Client Update
The European Union's Solvency II Regime for Insurers: What's New?

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NEW JURISDICTIONS TO RECEIVE EQUIVALENCE STATUS

The European Union's expert group on banking, payments and insurance, a consultative body consisting of specialists appointed by EU Member States to advise the EU Commission on the preparation of its delegated acts for Solvency II recently announced that the EU Commission has assessed the following countries to be "provisionally equivalent" under Article 227 of Solvency II, for the purposes of the group solvency calculation: Australia, Brazil, Canada, Mexico and the United States. Provisional equivalence in respect of Article 227 of Solvency II means that the regulatory regime in respect of the group solvency calculation in these jurisdictions is deemed to be equivalent to that of EU jurisdiction for 10 years. The EU Commission is expected to adopt delegated acts in respect of the provisional equivalence status of the above jurisdictions in the second quarter of 2015.

This development is likely to be welcomed by EU insurers with operations in the above countries given that it will enable them to use local solvency rules instead of Solvency II to calculate the regulatory capital requirements in those jurisdictions, thereby preserving their competitiveness against local insurers. Bermuda, Switzerland and Japan (reinsurance only) already have equivalence status.

The United States is expected to begin negotiations with the European Union about equivalence in respect of reinsurance (Article 172 of Solvency II) and group supervision (Article 260 of Solvency II) in the second half of 2015.

HAVE ALL MEMBER STATES OF THE EUROPEAN UNION COMPLIED WITH THE TRANSPOSITION DEADLINE FOR SOLVENCY II OF 31 MARCH 2015?

According to the minutes of a recent meeting of the European Union's expert group on banking, payments and insurance, a majority of EU Member States have informed the EU Commission (on a confidential basis) that they missed the 31 March 2015 deadline for transposing Solvency II into national legislation. Only seven Member States, including the United Kingdom, transposed Solvency II into national law before the 31 March 2015 deadline. Ten Member States are expected to transpose Solvency II into national law by the second quarter of 2015, and five Member States indicated that transposition was planned to take place during the second half of 2015, while six Member States were unable to provide an indication of their transposition schedule. Klaus Wiedner, the Chairman of the EU Commission's insurance and pensions unit, said that transposition after early May 2015 at the latest "*will make it very difficult for the Solvency II regime to be applied in an effective and timely way by 1 January 2016*."

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY LACKS RESOURCES TO REVIEW STANDARD FORMULA

In late March 2015, members of the European Parliament's Economic and Monetary Affairs Committee endorsed a report calling for the introduction of an industry-wide levy, to be agreed by 2017, to finance the European Insurance and Occupational Pension Authority ("EIOPA") either in full or in part. At present, the European Union's supervisory authorities are funded 40% from the European Union's budget and 60% from contributions by Member States. EIOPA recently warned that, at present, it lacks resources to review the calibration of the standard formula and complete several other tasks which are necessary for the implementation of Solvency II by 1 January 2016.

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Please do not hesitate to contact us with any questions.