

Directive 98/78/EC on the supplementary supervision of insurance undertakings in an insurance group

Dominique THIENPONT
Insurance and Pensions Unit

Screening process
Explanatory meeting with Croatia and Turkey
29 March 2006

Objectives of the Directive 98/78/EC

- **As provided for in the insurance directives, insurance undertakings must have solvency margins as protection for policyholders. The supplementary supervision organised by the IGD seeks to ensure that such margins are not threatened by relationships with other undertakings in the group.**
- **Authorities supervising an insurance undertaking should be enabled to form a global judgement on its financial situation. To this end, they should receive relevant information and be able to cooperate with other supervising authorities.**
- **Supplementary supervision should be exercised in accordance with common basic rules (criteria and methods), to prevent distortions of competition within the EU.**

Key Contents of Directive 98/78/EC

- **Defines three cases in which supplementary supervision must be exercised, and provides for the necessary definitions.**
- **Determines the undertakings to be taken into account in - and the authorities responsible for - supplementary supervision.**
- **Requires that relevant information is available and accessible to supervisors, and provides for cooperation between them.**
- **Ensures that intra-group transactions will be supervised, and that necessary measures are taken.**
- **Identifies the cases in which an adjusted solvency calculation must be performed (with details on principles and methods), and requires appropriate measures to be taken.**

Provisions of Directive 98/78/EC

Cases of application of supplementary supervision (Art 2)

- Insurance undertaking which is a participating undertaking in an insurance or reinsurance undertaking;
- Insurance undertaking the parent undertaking of which is an insurance holding company, a reinsurance undertaking or a non-member country insurance undertaking;
- Insurance undertaking the parent undertaking of which is a mixed-activity insurance holding company.

Scope of supplementary supervision (Art 3)

- Related undertakings, participating undertakings, and related undertakings of a participating undertaking;
- Possible exceptions for MS (legal impediments to transfer of information) and competent authorities (negligible / inappropriate or misleading).

Competent authorities (Art 4)

- Authorities of the MS of authorisation (with possibility of cross-border agreement in case 2);

Provisions of Directive 98/78/EC

Availability and quality of information (Art 5)

- Insurance undertakings shall have adequate internal control mechanisms for the production of relevant information;
- MS shall ensure that there are no legal impediments within their jurisdiction preventing the undertakings from exchanging information.

Access to information (Art 6)

- Principle: competent authorities have access to any relevant information (primary contact: insurance undertaking);
- Verification of information: on-the-spot verification is possible at various levels (with special arrangements for cross-border verification).

Cooperation between authorities (Art 7)

- Communication must be ensured on a cross-border and a cross-sector basis. Information exchanged is subject to professional secrecy.

Provisions of Directive 98/78/EC

Intra-group transactions (Art 8)

- Supervision must be exercised on a series of transactions (nature and scope are defined);
- Significant transactions must be reported at least annually, and authority shall take measures if solvency is or may be jeopardised.

Adjusted solvency requirement (Art 9)

- In Case 1, an adjusted solvency calculation must be carried out for the participating undertaking. Annex I contains three different methods and details on their application;
- Authority shall take measures if the adjusted solvency is negative.

Calculation for non regulated parent undertaking (Art 10)

- In Case 2, an analogous calculation must be carried out for the parent undertaking. Annex II contains rules on the analogous application of the principles and methods described in Annex I;
- Authority shall take measures if the solvency is or may be jeopardised.

Amendments to Directive 98/78/EC

Directive 2002/87/EC (Financial Conglomerates)

- Undertakings must have adequate processes and mechanisms to identify and control intra-group transactions;
- Commission may submit proposals to Council for the negotiation of agreements with third countries;
- Annex I : treatment of participations in financial institutions by analogy to the provisions on individual supervision.

Directive 2005/1/EC (Structure of financial services committees)

- “Insurance committee” replaced with “EIOPC”.

Directive 2005/68/EC (Reinsurance)

- Reinsurance undertakings are now subject to supervision in the EU, with two consequences:
- A) provisions on supplementary supervision of insurance undertakings do not treat them as unregulated entities anymore; and B) IGD provides for supplementary supervision of reinsurance undertakings in the 3 cases of application.

Directive 98/78/EC
on the supplementary supervision of
insurance undertakings in an insurance
group

For further information:

- European Commission

(http://europa.eu.int/comm/internal_market/insurance/groups_en.htm)

- CEIOPS (<http://www.ceiops.org/>)

*** Insurance Groups Supervision Committee (current IGD)**

*** Working Group on Groups and Cross-Sectoral Issues (S II)**