Insurance Europe position on the renewal of provisional equivalence under Solvency II

Key messages

- Insurance Europe supports the renewal of provisional equivalence within the Solvency II regime (Dir Art 227) for the US, Canada, Japan, Australia, Brazil and Mexico.

- The reasons or criteria that supported the first provisional equivalence designation of these regimes are still valid. In addition, some of the markets included, such as Japan, are in a transition of moving to a SII-like framework. Therefore, in this context, keeping in mind the interests of EU insurers in these markets, continuing provisional equivalence would be appropriate.

- Renewing provisional equivalence will ensure continuity, stability and a more level playing field for EU insurers operating across borders in these provisionally equivalent markets while promoting economic growth. If provisional equivalence is not renewed, this would create a very significant competitive disadvantage for European insurers in those specific markets, which include some of the largest insurance markets globally.

- The industry therefore welcomes the comments made by Commissioner McGuinness on 28 June recognising the need to prolong provisional equivalence to maintain the international competitiveness of the European insurance industry for these markets.

- The industry emphasises the importance of the EC making a timely decision to avoid uncertainty creating unnecessary problems for European insurers in terms of business continuity and international strategy.

- After the extension is confirmed, and as a separate step (in order to avoid any risk of delays in the extension of the existing provisional equivalence), the Commission is asked to clarify the equivalence status of US-associated territories, such as Puerto Rico and to consider the extension of provisional equivalence to other jurisdictions, including Chile, Peru, Colombia, Singapore, the Philippines, China, Kenya and South Africa, when they meet the criteria applied to the other countries already covered.

Background

The Solvency II regime, implemented in 2016, has delivered many of its intended benefits, including a very high level of policyholder protection, effective and robust governance and standardised risk management practices across the European insurance industry.

For those insurers operating, or wishing to operate globally, in particular in these provisionally equivalent markets, the capital treatment allowed under provisional equivalence is central to their ability to compete.

Provisional equivalence allows groups based in the European Economic Area (EEA) that have subsidiaries in provisionally equivalent third countries to hold capital requirements for those subsidiaries on the basis of the regulatory requirements applicable in these third countries and to use these results in the calculation of group solvency under Solvency II.

It was granted to the US, Canada, Japan, Australia, Brazil and Mexico in June 2015 but is due to expire on 31 December 2025. However, the regulation foresees the option for extensions for periods of 10 years.

Provisional equivalence is key for European insurers for the following reasons:

1. Maintaining international competitiveness and safeguarding market efficiency
Provisional equivalence facilitates continued market access for EU insurance companies in a number of non-EU countries. It allows insurers to offer their services in non-EU member states that operate under other supervisory frameworks, on a more equal basis, reducing the burden for European companies and ensuring market efficiency.

2. Continuity and stability
Extending the provisional equivalence regime offers regulatory stability as well as continuity for EU insurers for an extended time. It provides a predictable and transparent framework for insurers, allowing them to plan their international operations. By maintaining stability in the market, provisional equivalence mitigates potential disruptions and encourages long-term investments, benefiting policyholders and the overall financial system.

3. Policyholder protection
Provisional equivalence ensures that policyholders in the other countries deemed provisionally equivalent are protected by the same levels of capital as the other insurers operating in that market. In addition, Solvency II Pillar II and III remain applied across all operations of an insurance group, ensuring an even higher level of protection to non-EU policyholders, as all risks are managed and reported and form part of EU group supervision, as well as being supervised on a national basis.

Annex - Background on Solvency II equivalence

Equivalence, within the context of Solvency II, refers to the recognition granted by the EC to regulatory regimes of non-EU countries that are deemed equivalent to the EU's requirements. Equivalence decisions can have significant implications for both EU-based and non-EU (re)insurers, facilitating international business activities while ensuring consistent regulatory standards.

The process of determining full equivalence, conducted by the EC in collaboration with EIOPA, involves a comprehensive assessment of the non-EU country's solvency and prudential regime, including its supervisory practices and the level of protection provided to policyholders.

There are three distinct areas for equivalence assessment under Solvency II:

- **Reinsurance** (Dir Art 172): Relevant for reinsurers from third countries outside the EEA. If the third country's rules are deemed equivalent, such reinsurers must be treated by EEA supervisors in the same way as the EEA reinsurers. This is also likely to increase the attractiveness for EEA insurers of entering into reinsurance arrangements with reinsurers from third countries by improving access by EU (re)insurers to global reinsurance capacity, without which the EU protection gap would widen.

- **Solvency calculation** (Dir Art 227): Relevant for insurers operating in a third country. A positive equivalence finding will allow EEA internationally active insurance groups to use the local rules relating to capital (own funds) and capital requirements rather than the Solvency II rules. This releases the related companies in the third country from having to recalculate their data in conformity with the Solvency II requirements.

- **Group supervision** (Dir Art 260): Relevant for insurers from third countries with activities in the EEA. If the third-country's rules are deemed equivalent in this area, EEA supervisors will under certain conditions rely on the group supervision exercised by a third country. This would free the third-country international groups from being subject to the unnecessary burdens arising from dual group supervision.

Type of equivalence	Scope	Jurisdictions covered	Timing	Advantages for EU (re)insurers	Advantages for third-country (re)insurers
Provisional equivalence	Can be determined (if progress is being made towards full equivalence) for EEA groups operating in the third jurisdiction (Art 227(5))	Australia, Brazil, Canada, Mexico, USA, Japan	For a limited period (10 years, renewable for further periods of 10yrs) 1 January 2016 to 31 December 2025	Allows EEA groups to compete locally with non-EEA market players by allowing the deduction and aggregation method for group solvency, ie, avoiding an export of Solvency II to activity in those markets	None

Type of equivalence	Scope	Jurisdictions covered	Timing	Advantages for EU (re)insurers	Advantages for third-country (re)insurers
Temporary equivalence	Can be obtained: ■ for reinsurance (Art 172(4)): (if progress is being made towards full equivalence). ■ for group supervision (if progress is being made towards full equivalence) applicable to third-country groups operating in the EEA) (Art 260(5))	Previously Japan (for reinsurance)	Was only applicable for a limited period (until 31 December 2020 with the possibility to extend by a year)	Increased attractiveness of non-EEA reinsurance contracts by improving access by EU (re)insurers to global reinsurance capacity, without which the EU protection gap would widen	Third-country groups can operate in Europe under their home jurisdiction regulatory regime (ie, they only need to apply Solvency II to the EEA subsidiary but not at group level)
Full equivalence	Can be determined for all three areas (reinsurance, group solvency calculation, group supervision)	Bermuda, Switzerland	For an unlimited period	Increased attractiveness of non-EEA reinsurance contracts by improving access by EU (re)insurers to global reinsurance capacity, without which the EU protection gap would widen. Allows EEA groups to compete locally with non-EEA market players by allowing the deduction and aggregation method for group solvency, ie, avoiding an export of Solvency II to activity in those markets.	Third-country groups can operate in Europe under their home jurisdiction regulatory regime (ie, they only need to apply Solvency II to the EEA subsidiary but not at group level)