Basic information

2011/0006(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority Amending Directive 2003/71/EC 2001/0117(COD) Amending Directive 2009/138/EC 2007/0143(COD) Amending Regulation (EC) No 1060/2009 2008/0217(COD) Amending Regulation (EU) No 1094/2010 2009/0143(COD) Amending Regulation (EU) No 1095/2010 2009/0144(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	BALZ Burkhard (PPE)	20/10/2009
	Shadow rapporteur SKINNER Peter (S&D) GOULARD Sylvie (ALDE) GIEGOLD Sven (Verts /ALE) FOX Ashley (ECR) MATIAS Marisa (GUE /NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	STOYANOV Dimitar (NI)	28/02/2011

Council of the European Union

Council configuration	Meetings	Date
Agriculture and Fisheries	3308	2014-04-14

European Commission

Commission DG	Commissioner

	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events

Date	Event	Reference	Summary
19/01/2011	Legislative proposal published	COM(2011)0008	Summary
03/02/2011	Committee referral announced in Parliament, 1st reading		
21/03/2012	Vote in committee, 1st reading		
28/03/2012	Committee report tabled for plenary, 1st reading	A7-0077/2012	Summary
11/03/2014	Decision by Parliament, 1st reading	T7-0189/2014	Summary
11/03/2014	Results of vote in Parliament		
11/03/2014	Debate in Parliament		
14/04/2014	Act adopted by Council after Parliament's 1st reading		
16/04/2014	Final act signed		
16/04/2014	End of procedure in Parliament		
22/05/2014	Final act published in Official Journal		

Technical information

Procedure reference	2011/0006(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2003/71/EC 2001/0117(COD) Amending Directive 2009/138/EC 2007/0143(COD) Amending Regulation (EC) No 1060/2009 2008/0217(COD) Amending Regulation (EU) No 1094/2010 2009/0143(COD) Amending Regulation (EU) No 1095/2010 2009/0144(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 062 Treaty on the Functioning of the European Union TFEU 053-p1 Treaty on the Functioning of the European Union TFEU 050 Treaty on the Functioning of the European Union TFEU 114-p1
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/05195

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary

Committee opinion	JURI	PE464.948	27/06/2011	
Committee draft report		PE466.970	27/07/2011	
Amendments tabled in committee		PE472.278	23/09/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0077/2012	28/03/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0189/2014	11/03/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00007/2014/LEX	16/04/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0008	19/01/2011	Summary
Commission response to text adopted in plenary	SP(2014)455	10/06/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0008	18/03/2011	
Contribution	IT_SENATE	COM(2011)0008	20/06/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2011/0042 OJ C 159 28.05.2011, p. 0010	04/05/2011	Summary
EESC	Economic and Social Committee: opinion, report	CES0796/2011	05/05/2011	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Directive 2014/0051
OJ L 153 22.05.2014, p. 0001

European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

2011/0006(COD) - 04/05/2011 - European Central Bank: opinion, guideline, report

OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a directive of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

The opinion assesses the proposed directive from a financial stability perspective. The observations and drafting proposals contained in this opinion focus on aspects relevant to supervisory architecture reform, the involvement of the ECB, the European System of Central Banks (ESCB) and of the European Systemic Risk Board (ESRB) and cooperation and information- sharing arrangements with the European Supervisory Authorities (ESAs) and national competent authorities. It also pays particular attention to the need to ensure where relevant consistent approaches across financial services sectors with a view to ensuring a level playing field and as a tool for supervisory convergence.

The ECB makes the following observations :

European Single Rulebook in the financial sector: the development of a European single rulebook for all financial institutions in the single market, which the ECB fully supports, requires (i) an appropriate identification of the relevant areas for delegated and implementing acts, (ii) adequate involvement of ESAs in the preparation of these acts taking into account their technical nature and the need to rely on the highly specialised expertise of supervisory authorities; and (iii) a consistent and coordinated approach across sectors in adopting these implementing measures.

ECB's advisory role regarding draft delegated and implementing acts: having regard to the importance of the function to be played by delegated and implementing acts as a substantial component of the single rulebook, the ECB should be consulted in due time on any draft Union acts, including draft delegated and implementing acts, falling within its fields of competence.

Information-sharing arrangements: the ECB stresses the importance of ensuring that appropriate gateways for the exchange of information are included in the relevant legislation applicable to the financial sector. The ECB suggests therefore amending Directive 2009/138/EC consistently with the corresponding provisions of Directive 2006/48/EC according to which competent authorities and EIOPA are not prevented from transmitting information to central banks of the ESCB, including the ECB, where appropriate, to other national authorities responsible for overseeing payment systems and to the ESRB when this information is relevant to their respective tasks. Appropriate information sharing arrangements should also be established for emergency situations**.**

Convergence across financial services sectors: the ECB is of the view that the Union legislative framework should be consistent, where appropriate, across the financial services sectors, to avoid regulatory arbitrage. For instance, the ECB suggests promoting cross-sectoral convergence in the following:

- ***Treatment of financial holdings in the calculation of own funds***: when determining own funds, the ECB is of the view that coherence in the treatment of 'participations' in the same sector and across financial services sectors could be increased in order to prevent any regulatory arbitrage between legal entities and/or between entities within a financial conglomerate.
- ***Addressing financial stability***: any pro-cyclicality effects stemming from the implementation of the Solvency II regulatory framework, and, where relevant, the contribution of countercyclical mechanisms to financial stability, including with regard to the illiquidity premium, referred to in the proposed directive, could be further assessed.
- ***Remuneration policies and schemes***: the ECB generally welcomes the work on remuneration policies and schemes in the context of the Solvency II implementation measures. The internationally agreed high-level principles of remuneration policies developed for banks and corresponding implementation standards should apply to the insurance sector whilst taking into account its specificities, where relevant.
- ***Credit assessments***:the ECB notes that the eligibility of ECAIs is already addressed in the context of Directive 2006/48/EC and Regulation (EC) No 1060/2009. Against this backdrop and in view of the cross-sectoral nature of these issues, the ECB suggests, prior to any legislative action, carrying out an assessment involving the three ESAs with a view to ensuring consistency and synergies between the relevant Union sectoral legislation, including also possible implementing measures.
- ***Determination of 'exceptional fall in financial markets'***: the ECB considers that further clarification should be provided of the interplay between the declarations by EIOPA of events of exceptional fall in financial markets, declarations by the Council of emergency situations within the meaning of the ESAs regulations and also measures taken by supervisory authorities in exceptional circumstances in case of further deterioration of the financial situation of the undertaking concerned.

Transitional provisions: the ECB feels that it might be appropriate to reduce substantially in some instances the 10 year maximum periods foreseen for the adoption of certain transitional provisions to provide the appropriate incentives for timely application of the Solvency II reform.

European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

2011/0006(COD) - 19/01/2011 - Legislative proposal

PURPOSE: to improve the functioning of the internal market by means of ensuring a high, effective and consistent level of prudential regulation and supervision, protecting policy holders and beneficiaries and thereby businesses and consumers, protecting the integrity, efficiency and orderly functioning of financial markets, maintaining the stability of the financial system, and strengthening international supervisory coordination.

BACKGROUND: experience of the financial crisis has exposed important failures in financial supervision. President Barroso therefore requested a group of high level experts, chaired by Jacques de Larosière, to make proposals to strengthen European supervisory arrangements.

Building on its recommendations, the Commission set out proposals for a new European financial supervisory architecture in its Communication to the Spring European Council of March 2009. The Commission presented its ideas in more detail in its Communication of May 2009 which proposed:

- establishing a European System of Financial Supervisors (ESFS), consisting of a network of national financial supervisors working in tandem with new European Supervisory Authorities (ESAs): a European Banking Authority (EBA), a European Insurance and Occupational Pensions Authority (EIOPA), and a European Securities and Markets Authority (ESMA); and
- establishing a European Systemic Risk Board (ESRB), to monitor and assess potential threats to financial stability that arise from macro-economic developments and from developments within the financial system as a whole.

The Communication also concluded that in order for the ESFS to work effectively, changes to the financial services legislation would be necessary, in particular to provide an appropriate scope to the more general powers provided for in the individual regulations establishing the authorities, ensuring a more harmonised set of financial rules through the possibility to develop draft technical standards and facilitate the sharing, where necessary, of microprudential information.

IMPACT ASSESSMENT: the May Commission Communication on Financial Supervision in Europe was accompanied by an impact assessment analysing the main policy options for establishing the ESFS and ESRB. A second impact assessment accompanied the legislative proposals, examining the options in more detail. The second impact assessment analysed the options for the appropriate powers for the authorities to work towards achieving a single set of harmonised rules and concluded that this capacity would be rightly limited to those areas to be defined in forthcoming sectoral legislation, and identified such potential areas. Additionally, in developing the draft technical standards themselves, the authorities should undertake appropriate analysis of potential related costs and benefits and consult stakeholders before submitting them to the Commission.

LEGAL BASIS: given that changes need to be introduced into existing Directives to ensure the development of a single rule book, an amending Directive is the most appropriate instrument. This amending Directive should have the same legal basis as the Directives it amends, i.e. Articles 50, 53, 62, and 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: along with the Regulations establishing the EBA, EIOPA and ESMA and in order for the ESFS to work effectively, changes to the sectoral legislation are necessary. The areas in which amendments are proposed fall broadly into the following categories:

- definition of the appropriate scope of technical standards as an additional tool for supervisory convergence and with a view of developing a single rule book;
- to appropriately integrate the possibility for the authorities to settle disagreements in a balanced way to those areas where common decision making processes already exist in sectoral legislation;
- general amendments which are common to most sectoral legislation and necessary for the directives to operate in the context of new authorities, for example, renaming the level 3 committees to the new authorities and ensuring the appropriate gateways for the exchange of information are present; and
- additional amendments to the Solvency II Directive.

This amending directive is proposed to amend the following legislation: i) Directive 2003/71/EC: Prospectus Directive and ii) Directive 2009/138/EC (the Solvency II Directive).

The changes to be made to the Solvency II Directive aim to:

- to adjust existing level 2 empowerments to the Lisbon Treaty: existing level 2 empowerments should be transformed into empowerments for delegated acts. Appropriate control procedures should be foreseen;
- provide for transitional requirements in relation to valuation, governance, supervisory reporting and public disclosure, the determination and classification of own funds, the standard formula for the calculation of the Solvency Capital Requirement and the choice of methods and assumptions for the calculation of technical provisions, including the determination of the relevant risk-free interest rate term structure. It is also necessary to enable level 2 measures to specify transitional arrangements in relation to the treatment of third country regimes. The transitional requirements should not result in more favourable treatment for insurance and reinsurance undertakings, or lower protection for policy holders. They should encourage undertakings to move towards compliance with the particular requirements of the new regime as soon as possible;

- amend level 2 empowerments: in order to allow for greater convergence on procedures for supervisory approvals already provided for in Solvency II (specific parameters, model change policies, special purpose vehicles and the setting and removal of capital add-ons), the Commission should be empowered to adopt measures by means of delegated acts specifying procedure in these areas;
- include the European Cooperative Society (SCE) in the list of permissible forms of insurance and reinsurance undertakings;
- introduce an amendment to reflect the adaptation to the Euro amount of the MCR floor for captive reinsurance undertakings;
- Extend by two months the implementation date in order to better align the start of the various new reporting, calculation and other obligations of the Solvency II regime with the date (31 December) which marks the end of the financial year of the majority of insurance undertakings.

BUDGETARY IMPACT: the proposal has no implication for the European Union's budget.

European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

2011/0006(COD) - 11/03/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 560 votes to 113 with 4 abstentions, a legislative resolution on the proposal for a Directive of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise between Parliament and Council.

Framework for financial supervision: the amended text stressed that **financial stability is a prerequisite** if the real economy is to provide jobs, credit and growth. It recalled the **number of resolutions adopted by the European Parliament** before and during the financial crisis calling for a move towards more integrated European supervision (particularly in its resolutions of 13 April 2000, 21 November 2002, 11 July 2007, 23 September 2008 and 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: Future Structure of Supervision.

Amendment of Union legislation: in order to ensure the proper functioning of the European System of Financial Supervision ('ESFS'), Parliament stressed the need to amend Union legislation regarding the field of operation of the three European supervisory authorities -the European Insurance and Occupational Pensions Authority (EIOPA), the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) (collectively referred to as the European Supervisory Authorities (ESAs), aiming at **more effective implementation of micro-level supervision.**

Draft technical standards: the regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption by means of delegated or implementing acts. Directive 2010/78/EU in respect of the powers of the European Supervisory Authorities has identified a first set of such areas. It is proposed that this Directive should identify a further set of areas, in particular for:

- €€€€€€€ Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading;
- €€€€€€€ Directive 2009/138/EC, on the taking-up and pursuit of the business of insurance and reinsurance (SOLVENCY II); and
- €€€€€€€ Regulation (EC) No 1060/2009 on credit ratings agencies.

Regulation (EU) No 1094/2010 establishing the European Supervisory Authority (European Insurance and Occupational Pensions Authority) ('EIOPA'), and Regulation (EU) No 1095/2010 establishing the European Supervisory Authority (European Securities and Markets Authority) ('ESMA').

Regulatory technical standards (adopted as delegated acts under Article 290 of the TFEU) and implementing technical standards (adopted as implementing acts under Article 291 of the TFEU) should:

- €€€€€€€ contribute to a **single rulebook** for financial services legislation as endorsed by the European Council in its conclusions of June 2009;
- €€€€€€€ provide for **transitional measures** subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.

Before submitting regulatory or implementing technical standards to the Commission, the ESAs should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits.

In the interests of an early finalisation of measures required to implement the framework rules under Directive 2009/138/EC (Solvency II), the Commission will be allowed, for a transitional period, to adopt some of the regulatory technical standards provided for in this Directive, in accordance with the procedure for the adoption of delegated acts.

Settlement of disagreements in the framework of the Directive on Solvency II: Directive 2009/138/EC provides for joint decisions in a certain number of areas, such as regards the approval of applications to use an internal model at group and subsidiary levels. In all of these areas, Members propose amendment clearly stating that in the event of disagreement, EIOPA may resolve the disagreement.

The EIOPA should not replace the exercise of discretion by the supervisory authorities in compliance with Union law. However, it should be possible for disagreements to be resolved and cooperation to be strengthened before a final decision is taken by the national supervisory authority or issued to an institution. EIOPA should resolve disagreements by mediating between the conflicting views of the supervisory authorities.

Better knowledge of the assets held by insurance and reinsurance undertakings: these undertakings should be required only to provide such information to their national supervisory authorities that is relevant for the purposes of supervision. After assessing the nature, scale and complexity of the risks inherent in the business of the undertaking, national supervisory authorities should have the power to allow limitations on the frequency and the scope of information to be reported or to exempt from reporting on an item-by-item basis only where that undertaking does not exceed specific thresholds. The smallest undertakings will be eligible for limitations and exemption and those undertakings will not represent more than 20 % of a Member State's life and non-life insurance or of its reinsurance market.

Allowing for the consistent calculation of technical provisions by insurance and reinsurance undertakings: to this end, a central body should be able to derive, publish, and update certain technical information relating to the risk-free interest rate term structure on a regular basis, taking account of observations in the financial market. Members consider that the manner in which the risk-free interest rate term structure is derived should be transparent and **avoid artificial volatility** of technical provisions and eligible own funds and provide an incentive for good risk management.

Under market conditions similar to those at the date of entry into force of the Directive, the starting point for the extrapolation of risk-free interest rates, in particular for the euro, should be **at a maturity of 20 years.**

The risk-free interest rate term structure should be determined on the basis of a holistic and consistent approach to the setting of all assumptions and parameters on which the curve is based ensuring consistency over time and avoiding artificial volatility of technical provisions and eligible own funds in excess of the capital requirements. The starting point for the extrapolation of risk-free interest rates in euro should be 20 years.

In order to avoid changes of asset spreads from impacting on the amount of own funds of these undertakings, they should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate in line with the spread movements of their assets. The application of such a matching adjustment should be subject to supervisory approval and strict requirements on the assets and liabilities should ensure that the insurance and reinsurance undertakings can hold their assets to maturity.

In order to prevent pro-cyclical investment behaviour, insurance and reinsurance undertakings should also be allowed to **make a volatility adjustment**. Undertakings should publicly disclose the impact of the volatility adjustment on their financial position to ensure adequate transparency.

In view of the importance of discounting for the calculation of technical provisions, Directive 2009/138/EC should ensure uniform conditions for the choice of discount rates by insurance and reinsurance undertakings.

Conformity with Solvency Capital Requirement (SCR): in order to mitigate undue potential pro-cyclical effects, the period for restoring compliance with the SCR should be extended in exceptional adverse situations, including in the case of steep falls in financial markets, persistent low interest rate environments and high-impact catastrophic events, affecting a significant share of the market EIOPA should be responsible for declaring the existence of exceptional adverse situations and the Commission should be empowered to adopt measures by means of delegated and implementing acts specifying the criteria and the relevant procedures.

Transparency: in order to ensure the transparent application of the volatility adjustment, the matching adjustment and the transitional measures on risk-free interest rates and on technical provisions provided for pursuant to this Directive, insurance and reinsurance undertakings should publicly disclose the impact of not applying these measures on their financial positions.

In order to ensure that interested stakeholders are properly informed about the structure of insurance and reinsurance groups, information on their legal structure and the governance and organisational structure must be made available to the public.

Conditions to be applied to third countries: to encourage international convergence toward risk-based solvency regimes, Members specify the conditions in relation to the treatment of third country regimes in order for these third countries to be recognised temporarily equivalent.

Where the Commission determines that a third country's prudential regime for group supervision is temporarily equivalent, additional supervisory reporting should be allowed for in order to ensure the protection of policy holders and beneficiaries within the Union.

Health insurance: the calculation of the Solvency Capital Requirement (SCR) for health insurance should reflect national equalisation systems and should also account for changes in the national health legislation, as these are a fundamental part of the insurance system within those national health markets.

Review: in order to ensure that the Union's objective of long-term sustainable growth and of primarily protecting policy holders and also ensuring financial stability, continue to be met, the Commission should review the appropriateness of the methods, assumptions and standard parameters used when calculating the standard formula for the SCR within five years of the application of Directive 2009/138/EC.

European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

2011/0006(COD) - 16/04/2014 - Final act

PURPOSE: to improve the functioning of the internal market by means of a new prudential regulation and supervision, protecting policy holders, maintaining the stability of the financial system, and strengthening international supervisory coordination.

LEGISLATIVE ACT: Directive 2014/51/EU of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

CONTENT: the Directive aims to amend the EU Regulation applicable to the insurance sector as regards the powers of the two supervisory authorities active at the EU level, that is, the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA).

The new Regulation amends Directive 2009/138/EC ('**Solvency II**') on insurance and Directive 2003/71/EC concerning the prospectus, following the creation of EIOPA and ESMA in 2010 as part of the new system of European financial supervision.

The amendments principally focus on the following points:

Definition of the scope of technical standards: the identification of areas in which technical standards should be adopted should strike an appropriate balance between building a single set of harmonised rules and avoiding unduly complicated regulation and enforcement. Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts.

Regulatory technical standards (adopted in the form of **delegated acts** under Article 290 of the Treaty on the Functioning of the European Union (TFEU) and the implementing technical standards (adopted in the form of **implementing acts** under Article 290 of the TFEU) should:

- contribute to a **single rulebook** for financial services law as endorsed by the European Council in its conclusions of June 2009;
- allow Member States to require **additional information** or impose more stringent requirements in specific areas, where those legislative acts provide for such discretion;
- be able to provide for **transitional measures** subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.

Before submitting regulatory or implementing technical standards to the Commission, the European Supervisory Authorities (ESAs) should, where appropriate, conduct open **public consultations** relating to them and analyse the potential related costs and benefits.

Enabling the ESAs to resolve disagreements: the Directive introduces the possibility for the new authorities to settle disputes in a balanced way in the areas in which the sectoral legislation already allows for a joint decisions.

The Solvency II Directive provides for joint decisions in a number of areas, as for example, Directive 2009/138/EC provides for joint decisions as regards the approval of applications to use an internal model at group level. In all of those areas, an amendment should clearly state that, in the event of disagreement, **EIOPA may resolve the disagreement**.

Transitional regime and other amendments to the Solvency II Directive: the new Directive introduces some amendments to the Solvency II Directive, in particular, relating to: i) governance; ii) supervisory reporting and public disclosure; iii) the determination and classification of **own funds**; iv) the standard formula for the **calculation of the solvency capital**; v) the choice of methods and assumptions for the calculation of technical provisions, including **the determination of the relevant risk-free interest rate term structure**, which should avoid artificial volatility of technical provisions and eligible own funds and provide an incentive for good risk management.

The Directive also contains transitional measures in some areas, including **conditions in relation to the treatment of such third-country regimes** in order for those third countries to be recognised temporarily as equivalent. The aim is to avoid market disruption while ensuring the availability of insurance products in order to allow for a smooth transition to a new Solvency II regime

Revision: the Commission shall, by 1 January 2017 and annually thereafter, submit to the European Parliament and to the Council a report specifying whether the ESAs have submitted the draft regulatory technical standards and implementing technical standards provided for in Directives 2003/71/EC and 2009/138/EC, whether the submission of such draft regulatory technical standards or implementing technical standards is mandatory or optional, together with proposals, where appropriate.

ENTRY INTO FORCE: 23.05.2014.

TRANSPOSITION: no later than 31.03.2015. The measures shall apply from 01.01.2016.

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts in order to take account of the technical developments in the financial markets and to specify the requirements laid down in the directives amended by this Directive. The power to adopt delegated acts shall be conferred on the Commission for a period of **four years** from 23 May 2014. The European Parliament or the Council may object to a delegated act within a period of **three** months from the date of notification (this period can be extended for three months). If the European Parliament or the Council make objections, the delegated act will not enter into force.

European Supervisory Authorities: powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

2011/0006(COD) - 28/03/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Burkhard BALZ (EPP, DE) on the proposal for a Directive of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

The committee recommended that the European Parliament position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Framework for financial supervision: the report stresses that **financial stability is a prerequisite** if the real economy is to provide jobs, credit and growth. It recalls the **number of resolutions adopted by the European Parliament** before and during the financial crisis calling for a move towards more integrated European supervision (particularly in its resolutions of 13 April 2000, 21 November 2002, 11 July 2007, 23 September 2008 and 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: Future Structure of Supervision.

Amendment of Union legislation: in the follow-up to the de Larosière Report, on 24 November 2010, the European Parliament and the Council adopted three Regulations establishing the European Insurance and Occupational Pensions Authority (EIOPA), the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) (collectively referred to as the European Supervisory Authorities (ESAs), which are part of the European System of Financial Supervision (ESFS).

In order for the ESFS to work effectively, Members stress the need for changes to Union legislation in the field of operation of the three ESAs aiming at the **more effective implementation of micro-level supervision.**

Draft technical standards: the regulations establishing the ESFS provide that the ESAs may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption by means of delegated or implementing acts. Directive 2010/78/EU in respect of the powers of the European Supervisory Authorities has identified a first set of such areas. It is proposed that this Directive should identify a further set of areas, in particular for:

- Directive 2002/92/EC on insurance mediation
- Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading;
- Directive 2009/138/EC, on the taking-up and pursuit of the business of insurance and reinsurance (SOLVENCY II); and
- Regulation (EC) No 1060/2009 on credit ratings agencies.

Regulatory technical standards (adopted as delegated acts under Article 290 of the TFEU) and **implementing technical standards** (adopted as implementing acts under Article 291 of the TFEU) should:

- **contribute to a single rulebook** for financial services legislation as endorsed by the European Council in its conclusions of June 2009. Before submitting regulatory or implementing technical standards to the Commission, the ESAs should, where appropriate, conduct open public consultations relating to them and analyse the potential related costs and benefits;
- provide for **transitional measures** subject to adequate deadlines, if the costs of immediate implementation would be excessive compared to the benefits involved.

In the interests of an early finalisation of measures required to implement the framework rules under Directive 2009/138/EC (Solvency II), the Commission will be allowed, for a **transitional period**, to adopt some of the regulatory technical standards provided for in this Directive, in accordance with the procedure for the **adoption of delegated acts**.

Settlement of disagreements in the framework of the Directive on Solvency II: Directive 2009/138/EC provides for joint decisions in a certain number of areas, such as regards the approval of applications to use an internal model at group and subsidiary levels. In all of these areas, Members propose amendment clearly stating that in the event of disagreement, **EIOPA may resolve the disagreement.**

The EIOPA should not replace the exercise of discretion by the supervisory authorities in compliance with Union law. However, it should be possible for disagreements to be resolved and cooperation to be strengthened before a final decision is taken by the national supervisory authority or issued to an institution. EIOPA should resolve disagreements by **mediating between the conflicting views of the supervisory authorities.**

Better knowledge of the assets held by insurance and reinsurance undertakings: an amendment states that supervisory authorities should be able to require insurance and reinsurance undertakings to submit a **full list of assets** on an item-by-item basis when such information is necessary for them to effectively undertake their supervisory role.

Allowing for the consistent calculation of technical provisions by insurance and reinsurance undertakings: to this end, a central body should be able to derive, publish, and update certain technical information relating to the risk-free interest rate term structure on a regular basis, taking account of

observations in the financial market. Members consider that **the manner in which the risk-free interest rate term structure is derived should be transparent** in such a manner that insurance and reinsurance undertakings are able to use this term-structure in their risk management policies.

The risk-free interest rate term structure should be determined on the basis of a **holistic and consistent approach** to the setting of all assumptions and parameters on which the curve is based ensuring **consistency over time** and avoiding artificial volatility of technical provisions and eligible own funds in excess of the capital requirements. The starting point for the extrapolation of risk-free interest rates in euro should be 20 years.

Conditions to be applied to third countries: to encourage international convergence toward risk-based solvency regimes, Members specify the conditions in relation to the treatment of third country regimes in order for these third countries to be recognised temporarily equivalent. Third countries must also have group supervision systems similar to that of the Union.

Health insurance: the calculation of the Solvency Capital Requirement (SCR) for health insurance should reflect national equalisation systems and should also account for changes in the national health legislation, as these are a fundamental part of the insurance system within those national health markets.

Coherent application: in order to achieve coherent application and to assure macro-prudential oversight across the Union, Members propose that the **European Systemic Risk Board** develop principles tailored for the Union economy and be responsible to monitor the application of the counter-cyclical buffer.

Treatment for government bonds: the report notes that the sovereign debt crisis has demonstrated that a zero-risk treatment for government bonds no longer corresponds with economic reality. Accordingly, the Commission should submit a report proposing options to adapt the calculation of own funds requirements for such exposures accordingly as soon as possible, while taking into account potentially destabilising effects of tabling such proposals during periods of market stress.

Transitional periods: in order to allow for a smooth transition under Directive 2009/138/EC to a new regime, the committee wishes to provide for **phasing in** and specific transitional periods.

Occupational pension bodies: in accordance with the principle of subsidiarity the Directive should not, lay down any solvency requirements for occupational pension bodies.

Delegated acts: due to the extensive nature of the delegated acts and the regulatory technical standards provided for in this Directive, the European Parliament and the Council should have **three months** from the date of notification to object to a delegated act or a regulatory technical standard. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by a further three months.

Review: by 1 January 2015 and every year thereafter, the Commission shall submit to the European Parliament and to the Council a report specifying whether the ESAs have submitted the draft regulatory and implementing technical standards provided for in Directives 2002/92/EC, 2003/71/EC and 2009/138/EC.