

Louise Cruz of our Gibraltar office discusses recent development in respect of SII.



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HIGH IMPACT COMMUNICATIONS LAST 12 MONTHS

January
2011

Draft Omnibus II Directive

- EU Commission's confirmation of 1 January 2013 as the implementation date for the SII Directive.
- Proposed phased roll-out of the SII Directive.
- Specific transitional measures for compliance with a number of the quantitative and qualitative requirements of the SII Directive.

March
2011

Publication of QIS5 results.

March -
May 2011

SII stress tests carried out on large European insurers and insurance groups in all EU & EEA members, modelling the MCR under three market-wide catastrophe-type scenarios.

June 2011

Proposal from European Council and ECON Committee of European Parliament to 'soft launch' SII by delaying the enforcement date by one year: to 1 January 2014.

July 2011

Publication of results of SII stress tests. 90% of insurers met the Minimum Capital Requirement (MCR) under the most adverse scenario tested.

Jan - Oct
2011

Further proposed updates and refinements to draft Omnibus II Directive. The main considerations regarding the implementation date and the major transitional provisions have not been changed.

Sept 2011

EIOPA closes its consultation on the SII Business Reporting Language (XBRL). [This is the methodology being developed by EIOPA to ensure that there is a Europe-wide computer-driven reporting language to be used by EU insurers to report to their Regulators under Pillar III, particularly for the reporting of quantitative information].

CURRENT 'WORK IN PROGRESS'

- Development of Level 3 Guidelines by EIOPA: Starting with controlled pre-consultation on the guidance regarding day-to-day supervision of the Directive.
- Continued consultation prior to publication of Level 2 implementing measures by the European Commission.
- Continued review of Omnibus II Directive.

SUSTAINING MOMENTUM

The first priority is to 'get over the line'. This needs to involve continued activity to progress in the delivery of each of the three Pillars:

Pillar I

Use the QIS5 results as a starting point to:

1. Analyse the factors driving the company's capital requirements;
2. Determine whether the current capital arrangements are still appropriate;
3. Assess what levers are available to improve capital efficiency by carrying out capital analyses to help prepare for different scenarios.

Pillar II

Risk considerations need to be demonstrably embedded in decision-making:

1. Meeting the people test:
Ensure that the Board understands its core responsibilities:
 - Not to take on more risks than the capital base is allowing;
 - To ensure that the board/management is 'fit' to understand the risks facing the company and whether they take appropriate account of the risks when making key decisions.
2. Not just compliance...Combining corporate governance and risk management with a culture of 'risk-awareness':
Develop current corporate governance programmes to ensure rigorous but proportionate risk management that ensure that board members/management/employees:
 - Are able to engage with the processes;
 - Take active responsibility for the risks they take;
 - Recognise the contribution of effective risk management to the company's performance.
3. Own Risk & Solvency Assessment (ORSA): Starts from the top:
Connecting the full risk picture with the governance and internal control system.

Pillar III

The transitional arrangements that are eventually agreed, will determine the scope and timeliness of the public and supervisory disclosures, but the requirements will include:

1. Quarterly quantitative reporting to Regulators
2. Annual reporting to Regulators: Solvency & Financial Condition Report
3. More limited publicly available quantitative and qualitative reports

Features of the proposed framework are as follows:

- Much more onerous reporting than current disclosures;
- More frequent reporting;
- Less time to produce reports.

KEEPING ON TRACK

There are current uncertainties in:

- The launch date;
- The additional time available for implementation of various aspects of the legislation (transitional provisions);
- Some of the technical specifications;
- The gearing of SII to reflect the 'nature, scale and complexity' of an insurer, in particular the concept of 'proportionality' for captives and small to medium sized third party insurance companies.

Willis will continue to monitor developments and issues advisory alerts.