

# **European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA): powers**

2017/0231(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 519 votes to 77, with 56 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments and Directive 2009/138/EC on the taking up and pursuit of the business of insurance and reinsurance (Solvency II).

As a reminder, the proposed directive aims to improve financial market supervision by strengthening the coordination role of the European Supervisory Authorities (ESAs). The main provisions of the proposal amending Directive 2016/65/EU and Directive 2009/138/EC aim to:

- present the amendments required for the transfer of the competences currently assigned to the competent authorities to the European Securities and Markets Authority (ESMA), which would be responsible for the authorisation and supervision of companies intending to provide data reporting services;
- include amendments to the Solvency II Directive to give the European Insurance and Occupational Pensions Authority (EIOPA) a more prominent role in contributing to supervisory convergence in the area of internal model application.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal as follows:

## ***Notification and collaboration platforms***

The amended text stressed that it is necessary to enhance information exchange and cooperation between supervisory authorities and EIOPA in view of increased cross-border activities with a view to strengthening the convergent application of EU legislation in the event of cross-border activity, in particular at an early stage.

## ***Notification***

The amending Directive provides that where the supervisory authority of the home Member State intends to authorise an insurance or reinsurance undertaking whose scheme of operations indicates that a part of its activities will be based on the freedom to provide services or the freedom of establishment in another Member State and where the scheme of operations also indicates that these activities are likely to be of relevance with respect to the host Member State's market, the supervisory authority of the home Member State shall notify EIOPA and the supervisory Authority of the relevant host Member State.

The supervisory authority of the home Member State shall also notify EIOPA and the supervisory authority of the relevant host Member State:

- where it identifies deteriorating financial conditions or other emerging risks posed by an insurance or reinsurance undertaking carrying out activities based on the freedom to provide services or the freedom of establishment that may have a cross-border effect;

- where it has serious and reasoned concerns with regard to consumer protection. The supervisory authorities may refer the matter to EIOPA and request its assistance in case no bilateral solution could be found.

These notifications should be sufficiently detailed to allow for a proper assessment.

### ***Collaboration platforms***

Where an insurance or reinsurance undertaking carries out or intends to carry out activities which are based on the freedom to provide services or the freedom of establishment and which are of relevance with respect to the market of a host Member State, the Authority may, in case of justified concerns about negative effects on policyholders, on its own initiative or at the request of one or more of the relevant supervisory authorities, set up and coordinate a collaboration platform to strengthen the exchange of information and an enhanced collaboration between the relevant supervisory authorities.

The requirement does not prejudice the right of the relevant supervisory authorities to set up a collaboration platform where they all agree on its establishment.

### ***Money laundering and terrorist financing***

Following changes to [Regulation \(EU\) No 1093/2010](#) of the European Parliament and of the Council, the European Banking Authority will have a new role in the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing. As a result, amendments have been made to Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.

Under the amended text, the Commission shall make a report available to Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money-laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the European Banking Authority (EBA), and representatives from Financial Intelligence Units, to better understand the risks. Reports shall be made public at the latest six months after having been made available to Member States, except for the elements of the reports which contain classified information.

Member States shall make the results of their risk assessments, including their updates, available to the Commission, EBA and the other Member States.

The ESAs, and thereafter EBA shall issue guidelines addressed to competent authorities and the credit institutions and financial institutions on the risk factors to be taken into consideration and the measures to be taken in situations where simplified customer due diligence measures are appropriate.

Member States and the EBA shall also inform each other of cases where the law of a third country does not permit the required policies and procedures to be implemented.