



## Bermuda: Solvency II



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In November 2015, the European Commission published a “Delegated Act” which recognised Bermuda’s commercial insurance regulatory framework as being fully equivalent to regulatory standards applied to European insurance and reinsurance companies and insurance groups in accordance with the requirements of the Solvency II Directive. Bermuda follows Switzerland as only the second country to date to be granted full equivalence by the European Commission.

As the Solvency II Directive came into force on 1 January 2016, the grant of full equivalence to Bermuda prior to the 2015 year end provided comfort to commercial insurers and reinsurers operating from the Island. Solvency II equivalence will ensure that Bermuda commercial insurers and reinsurers and insurance groups will not be disadvantaged when competing for and writing business in the EU.

The Delegated Act extends full equivalence for Bermuda commercial insurers and reinsurers licensed as Class 3A, 3B, 4, C, D and E insurers, and Bermuda insurance groups. Thus, Bermuda is considered by all European member states as applying an equivalent statutory insurance regime in accordance with the requirements of the three Solvency II Articles: reinsurance (Article 172), group solvency calculation (Article 227) and group supervision (Article 260).

Reinsurance contracts concluded with Bermuda licensed companies are treated in the same manner as reinsurance contracts concluded with companies which are authorised in accordance with the Solvency II Directive (i.e. European Economic Area, “EEA”, licensed companies (Article 172)).

Equivalency under Article 227 means that EEA insurance groups can carry out their prudential reporting for a subsidiary in Bermuda under local (Bermuda) rules instead of under Solvency II. Moreover, equivalency under Article 260 means that Bermuda insurance groups, which are active in the EEA, are exempted from some aspects of group supervision in the EEA.

Given Bermuda’s risk-based approach to insurance regulation, Bermuda’s captives and special purpose insurers (“SPIs”) remained outside the scope of the Solvency II equivalence assessment performed by the EU and, accordingly, insurance regulations for Bermuda’s Class 1, 2, 3, A, B insurers and SPIs remain essentially unchanged. Bermuda’s insurance prudential framework for these insurers is fully aligned with the standards outlined by the International Association of Insurance Supervisors.

Finally, the Delegated Act is subject to review by the European Parliament and Council, which has three months (plus a possible three month extension from 26 November 2015) to consider whether to adopt it.



Bermuda is hoping to have positive news in this regard from the European Commission in March and in the event that the Delegated Act is adopted, it is expected that the grant of full equivalence for Bermuda will be deemed effective as from 1 January 2016.

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