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LATEST NEWS:

Thursday, 24 May 2012

ECIROA calls for changes to implementing measures to avoid exclusion of up to 90% of captives

By Adrian Ladbury, Malta
Email Author

The European Captive Insurance and Reinsurance Owners' Association (ECIROA) believes that up to 90% of European captives will not be able to apply crucial simplification measures designed to protect them within the original Solvency II Framework Directive as the rules currently stand.

ECIROA President Günter Dröse, Head of Insurance at Deutsche Bank in Frankfurt, told *Commercial Risk Europe* this week that Article 78 of the draft Level 2 implementing measures issued to explain how the Directive should be applied effectively excludes the majority of European captives from the simplifications that are designed to differentiate them from standard commercial insurance companies.



ECIROA President Günter Dröse, Head of Insurance at Deutsche Bank in Frankfurt

He said that most captives would therefore be forced to carry out the same amount of reporting required of standard insurance companies and possibly even appoint the same number of committees to manage the business including risk management, audit and the like.

Moreover, the November announcement made by the European Insurance and Occupational Pensions Authority (EIOPA) on the equivalence of Bermuda that stated that the island would not be deemed equivalent for captives partly because it allows the full use of outsourced services for captives is also a big worry for European captives, said Mr Dröse.

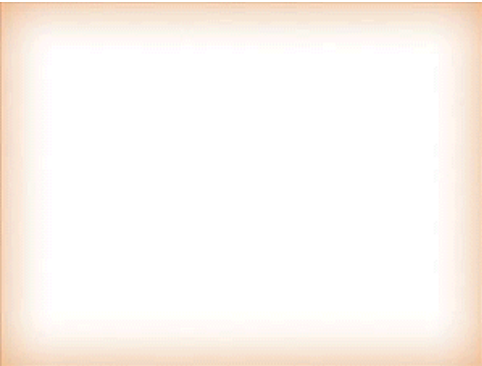
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The ECIROA man said that generally the rules remain far too vague for both regulators and captive owners. This increases the risk that captives will be treated in exactly the same way as commercial insurance companies. This is despite the fact that most only write the risks of their parent company and thus pose no risk to the system as a whole or policyholders apart from their own parent company and employees.

Time is running out to influence and make changes to Solvency II.

A final draft of the Omnibus II Directive is planned for June when it will be sent to the European Parliament for approval. Omnibus II will set the date of entry into force of the



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Solvency II regime as well as the scope of the technical standards to be drafted by EIOPA.

EIOPA says that it 'strongly supports', within the constraints of the final decisions of the Parliament and Council on the timeline and the scope of the technical standards, the entry into force of Solvency II from 1 January 2014 and will 'make every effort' to secure this.

Time is therefore fast running out for the kind of changes required for captives to be made and ECIROA has therefore been lobbying as hard and wide as possible over the last few weeks in Strasbourg and Brussels to state its case for the captive industry.

For example earlier this month ECIROA wrote to the Commission to express its concerns about the implementing measures that are about to be approved by the European Commission and its 'negative effect' on captive insurances.

ECIROA pointed out that the European Parliament and the Council had worked hard to craft a definition of captive insurance and reinsurance entities under Article 13 of the Solvency II Directive, which recognises that the purpose of a captive is to insure the group risks of the captive owner.

It reminded regulators that, in order to reflect the nature, scale and complexity of the captive insurance model, Recital 21 calls for captive insurance and reinsurance entities to be treated in line with the principle of proportionality, that is more lightly treated.

"However, under Article 78 of the draft Level 2 implementing measures, the Commission effectively narrows the Article 13 definition of a captive to the extent that approximately 90% of captives will be unable to use the simplifications designed specifically for them," pointed out ECIROA.

The association said that the current draft fails to recognise that a group insurance policy issued today covers all group affiliates and, according to insurance law, that entities that have left the group remain covered under the group policy until expiry of all run-off obligations.

"Disproportionate rules for captives would force captive parents to transfer part of the risks back to their balance sheets and would harm 'real economy' interests at a time when industry requires incentives to spur growth," continued the letter.

ECIROA stressed that it is in favour of the introduction of Solvency II but pointed out that the wording of Article 78 is not only 'damaging' for captives but is actually incorrect.

The group added that fortunately the resolution of the problem would not pose a complex challenge because the simple rewording of clauses (a) and (b) of Article 78 would bring the text in line with the Article 13 definition.

"Given the importance of captives as a risk management tool for Europe's largest multinational corporations, it is essential that a precise approach is taken to appropriately reflect how the captive business model operates," concluded the letter.

* Solvency II and its impact on captives will form a key part of this week's Malta International Risk & Insurance Congress. Risk managers and the wider insurance industry will have a chance to find out exactly where the rules are headed as Peter Skinner, MEP and Rapporteur for Solvency II, is a keynote speaker. Look out for the news from the Malta Congress in next week's newsletter and the coming June issue of CRE.

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