

Developments in EU Insurance Regulation

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2 December 2011

Solvency II

Levels of EU legislation under the Treaty of Lisbon

- Level 1 - Framework Directive
- Level 2 - Binding Technical Standards delegated to the Commission
- Level 3 - Guidance developed and adopted by EIOPA
- Level 4 – Enforcement by the Commission

Solvency II

Timetable for implementation

- Discussions on the Omnibus II Directive propose potential splitting of the transposition and implementation dates for Solvency II
 - Transposition of Directive before 1 January 2013
 - New regime fully applicable to insurers and reinsurers on 1 January 2014

Solvency II

Timetable for implementation

- Calibrating the Solvency II measures
- Omnibus II Directive necessary for the commencement of the adoption process of the level 2 (delegated acts and technical standards)
- Level 2 implementing measures by an EU regulation – direct applicability into the European domestic law. Commission's proposal for the delegated acts is currently scheduled for the second quarter of 2012

Solvency II

Timetable for implementation

- Binding technical standards drafted by EIOPA also in the form of an EU regulation. Plan for EIOPA to deliver draft technical standards to Commission in the third quarter 2012. Foreseen adoption by the Commission in Spring 2013
- EIOPA will formally consult on the majority of level 3 guidance once level 2 has been agreed

Solvency II - PCCs

The PCC framework has presented some difficulties in relation to the following:

- calculation of the MCR and SCR
- classification of capital
- It is not anticipated that Pillar 2 and Pillar 3 will present any major difficulties for PCCs.

Solvency II - PCCs

MFSA has identified two possible solutions for the calculation of the MCR and SCR of PCCs

- 1st solution (the default method) is the categorization of cells in a PCC into Ring-Fenced Funds (RFFs) thereby enabling the use of the standard formula.
- 2nd solution is the use of internal models for either the PCC as a whole or a mixture of the standard formula or an internal model for individual RFFs.

Solvency II - PCCs

Classification of capital for PCCs

- The share capital, share premium and retained earnings of the cells would be either Tier 2 or Tier 3 in view that cells are legally separate from the core and Tier 1 capital has to be free of encumbrances
- However, the RFF approach would solve the issue of capital classification as own funds used to meet the notional SCR for ring-fenced funds would be included in Tier 1 eligible own funds.
- For companies using an internal model, the model should reflect the RFF approach, otherwise, the issue of classification of capital may arise.

Solvency II - PCCs

The categorization of cells in a PCC into RFFs, their calculation of the MCR and the SCR and the capital classification is already supported by the **draft** Level 2 Binding Technical Standards and the **draft** Level 3 Guidance.

Recent EIOPA Consultation Papers

- Solvency II: Consultation Paper on the Proposal for Guidelines on Own Risk and Solvency Assessment (ORSA)
- Draft proposal on Quantitative Reporting Templates and Draft proposal for Guidelines on Narrative Public Disclosure & Supervisory Reporting, Predefined Events and Processes for Reporting & Disclosure
- In both cases, consultation ends on 20 January 2012

Package on Consumer Protection

Packaged Retail Investment Products

- EU legislative initiative on PRIIPS aimed at improving regulatory protection of retail investors by introducing coherent cross-sectoral rules on pre-contractual product disclosures and sales
- Insurance PRIIPS sales aspects to be addressed as part of the revision of the IMD

Package on Consumer Protection

Insurance Mediation Directive

- The main objectives of the review of the IMD are to ensure:
 - i. a level playing- field between all participants involved
 - ii. to strengthen policyholder protection
- Proposal for the IMD review is expected to be published in February 2012

Package on Consumer Protection

- Measures may include:
 - i. increase in transparency of sales process at pre-contractual level for non-packaged insurance
 - ii. requirement for intermediaries to provide consumers with objective advice
 - iii. extension of the scope of the IMD to all sellers of insurance products
 - iv. provision of a European passport to those providing specific services linked to insurance, such as claims assessors
 - v. introduction of a more stringent regime for the selling practices of life insurance policies with investment elements (insurance PRIPs)
 - vi. Disclosure of remuneration

Other EU Legislative Measures

Institutions for Occupational Retirement Provision Directive

- The review of this Directive has three main objectives:
 - i. to further facilitate cross- border activity for employers that wish to set up a pension fund abroad
 - ii. develop a modern risk-based supervision regime for IORPs in the light of Solvency II for insurers
 - iii. Increase transparency for policyholders and pensioners
- The Commission's proposal is currently scheduled for adoption in the third quarter of 2012

Other EU Legislative Measures

Proposal for Insurance guarantee schemes

- Currently no harmonised European legislative framework on insurance guarantee schemes
- Commission is currently evaluating the need for a proposal to:
 - i. ensure a comprehensive and even protection for policyholders and beneficiaries
 - ii. avoid distortions of competition and increase market confidence and stability

Other EU Legislative Measures

Revision of the 3rd Anti-money laundering Directive

- Reasons for review mainly:
 - To adapt it to the forthcoming revision of the international standards (FATF)
 - To draw on the experience in the functioning of the present directive.
 - To take into account the new risks and to design adequate instruments to address them

Thank You!