IP/04/513

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Insurance: Commission proposes a Directive to create a real EU-wide market for reinsurance

The European Commission has presented a proposal for a Directive on reinsurance. The proposed Directive would establish supervision of reinsurers by competent authorities in their "home" country, on the basis of which they could operate throughout the EU. That supervision would have to be exercised in line with provisions which all Member States would need to apply. The proposed Directive would thus contribute to reinforcing international financial stability, an issue over which there has been concern in major international fora. It would fill a gap in current European insurance legislation which does not regulate specialised reinsurers, though reinsurance activities carried out by direct insurers are subject to regulation. The proposal is a "fast track" solution for reinsurance pending proposals covering the insurance industry as whole under the long-term "Solvency II" project. It will now go forward, under the procedure known as co-decision, for discussion and adoption by the European Parliament and Council.

Internal Market Commissioner Frits Bolkestein said " If insurance companies can be fully confident that reinsurance operators are properly regulated and hold sufficient capital to cover the risks they take on, wherever they are based in the EU, they are more likely to seek reinsurance across borders and to get the best deal available in Europe for themselves and their policy holders. What is more, this proposal would give reinsurers greater flexibility to operate throughout the EU with a minimum of red tape. Customers of insurance companies stand to benefit from the increased competition and a more efficient market that would result from this proposal. It would also contribute to international financial stability and address the concerns raised in this respect by international fora such as the International Monetary Fund."

There are currently no harmonised reinsurance supervision rules in the EU. The lack of an EU regulatory framework for reinsurance has resulted in significant differences in the level of supervision of reinsurance undertakings between different EU Member States These different national rules have created uncertainty for direct insurance companies (and their policyholders) and led to barriers to trade within the internal market, as well as giving rise to administrative burdens and costs. The lack of a European framework has also weakened the EU's position in international trade negotiations aimed at opening up the insurance market worldwide.

Single passport for reinsurers

The proposed Directive provides for a regulatory framework based on the existing regime introduced by the Third Insurance Directives to establish the internal market in insurance (see IP/94/597, MEMO/97/87). The proposal would extend to reinsurance companies the system for the authorisation and financial supervision of an insurance undertaking by the Member State in which it has its head office ('home country control'). Such authorisation would be for reinsurance companies, exactly as it is for direct insurers, a true "single passport" which would enable them to carry on their business anywhere in the European Union, either by establishing themselves in other Member States, or by providing services directly from their home or another Member State.

Licensing system

In order to implement such 'home country control' while ensuring adequate Europe-wide protection of the interests of reinsurance customers – who are in general direct insurers – and therefore of insurance policy holders, the proposed Directive would also set out essential provisions for the supervision of reinsurance, which all Member States would need to apply. The proposal lays down a licensing regime for reinsurance undertakings and conditions that reinsurers would have to meet before a license could be granted. The proposal includes provisions to ensure reinsurers' financial soundness and therefore the stability of EU insurance markets, since the proposed Directive would apply to all EU reinsurance undertakings and not only those active in several Member States.

Prudential rules

The proposal also sets out prudential rules for the supervision of reinsurance undertakings. It includes rules on the establishment of technical provisions (i.e. the amount that a reinsurance undertaking must set aside in order to enable it to pay its contractual commitments) and rules on the investment of assets covering those technical provisions. It also lays down rules on required solvency margins and minimum capital requirements as wells as rules on measures to be adopted by regulators if reinsurance undertakings are in financial difficulties. These prudential rules are similar to those already applied in the Insurance Directives.

The proposal would abolish national systems which oblige a reinsurer to pledge assets to cover unearned premiums and outstanding claims provisions of an insurance undertaking, where the reinsurer is an EU reinsurer.

International aspects

The proposed Directive is in line with the direction of the ongoing reinsurance supervision project being carried out by the International Association of Insurance Supervisors (IAIS) of which all Member States and the European Commission are members. In addition, it will be a useful tool in international trade negotiations as it could help to improve access for European reinsurers to foreign markets, where they face serious barriers, such as requirements to post collateral for the value of their commitments in the markets where they intend to conduct business. The amount of such a requirement for the US market is estimated at 50 billion US dollars by the Comité Européen des Assurances (European Federation of Insurers).

Consultation and impact assessment

The proposed Directive follows wide and open consultation with stakeholders and interested parties, including insurers, reinsurers, insurance intermediaries, accounting associations, industry, analysts, risk managers, associations of small and medium-sized businesses, lawyers, banks, rating agencies, actuarial associations and Member States.

This consultation process showed the need to set up a regulatory regime for reinsurance as soon as possible without waiting for proposals under the long-term project "Solvency II" which, on the basis of a wide ranging review of all aspects of the insurance industry, will seek to establish a solvency system that is better matched to the true risks incurred by insurance undertakings. For further details see :

http://www.europa.eu.int/comm/internal_market/insurance/solvency_en.htm#solvency2

The proposal has also undergone an extended impact assessment. The full texts of the proposal and of the impact assessment are available at:

http://www.europa.eu.int/comm/internal_market/insurance/reinsurance_en.htm