

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

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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.