EUROPEAN COMMISSION

MEMO

Brussels, 14 November 2013

Commissioner Barnier welcomes trilogue agreement by Council and Parliament on the "Omnibus II" Directive

"This agreement is a very important step towards the introduction of a modern and risk-based solvency regime for the insurance industry in Europe as of 1 January 2016, making it both safer and more competitive. In practice it makes the implementation of Solvency II possible.

Notably Omnibus II contains important provisions that should allow the insurance industry to continue offering long term guaranteed products (typically life insurance policies being paid out in a lump sum when the policy holder reaches a certain age or in the form of annuities). This kind of policy is an essential part of retirement planning for citizens in many Member States. Moreover, it will ensure that insurance companies in general and life assurance companies in particular can match these long-term liabilities with investments in long-term assets such as infrastructure projects.

The agreement also contains measures to alleviate the burden for small and medium-sized insurers in the area of reporting.

Finally, it confirms the powers of EIOPA which will now be able to ensure coherence of national supervisory practices and contribute to a single rule book on insurance supervision.

I would like to warmly congratulate everyone who has contributed to reaching agreement on this highly complex file, in particular the European Parliament - Rapporteur Burkhard Balz and Sharon Bowles, Chair of the ECON Committee - as well as the Lithuanian Presidency," stated Michel Barnier, European Commissioner for Internal market and Services.

Background

The so-called Omnibus II Directive will complement the Solvency II Directive, creating a modern risk-based regulatory and supervisory framework for the insurance sector (Directive 2009/138/EC) and the Regulation creating a European Insurance and Occupational Pensions Authority (Regulation EU N° 1094/2010, see MEMO/10/434).

The draft Directive is called Omnibus II because an earlier Directive, known as "Omnibus I" enacted technical amendments to 11 Directives clarifying the powers of the European Supervisory Authorities (IP/09/1582). However, for technical reasons, those amendments did not cover the "Solvency II" Directive for the insurance sector (Directive 2009/138/EC), for which the competent European Supervisory Authority is the European Insurance and Occupational Pensions Authority (EIOPA) nor the Prospectus Directive (Directive 2003/71/EC), for which the competent supervisory authority is the European Securities and Markets Authority (ESMA).

The draft Omnibus II Directive (IP/11/49) therefore contains a set of amendments to the Solvency II Directive and to the Prospectus Directive. These amendments include the provision of specific tasks for EIOPA and for ESMA. In particular, it clarifies the role of EIOPA in ensuring harmonised technical approaches on the calculation of technical provisions and capital requirements. In addition it:

- defines the appropriate areas in which EIOPA (for Solvency II) and ESMA (for the Prospectus Directive) will be able to propose technical standards as an additional tool for supervisory convergence and with a view to developing a single rule book to ensure strengthened stability, equal treatment, lower compliance costs and to prevent regulatory arbitrage;
- details how EIOPA and ESMA will settle disagreements between national supervisors in a balanced way, in those areas where common decision-making processes or cooperation between national supervisors already exist in sectoral legislation.

Furthermore, the draft Omnibus II Directive contains a package of measures to provide clarity on the treatment of insurance products with long-term guarantees in order to mitigate effects of artificial volatility. These measures include: a matching adjustment, a volatility adjustment, extrapolation of the risk-free interest rate, two specific transitional measures, and extension of the recovery period. In this way the draft Directive ensures that the insurance industry can continue offering long term guaranteed products. This package of measures is based, with some modifications, on proposals in a report by EIOPA in June 2013 (see EIOPA press release of 14 June 2013).

The draft Omnibus II Directive also contains transitional measures in certain areas including on transitional third-country equivalence if deemed necessary to avoid market disruption and to allow a smooth transition to the new regime under Solvency II.

The European Parliament and the Council agreed that new rules of the Solvency II Directive (including the amendments introduced by Omnibus II) should apply as of 1 January 2016, in line with the Commission proposal of 2 October 2013 postponing the application date of Solvency II.