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The EU Reinsurance Directive

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EU Reinsurance Directive

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- Basic facts about Directive
- Purpose and policy of Directive
- Key Provisions:
 - Scope and structure of Directive
 - EU internal market
 - EU external dimension
- Conclusions

EU Reinsurance Directive

Background

- EU Reinsurance Directive agreed by EU Council in November 2005.
- EU Directive on 'abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession' dates back to 1964.
- EU focus in intervening decades was on creating a single market in direct insurance.
- Existing EU insurance directives apply to direct and 'mixed' insurers in EU.
- Increased focus on reinsurance issues in international fora, particularly from mid-90s onwards, e.g. OECD, FSF, IAIS, WTO etc.
- Consensus emerged in industry and between Governments that EU needed a common approach to regulation of pure reinsurers established in EU.

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EU Reinsurance Directive

Basic Facts

- Legal text published in Official Journal of 9 December 2005.
- All Member States to comply with its provisions by 10 December 2007.
- Legal implications of a Directive.
- Codification of EU insurance directives.
- Interim and 'fast track' measure.

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EU Reinsurance Directive

Purpose and policy of Directive

- To provide a single market in EU for reinsurance.
- To ensure minimum common standards for reinsurance in EU.
- To incorporate reinsurance into the EU's insurance supervisory system ahead of Solvency II (i.e. introduction of a risk based supervisory and capital setting requirements across the EU).
- To strengthen the EU in negotiations with 3rd country jurisdictions.

Two background considerations

- Nature of reinsurance: need to recognise international aspects.
Internationalisation is the main source of diversification to minimise risk.
- Degree of supervision of reinsurance in EU: different traditions of reinsurance regulation in Member States (direct/indirect).

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EU Reinsurance Directive

Key Provisions 1

Scope of Directive

- The directive covers:
 - Pure reinsurers
 - Direct insurers accepting reinsurance
 - Captive reinsurers
 - Special Purpose Vehicles

Structure of Directive

- Preamble (66 articles and annexes)
- Title 1: scope and definitions
- Title II: the taking up of reinsurance and authorisation of the reinsurance undertaking
- Title III: conditions governing the business of reinsurance
- Title IV: finite reinsurance and special purpose vehicles
- Title V: right of establishment and freedom to provide reinsurance services
- Title VI: reinsurance undertakings whose head offices are outside the Community and which conduct reinsurance activities in the Community
- Title VII: subsidiaries of parent undertakings governed by the laws of a third country and acquisitions of holdings by such parent undertakings.
- Title VIII: other provisions
- Title IX: amendments to existing directives
- Title X: transitional and final provisions.

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EU Reinsurance Directive

Key Provisions 2

EU Internal Market

- EU Reinsurance Directive follows model of existing insurance supervisory regime for direct/mixed insurers.
- Requirement for authorisation of pure reinsurers established in EU.
- Home State licence.
- Home State exclusive financial supervision.
- Mutual recognition of regulatory systems in EU.
- Permitted legal forms.
- Solvency and investment rules.
- Abolition of internal market collateral requirements, by 10 December 2008, at latest.
- Impact on direct insurers writing reinsurance business.

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EU Reinsurance Directive

Key Provisions 3

EU External Dimension

- Titles VI and VII
- Commission may submit proposals to Council for possible agreements with third countries that seek to ensure:
'under conditions of equivalence of prudential regulation, effective market access for reinsurance undertakings in the territory of each counteracting party and provide for mutual recognition of supervisory rules and practices on reinsurance' (Article 50, Title VI).
- Commission shall periodically draw up periodic reports on treatment accorded EU reinsurance undertakings in third countries. Where a third country is not granting EU reinsurers effective market access, Commission may draw/submit recommendations to Council for appropriate mandate for negotiation with a view to obtaining improved market access for Community reinsurance undertakings.

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EU Reinsurance Directive

Conclusions

- Significant and timely measure by EU, recognising increasing international focus on reinsurance regulation and the international nature of reinsurance.
- It creates common EU framework of reinsurance rules.
- Degree of change in national rules entailed by Directive differs between Member States.
- Provides a firm basis for supervision and a framework for development with Solvency II.
- Strengthens the EU voice in international debates on reinsurance regulation.