



Bermuda: Solvency II Update

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Bermuda Optimistic it will achieve full Solvency II equivalence

Over the past six years or so, Bermuda has been positioning itself to obtain “regulatory equivalency” from the European Commission under the European Union’s Solvency II Directive.

Solvency II is the EU’s legislative programme to be implemented in all of its Member States which introduces a new, harmonised EU-wide insurance regulatory regime.

There are three (3) key areas of equivalency: reinsurance supervision, group solvency calculation and group supervision. Bermuda is one of only two non-EU countries selected for assessment for equivalence under all three of the foregoing articles of the EU Directive.

For Bermuda’s commercial insurers, equivalency is critical so that they may continue to transact business within the European Union on a level playing field. Otherwise, amongst other things, they may be forced into a restructuring and/or be forced to provide security in favour of EU cedants because the capital in the Bermuda company may not be fully recognised for European solvency purposes. Any such requirements on the operations of Bermuda companies in Europe could harm their competitive position and the Bermuda commercial insurance market generally.

In June 2015, the European Commission sent a delegated act to the European Parliament and Council for scrutiny. That act, still under review, was to grant Bermuda, along with a few other countries, provisional equivalency in relation to the group solvency calculation only.

In July 2015, in an effort to address certain caveats identified by the European Insurance and Occupational Pensions Authority (“EIOPA”), Bermuda introduced a number of legislative and regulatory changes to its supervisory regime designed to position itself to be granted full equivalence in all three areas mentioned above. The effectiveness of these regulatory changes was acknowledged by EIOPA in a report issued on Bermuda in September, 2015.

The Solvency II Directive comes into force on 1 January 2016 and Bermuda is optimistic that, in the light of its recent regulatory changes and the positive response from EIOPA in September, that it will be granted full equivalence in reinsurance supervision, group solvency calculation and group supervision. Bermuda is cautiously optimistic that it will have some positive news in this regard from the European Commission this month.



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