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WORKING DOCUMENT

on amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macroprudential tools, sustainability risks, group and cross-border supervision, and


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Committee on Economic and Monetary Affairs

Rapporteur: Markus Ferber
1. Ahead of the publication of the draft report and the start of the legislative work on the Solvency II Review and the Insurance Recovery and Resolution Directive (IRRD), your rapporteur would like to use this working document to stimulate the debate on some of the most important questions.

**General Considerations: The Purpose of Insurance Regulation**

2. Your rapporteur considers that there are four broad objectives of good EU insurance regulation:

- further developing the internal market for insurance and reinsurance, by ensuring a level playing field within the EU, whilst allowing for fair competition with the rest of the world
- ensuring that insurance companies are safe and stable and policyholders are protected
- ensuring that policyholders that use insurance policies for investment purposes (e.g. via life insurance policies) can earn a decent return
- ensuring that insurance companies can fulfil their role as long-term investors thus supporting the recovery and potentially other EU policy objectives

3. During the legislative deliberations, it will be up to the European legislator to determine the right balance between those objectives that sometimes can be in competition with one another.

**Supporting the Recovery and other EU Policy Objectives**

4. Enhancing the capabilities of insurance undertakings to invest long-term, may also facilitate their support for general economic policy objectives of the European Union. In this context, your rapporteur would like to explore the following questions:

- How can we enhance insurance undertakings’ capabilities to invest long-term?
- How can we encourage insurance undertakings to contribute to European policy objectives such as the Capital Markets Union, the economic recovery from the pandemic, or the implementation of the ‘Green Deal’, without compromising on the risk-based principles enshrined in the framework of Solvency II?
- To what extent should environmental considerations play a role? Do current insurance models already take into account sustainability factors sufficiently or is there a role for regulatory action?

**Level 1 vs. Level 2**

5. Some of the key aspects of the Solvency II framework, in particular in relation to the long-term guarantees framework, are currently determined via a delegated regulation. The European Commission intends to keep it that way and has already provided a rough guidance on possible changes to the level 2 text via a communication accompanying the legislative texts of the insurance package. Your rapporteur considers this status quo not to be satisfying and will look into the following questions:

- Which are the key policy decisions that should be determined by the European legislator in the Directive itself, and which decisions can be delegated to the Commission via delegated or implementing acts?
• How can an appropriate role of the European Parliament be ensured when it comes to devising the details of the delegated regulation?

**Proportionality in Insurance Regulation:**

6. Insurance regulation should be risk-based. A risk-based approach should avoid blanket one-size fits all provisions and thus needs to go together with appropriate proportionality provisions. The European Commission attempts to address the shortcomings of the Solvency II regime in relation to proportionality measures by introducing a new category of low-risk undertakings. Your rapporteur considers this to be a step into the right direction, but would look more specifically into the following questions:

• Are the thresholds for insurance undertakings to be subject to the Solvency II scope appropriate?
• Are the thresholds for the definition of low-risk undertakings appropriate?
• Should some of the absolute thresholds be replaced with relative thresholds in order to better account for different market sizes?
• To what extent and under what conditions should the proportionality measures granted to low-risk undertakings be made available to other insurance undertakings?

**Policyholder Protection and Resolution**

7. One of the ultimate goals of insurance regulation is to protect policyholders. In case of failing insurance undertakings, also the taxpayer needs to be protected, which is why the European Commission made a proposal for a framework for the recovery and resolution of insurance companies. In this context, your rapporteur would like to look into the following questions:

• Are the broad market coverage criteria proposed by the European Commission in the IRRD appropriate?
• Are the proposed instruments and triggers for interventions by NCAs in the IRRD appropriate?
• To what extent can we rely on the blueprints from the banking sector when setting up an insurance recovery and resolution regime? What are material differences and how should they be accounted for?
• What lessons can be drawn from recent non-compliance issues of national competent authorities with EIOPA recommendations?
• What role could national insurance guarantee schemes (IGS) play? Is the interplay between the resolution framework and national insurance guarantee schemes appropriate, particularly in the absence of common standards for those national IGS? Is there a case for a set of common minimum standards for IGS? What could suitable first steps look like?