



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 March 2009**

**7821/09**

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2007/0143 (COD)**

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**SURE 5  
ECOFIN 207  
CODEC 386**

**NOTE**

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from : General Secretariat of the Council  
to : COREPER

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Subject : Amended proposal for a Directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance, SOLVENCY II  
= Political agreement

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**I. INTRODUCTION**

1. On 26 February 2008<sup>1</sup>, the Commission adopted an amended proposal for a Directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance, SOLVENCY II.
2. This amended proposal consists of a recast of 14 existing Directives in the insurance and reinsurance sector and new solvency provisions (so-called Solvency II), to reflect the latest developments in prudential supervision, actuarial science and risk management and to allow for updates in the future as necessary.

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<sup>1</sup> Doc. 6996/08 SURE 8 ECOFIN 92 CODEC 272

3. The European Economic and Social Committee adopted its opinion on 29 May 2008. The opinion of the Committee on Economic and Monetary Affairs of the European Parliament has been adopted on 7 October 2008.
4. On 2 December 2008 the Council confirmed the general approach as set out in document 16237/08 and invited the Presidency to pursue negotiations with the European Parliament on the basis of that general approach, with a view to reaching an agreement in first reading.

## **II. THE COMPROMISE PROPOSAL**

6. Following a series of intensive negotiations with the European Parliament the last round of which took place on 17 and 18 March 2009, the Presidency received on 18 March, from the rapporteur, the European Parliament's final compromise proposal. This compromise proposal is set out in a consolidated version of the text in doc. 7820/09.
7. The Presidency finds that this compromise takes into account to the extent possible the concerns of the Council and recommends to the Council to accept this compromise.
8. This text was presented to the working party on financial services (attachés) on 18 March. A number of outstanding issues were raised by delegations and the Presidency undertook to request renewed negotiations with the Parliament in order to resolve these issues. The main raised concerned demand to:
  - include in the text of the Directive (Article 136(3a)) a list of factors that, would allow supervisory authorities to extend the six month deadline to re-establish the level of eligible own funds to cover the SCR (Solvency capital Requirement), in the event of an exceptional fall in financial markets;
  - stipulate a shorter period (10 years) in Article 305a(3a)(iii), which sets a liability holding period exceeding, in average, 15 years as one of the cumulative conditions to allow Member States' discretion to authorise insurance undertakings to apply the special equity risk sub-module when calculating the SCR;

- draft the review clause in Article 246(a) in a manner which avoids a reference to the original Solvency II Commission proposal and to the EP ECON report of 16 October 2008;
- enlarge from 25 to 45% to 20 to 50 % the MCR (Minimum Capital Requirement) “corridor” in Article 127(3), for all or at least for captive insurance undertakings.

9. On 20 March the Parliament rapporteur, MEP Peter Skinner, informed the Council that the 18 March compromise was final in the view of the Parliament and that his institution saw no need for further negotiations.

### **III. CONCLUSION**

10. Against this background the Presidency repeats its invitation to delegations to agree to the compromise text as set out in document 7820/09.

Following agreement by the Permanent Representatives Committee, the Presidency will confirm the agreement in a letter addressed to the Parliament.<sup>2</sup>

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<sup>2</sup> Following finalisation of the letter by the Council secretariat, the draft letter and the accompanying consolidated text of the proposal can be approved by the Permanent Representatives Committee as an I item at its meeting on 1 April 2009.