2002/83/EC 2000/0162(COD) Repealing Directive 2005/68/EC 2004/0097(COD) Amended by 2010/0232(COD) Amended by 2011/0006(COD) Amended by 2012/0110(COD) Amended by 2013/0327(COD) Amended by 2015/0226(COD) Amended by 2017/0231(COD)

	Amended by 2020/0268(COD) Amended by 2021/0295(COD) Amended by 2021/0296(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 062 Treaty on the Functioning of the European Union TFEU 053-p1
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/52281

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE407.989	30/06/2008	
Amendments tabled in committee		PE407.991	30/06/2008	
Amendments tabled in committee		PE409.365	30/06/2008	
Amendments tabled in committee		PE409.479	30/06/2008	
Committee opinion	JURI	PE404.605	02/07/2008	
Amendments tabled in committee		PE409.418	14/07/2008	
Amendments tabled in committee		PE408.021	22/07/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0413/2008	16/10/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0251/2009	22/04/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03643/2009/LEX	25/11/2009	

European Commission

Document type	Reference	Date	Summary
Initial legislative proposal	COM(2007)0361	10/07/2007	Summary
Document attached to the procedure	SEC(2007)0870	10/07/2007	
Document attached to the procedure	SEC(2007)0871	10/07/2007	
Legislative proposal	COM(2008)0119	26/02/2008	Summary
Commission response to text adopted in plenary	SP(2009)3507	25/06/2009	
Follow-up document	COM(2017)0740	07/12/2017	Summary
	COM(2018)0169		

Follow-up document		05/04/2018	Summary
Follow-up document	COM(2019)0292	27/06/2019	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0976/2008	28/05/2008	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2009/0138
OJ L 335 17.12.2009, p. 0001 Summary

Corrigendum to final act 32009L0138R(01)
OJ L 219 25.07.2014, p. 0066 Summary

Delegated acts

Reference	Subject
2014/2893(DEA)	Examination of delegated act
2015/2899(DEA)	Examination of delegated act
2015/2997(DEA)	Examination of delegated act
2015/3000(DEA)	Examination of delegated act
2015/2743(DEA)	Examination of delegated act
2015/2741(DEA)	Examination of delegated act
2019/3010(DEA)	Examination of delegated act
2017/2738(DEA)	Examination of delegated act
2018/2745(DEA)	Examination of delegated act
2019/2761(DEA)	Examination of delegated act
2020/2609(DEA)	Examination of delegated act
2016/3045(DEA)	Examination of delegated act
2016/2868(DEA)	Examination of delegated act
2019/2623(DEA)	Examination of delegated act

2020/2848(DEA)	Examination of delegated act
2021/2649(DEA)	Examination of delegated act
2025/2881(DEA)	Examination of delegated act
2026/2927(DEA)	Examination of delegated act
2026/2931(DEA)	Examination of delegated act
2025/2963(DEA)	Examination of delegated act
2026/2851(DEA)	Examination of delegated act

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 26/02/2008 - Legislative proposal

PURPOSE: amended proposal on Solvency II to take into account the coming into force of the mergers and acquisitions directive and proposed new rules on Rome I.

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

CONTENT: the Commission adopted the Solvency II Directive Proposal in September 2007 (please see the summary of 10/07/2007.). This proposal consists of a recast of 13 existing Directives in the insurance and reinsurance sector and new solvency provisions. In the meantime, Directive 2007/44 /EC amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector has been published in the Official Journal and has entered into force on 21 September 2007, i.e. after the date on which the recast proposal was submitted to the legislative authority.

Directive 2007/44/EC introduced changes in some Articles of Directives 92/49/EEC, 2002/83/EC and 2005/68/EC. As a consequence, clear discrepancies exist between the texts of Directives 92/49/EEC, 2002/83/EC and 2005/68/EC and the corresponding parts of the recast part of the Solvency II Directive Proposal.

Furthermore, in December 2007, a political agreement was reached on the so-called Rome I Regulation which deals with the law applicable on contractual obligations. This affects the provisions on applicable law and conditions of direct insurance contracts in the recast part of the Solvency II Directive Proposal. In view of the above the Commission decided to adopt an amended proposal to the Solvency II Directive Proposal adopted in July 2007.

The Solvency II proposal applies to all life and non-life insurance undertakings and reinsurance undertakings. But the current exclusion of small mutual undertakings has been extended to all small insurance undertakings regardless of their legal form. Other changes in the amended proposal concern: qualitative requirements and supervision; supervisory reporting and public disclosure; promotion of supervisory convergence; quantitative requirements; and group supervision.

The changes introduced by Directive 2007/44/EC were introduced in the recast of the Solvency II Directive Proposal, taking into account the new regulatory procedure of scrutiny for the respective comitology provision.

In order to take account of the proposed Rome I, the provisions on applicable law and conditions of direct insurance contracts in Chapter I of TITLE II were deleted. A cross-reference was added in Article 176 to the draft Rome I Regulation setting out that any Member State not subject to that Regulation shall apply the provisions of that Regulation in order to determine the law applicable to insurance contracts falling within the scope of Article 7 of the Regulation.

Lastly, on the occasion of preparing an amended proposal some technical improvements to the recast suggested by the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission were taken up in order to take account of better regulation principles.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 22/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 593 votes to 80, with 3 abstentions, a legislative resolution amending, under the first reading of codecision procedure, the proposal for a directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (recast) (Solvency II).

The amendments are the result of a compromise agreement between Parliament and Council.

The main amendments are as follows:

Minimum Capital Requirement (MCR): the legislation introduces a new relationship between two key criteria for the amounts of capital insurance companies should hold – the Solvency Capital Requirement (SCR) and the Minimum Capital Requirement (MCR).

The SCR will be calculated according to a risk-based approach: when capital falls below this level, supervisory intervention will be needed. The MCR is lower – the point at which the company's license would need to be withdrawn. As well as setting absolute minimum levels for the MCR for different types of company, the new legislation indicates that the MCR should be between 25% and 45% of the company's SCR, with the exact amount being a calculation based on variables which indicate the company's ability to remain operational.

Surplus funds: the text states that it is current practice in certain Member States that insurance companies sell life insurance products in relation to which the policy holders and beneficiaries contribute to the risk capital of the company in exchange for all or part of the return on the contributions. Those accumulated profits are surplus funds, which are the property of the legal entity in which they are generated. Surplus funds should be valued in line with the economic approach laid down in the Directive. In this respect, a mere reference to the evaluation of surplus funds in the statutory annual accounts will not be sufficient. In line with the requirements on own funds, surplus funds will be subject to the criteria laid down in this Directive on the classification in tiers. This means, inter alia, that only surplus funds which fulfil the requirements for classification in Tier 1 should be considered as Tier 1 capital.

Group support regime: the compromise text does not endorse the group support regime, which had been part of the Commission proposal.

Group supervision: on group supervision, the text as approved by Parliament contains a number of significant improvements as compared to the current system for insurance groups' supervision, even though it does not go as far as introducing the group support regime as initially proposed by the Commission. However, the introduction of a review clause specifically mentioning this regime will enable the Commission to come back to this issue when progress in a number of other areas, connected to the recommendations of the de Larosière report, will have been made and will have brought about a more favourable environment for further reforms on cross-border co-operation between home and host supervisors. To improve supervision and risk management, Parliament sought and obtained the creation of supervisory colleges – made up of the various national supervisors responsible for a group and its subsidiaries – to facilitate cooperation, exchange of information and consultation between the supervisors.

The new supervisory system would also mean economic gains for company. EU companies would no longer need to deal with several national regulators, but just with one group.

Entry into force and review clause: Member States will have to transpose the new directive by 31 October 2012.

2 years after entry into force, the Commission is requested to put forward a legislative proposal to improve, if necessary, the application some aspects of the Directive, including the cooperation of supervisory authorities within the colleges.

3 years after entry into force, the Commission will have to propose legislation to enhance group supervision and capital management within a group of insurance. This would also include the provision, proposed by Parliament representatives, on group support, (i.e. that part of the capital requirement for a subsidiary could be met by a guarantee that funds would be transferred from the group if needed).

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 25/11/2009 - Final act

PURPOSE: strengthening the supervision of insurance companies and prudential regulation, given that existing solvency rules are well out of date.

LEGISLATIVE ACT: 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 (Solvency II).

CONTENT: following an agreement reached at first reading with the European Parliament, the Council adopted a directive setting new solvency rules for insurance companies – the "Solvency II" directive – in order to reflect the latest developments in prudential supervision, actuarial science and risk management and to allow for updates in the future.

The new rules are intended to:

- increase the integration of the EU insurance market;
- strengthen protection of policyholders and beneficiaries;
- enhance the competitiveness of EU insurers and re-insurers; and
- encourage improved legislation in this sector.

It also establishes a new framework for EU regulation through the recasting of 14 existing insurance directives into a single legal text.

This ground-breaking revision of EU insurance law designed to improve consumer protection, modernise supervision, deepen market integration and increase the international competitiveness of European insurers. Under the new system, known as 'Solvency II', insurers would be required to **take account of all types of risk** to which they are exposed and to **manage those risks** more effectively.

Group supervision: the Directive contains a number of significant improvements as compared to the current system for insurance groups' supervision, even though it does not go as far as introducing the group support regime as initially proposed by the Commission. However, the introduction of a review clause specifically mentioning this regime will enable the Commission to come back to this issue when progress in a number of other areas, connected to the recommendations of the de Larosière report, will have been made and will have brought about a more favourable environment for further reforms on cross-border co-operation between home and host supervisors. The Solvency II Directive establishes a new control system for insurance groups. All insurance and reinsurance groups subject to group supervision should have a **group supervisor** appointed from among the supervisory authorities involved. The rights and duties of the group supervisor should comprise appropriate coordination and decision-making powers. The authorities involved in the supervision of insurance and reinsurance undertakings belonging to the same group should establish coordination arrangements

To improve supervision and risk management, Parliament sought and obtained the creation of **supervisory colleges** – made up of the various national supervisors responsible for a group and its subsidiaries – to facilitate cooperation, exchange of information and consultation between the supervisors. The college of supervisors shall ensure that cooperation, exchange of information and consultation processes among the supervisory authorities that are members of the college of supervisors, are effectively applied, with a view to promoting the convergence of their respective decisions and activities. the establishment and functioning of the college of supervisors shall be based on coordination arrangements concluded by the group supervisor and the other supervisory authorities concerned. CEIOPS shall elaborate guidelines for the operational functioning of colleges of supervisors on the basis of comprehensive reviews of their work in order to assess the level of convergence between them. Such reviews shall be carried out at least every three years. Member States shall ensure that the group supervisor transmits to CEIOPS the information on the functioning of the colleges of supervisors and on any difficulties encountered that are relevant for those reviews.

Implementation: The Solvency II Directive is a framework Directive, which confines itself to setting out the principles to which the new system would be subject. On a large number of issues, more detailed implementing measures will be set down by the Commission, following consultations with market participants and Member States, under the scrutiny of the European Parliament. The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) will continue to play an important role in the further implementation of Solvency II.

CEIOPS shall, where necessary, provide for non-legally binding guidelines and recommendations concerning the implementation of the provisions of this Directive and its implementing measures in order to enhance the convergence of supervisory practices. In addition, CEIOPS shall report regularly and at least every two years to the European Parliament, the Council and the Commission on the progress of the supervisory convergence in the Community.

Evaluation: Member States shall transpose the Directive by 31 October 2012. By 31 October 2014, the Commission shall make an assessment of the application of this Directive, in particular as regards the cooperation of supervisory authorities within, and functionality of, the college of supervisors, the legal status of CEIOPS, and the supervisory practices concerning setting the capital add-ons, and shall present a report to the European Parliament and the Council, accompanied, where appropriate, by proposals for the amendment of this Directive. The Commission shall submit to the European Insurance and Occupational Pensions Committee and the European Parliament, by 31 October 2015, a report on the application of the approach and the supervisory authorities' practices, accompanied, where appropriate, by adequate proposals. That report shall address, in particular, cross-border effects of the use of that approach with a view to preventing regulatory arbitrage by insurance and reinsurance undertakings.

ENTRY INTO FORCE: 06/01/2010.

TRANSPOSITION: 31/10/2012.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 10/07/2007 - Initial legislative proposal

PURPOSE: the reform of the EU's solvency provisions through the establishment of a single Directive: SOLVENCY II.

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

BACKGROUND: existing solvency provisions are outdated. They are non-risk sensitive, they do not deal adequately with group supervision and they have been superseded by industry, international and cross-sectoral developments. Hence the need for a thorough reform of the EU's solvency provisions.

CONTENT: the purpose of this proposal, therefore, is a reform of existing EU solvency law and the establishment of second generation solvency provisions to be referred to as SOLVENCY II. The Solvency II project is one of the main outstanding items from the Financial Services Action Plan (1999 – 2005). Following the Commission's Better Regulation and Simplification agendas, the revision of the present solvency regime will recast 13 (re) insurance Directives into one single document, whilst simultaneously adding new requirements. The proposal applies the "re-casting" technique" which enables substantive amendments to existing legislation without a self-standing amending Directive, thereby rendering solvency provisions less complex as well as making EU legislation more accessible.

The main aim of EU solvency law is to ensure that insurance undertakings are financially sound and capable of withstanding adverse events in order to protect policy holders and to guarantee a stable financial system.

This proposal contains a number of amendments of a non-substantive nature in order to improve the proposed Directive's drafting. Articles, or parts of articles, which have become obsolete have been deleted. At the same time, however, a number of important new provisions have been inserted in order to modernise and update the EU's solvency law. In principle, the new solvency provision are based on, and follow, the four level structure of the Lamfalussy financial services architecture. This will allow the new solvency regime to keep pace with future market and technological developments as well as international development in accounting and (re)insurance regulation.

In essence, the new system will allow for more sophisticated solvency requirements for insurers, allowing them to guarantee that they have sufficient capital to withstand adverse events, such as floods, storms or big car accidents. Under existing requirements only insurance risks are covered. Under new requirements, however, future insurers will be required to hold capital against market risk, credit risk and operational risks.

Insurers will also be required to focus on the active identification, measurement and management of risks and to consider any future developments, such as new business plans or the possibility of catastrophic events that might affect their financial standing. Further, the proposed reform will oblige insures to assess their capital needs in light of all risks by means of the "Own Risk and Solvency Assessment", whilst the "Supervisory Review Process" or SRP will shift the focus of supervisors from compliance monitoring and capital to evaluating insurers' risk profiles and the quality of their risk management and governance systems.

Moreover, the reform of the solvency provisions, will enable insurance groups to be supervised more efficiently, through a "group supervisor" in the home country that would have specific responsibilities to be exercised in close co-operation with the relevant national supervisors. This would entail a more streamlined approach to supervision that recognises the economic realities of such groups. The introduction of group supervisors will ensure that group-wide risks are not overlooked as well as enabling groups to operate more efficiently, whilst at the same time providing policyholders with a high level of protection. Groups that are sufficiently diversified may also be allowed to lower their capital requirements under certain conditions.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 05/04/2018 - Follow-up document

In accordance with Directive 2009/138/EC of the European Parliament and of the Council (Solvency II), the Commission has presented a report on the application of Title III as regards the supervision of insurance and reinsurance undertakings, and the assessment of the transitional period for the occupational retirement provision business of life insurance undertakings (IORPs).

Solvency II provides that the Commission's report on the application of Title III (group supervision) may be accompanied with legislative proposal

The report takes into account much of the contribution made by the European Insurance and Occupational Pensions Authority (EIOPA).

(1) Application of Title III of Solvency II on the supervision of insurance and reinsurance undertakings in a group: Title III of Solvency II concerns the supervision of insurance and reinsurance undertakings in a group. The Directive uses an innovative supervisory model which assigns a key role to a group supervisor, while recognising and maintaining an important role for the solo supervisor.

- ***General issues regarding group supervision***: the central issues concern the definition of a group and the scope of group supervision. EIOPA reported certain concerns on the **definition of a group** and on the emergence in the EU of several non-EEA structures with related investment funds that invest in insurance undertakings across the EEA.

Another potential issue is the **lack of consistency** between the undertakings in the group and the scope of group supervision in relation to third-country insurance undertakings, the insurance holding company, the mixed financial holding company or the mixed-activity insurance holding company.

- ***Cooperation of supervisory authorities within, and functionality of, colleges of supervisors***: Solvency II strengthens cooperation among supervisory authorities and establishes the rights and duties of the group supervisor and the other supervisors in a college of supervisors. According to EIOPA data, there were 92 colleges in 2016, allowing national supervisors to exchange information regularly and discuss and address divergences in members' approaches. The overall assessment is that colleges **function well**.

- ***Sub-group supervision***: under the Directive, Member States may allow their supervisory authorities to decide, after consulting the group supervisor and the ultimate parent undertaking at Union level, to subject the ultimate parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company at national level to group supervision. This is known as sub-group supervision.

According to EIOPA's data, three EU supervisors conduct sub-group supervision on eight cross-border groups. These additional complications need to be balanced against the fact that sub-group supervision is of great importance to those Member States that practise it.

- ***Group internal models***: in line with the risk-oriented approach to the solvency capital requirement (SCR), Solvency II allows individual insurance and reinsurance undertakings and groups to use internal models for the SCR calculation, rather than the standard formula, subject to supervisory approval.

EIOPA reports that 11 NSAs have approved (cross border and domestic) group internal models and solo internal models are used in 17 Member States. EIOPA concludes that its **limited role** in the assessment and approval of cross-border internal models has sometimes hampered its work in assessing and promoting convergence.

Legislative changes: as Solvency II is due for **general evaluation in 2020** and given the importance of a stable regulatory framework, the Commission considers that only one of the areas identified above requires legislative amendment at this stage: the area of **group internal models**, where divergences among Member States have been identified and EIOPA needs enhanced powers to bring about convergence.

However, given the urgency of the matter and the opportunity provided by the Commission's package of proposals to review the functioning and financing of European supervisory authorities (as adopted on 20 September 2017), **action has already been taken on this**.

The package included a legislative proposal to amend Solvency II so as to mitigate and prevent divergences in the supervision and approval of group internal models. The proposal includes amendments to Solvency II to:

- give EIOPA a greater role in ensuring supervisory convergence in the area of internal model applications (at solo and group level) and with respect to information-sharing on such applications;
- allow EIOPA to issue opinions in this regard and assist in the settlement of disputes between supervisory authorities, at their request, on its own initiative or, in certain circumstances, at the request of concerned undertakings.

The amendments also provide that EIOPA should prepare annual reports on this matter. This will allow close monitoring of the situation on internal model applications.

(2) Transitional period for the occupational retirement provision business of life insurance undertakings: the occupational retirement provision business of life insurance undertakings are, subject to certain conditions, exempted during a transitional period from the full application of the Solvency Capital Requirement (Solvency II) by the Solvency II Directive. This period has been **extended until the end of 2022**.

The Commission may take a decision nearer the end of that period (end 2022) concerning its possible extension. If a decision is taken to extend the period, a **legislative proposal could be introduced** in good time before the end of 2022.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 07/12/2017 - Follow-up document

The Commission adopted a report on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to 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 (Solvency II).

The Solvency II Directive introduced a sound and robust prudential framework for insurance firms in the EU. It is based on the risk profile of each individual insurance company in order to promote comparability, transparency and competitiveness.

In accordance with Article 301a(2) of the Solvency II Directive, delegated power is conferred on the Commission for a period of **four years from 23 May 2014**. The Commission is required to draw up a report in respect of those delegated powers at the latest six months before the end of that four-year period.

Exercise of the delegation: the report covers those delegated powers falling within the scope of Article 301a. It notes that **the Commission exercised the vast majority of empowerments in the Solvency II Directive in 2014**. The empowerments were bundled because of the complex inter-relation of different empowerments, for example on the Solvency II standard formula.

On 14 October 2014, the Commission adopted the Solvency II Delegated Act, which was published in the Official Journal on 17 January 2015 after the expiry of the scrutiny period of the European Parliament and the Council. It entered into force on 18 January 2015, well ahead of 1 January 2016, when the Solvency II Directive became fully applicable.

Subsequently, the Commission adopted:

- on 30 September 2015, a Delegated Act amending the Solvency II Delegated Act of 2014 on **infrastructure projects**, which entered into force on 2 April 2016. The amendment also covered changes with respect to European Long-Term Investment Funds (ELTIF), the equity transitional and Multilateral Trading Facilities (MTFs);
- on 8 June 2017, a Delegated Act amending the Solvency II Delegated Act on **infrastructure corporates**. This amending Act was published in the Official Journal on 14 September 2017, after the expiry of the European Parliament and Council scrutiny period;
- in June 2015 and November 2015 two packages of **equivalence decisions** with respect to 8 jurisdictions, in the form of delegated acts.

Separately, the Commission also adopted correcting acts for some of the language versions of the Delegated Act.

Conclusions: the Commission considers that it has exercised its delegated powers in a **timely and correct manner** to ensure that the required Delegated Acts were in place for insurance and reinsurance undertakings and national supervisory authorities to apply the rules on the date the Solvency II Directive became fully applicable. Targeted amendments since then have ensured that the prudential framework is appropriately calibrated to allow insurers to contribute to the Capital Markets Union as long-term investors.

Going forward, the Commission considers that **all delegations of power should be retained**, amongst others as preparatory work is continuing with respect to aligning the Solvency II Delegated Act with the Regulation on simple, transparent and standardised securitisation and the amendment to the Capital Requirements Regulation. The Commission has asked the European Insurance and Occupational Pensions Authority (EIOPA) for its technical advice on the review of specific items in the Solvency II Delegated Act.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 27/06/2019 - Follow-up document

The Commission presents its report on the application of Directive 2009/138/EC of the European Parliament and of the Council on the taking and pursuit of the business of Insurance and Reinsurance (Solvency II) with regard to group supervision and capital management within a group of insurance or reinsurance undertakings.

Since 1 January 2016, when it entered into application, the Solvency II Directive has provided a sound and robust prudential framework for insurance and reinsurance firms in the EU. Based on the risk profile of individual companies, it promotes comparability, transparency and competitiveness.

Pillar III of the Solvency II Directive concerns the supervision of insurance and reinsurance undertakings in a group (group supervision). The Directive uses an innovative supervisory model, which assigns a key role to a group supervisor, while recognising and maintaining an important role for supervisors of individual insurance entities.

This report assesses the benefit of enhancing group supervision and capital management within a group of insurance or reinsurance undertakings, as required under the Solvency II Directive

Main findings

The report stressed that overall, the prudential framework of group supervision is proving to be robust, laying emphasis on capital management and governance, and allowing for a better understanding and monitoring of risks at group level. However, some areas of the framework may not ensure a harmonised implementation of the rules by groups and NSAs, with potential impacts on the level playing field and on capital management strategies.

Diverging implementations of Solvency II

The Commission highlighted that the diverging implementations of Solvency II on group supervision may be detrimental to policyholder protection, depending on how NSAs determine the scope of supervision, and exercise supervision at the level of parent holding companies. It also highlights the importance of ensuring an appropriate supervision of groups whose parent company is headquartered in a third country. In addition, in light of the wide differences between the supervisory powers of the different NSAs, it is necessary to assess the appropriateness of the powers of early intervention embedded in Solvency II.

Challenges and legal uncertainties related to group solvency calculation, group governance and group reporting

The report identified a number of legal uncertainties and diverging supervisory practices that can have a significant impact on group solvency. They concern both group own funds, the solvency capital requirement group and the minimum consolidated group. The use of group internal models may raise additional issues. First, a different implementation of the same internal model at solo level and at group level on key aspects such as the dynamic volatility adjustment can affect group risk management. In addition, the use by a group of a partial internal model could generate regulatory arbitrage regarding the way to integrate in the group solvency the entities out of the scope of the model.

There is also a wide margin of interpretations regarding the provisions on group governance, which are generally defined in the Solvency II Directive as a mutatis mutandis application of solo requirements.

With regard to pillar III requirements, the definition and scope of intragroup transactions to be reported is considered by EIOPA and National Supervisory Authorities as insufficiently clear and exhaustive. However, there are divergent views among supervisors regarding the appropriate level of harmonisation of the reporting of intra-group transactions and risk concentrations, as well as of the quantification of diversification effects.

Fragmented insurance guarantee schemes

Lastly, the report highlighted the widely fragmented landscape of insurance guarantee schemes (IGS) in Europe. While some countries have more than one IGS, others have no IGS at all. There are also substantial differences regarding the lines of business covered, the coverage level, the scope of application, the sources of funding, the role of the IGS, the basis for calculating market participants' contributions, and the capacity for the IGS to raise additional funding in case of shortfalls.

Future legislative changes

Article 242(2) of the Solvency II Directive provides that the Commission's report may be accompanied with legislative proposals. This report has identified a number of important issues that may need to be addressed, potentially including via legislative changes. However, further analysis is needed on the impact of those potential changes in the rules. Therefore, the Commission deems it appropriate to include group supervision in the scope of the general review in 2020 of the Solvency II Directive.

The Commission has invited EIOPA to provide by 30 June 2020 technical advice on the issues identified in this report, as well as other related issues that may be detrimental to policyholder protection, as part of the 2020 Review of the Solvency II Directive.

Taking-up and pursuit of the business of insurance and reinsurance - Solvency II. Recast

2007/0143(COD) - 25/11/2009 - Corrigendum to final act

Corrigendum to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

(Official Journal of the European Union L 335 of 17 December 2009)

On page 132, Annex VII, Correlation table, column 'This Directive', penultimate row:

for:

‘-',

read:

‘Article 13(27)';

on page 133, column ‘This Directive', 10th and 11th rows:

for:

‘Article 18, point (g)

Article 18, point (h)',

read:

‘Article 18(1), point (g)

Article 18(1), point (h)';

on page 136, column ‘Directive 2002/83/EC', 10th row:

for:

‘Articles 28 and 28, point (a)',

read:

‘Articles 28 and 28a';

on page 136, column ‘Directive 2002/83/EC', final row:

for:

‘Article 13(3), FIRST AND SECOND subparagraphs 1 and 2(a) and (b)',

read:

‘Article 13(3), first subparagraph and second subparagraph, points (a) and (b)';

on page 148, column ‘This Directive', fourth row:

for:

‘Article 210(1), point (f)',

read:

‘Article 212(1), point (f)';

on page 148, column ‘This Directive', fifth row:

for:

‘Article 210(1), point (g)',

read:

‘Article 212(1), point (g)';

on page 152, column ‘Directive 2002/83/EC', 8th row:

for:

‘Article 19(1), SECOND SUBPARAGRAPH, second indent',

read:

‘Article 19(1), first subparagraph, second indent'.