

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

2017/0231(COD) - 27/12/2019 - Final act

**PURPOSE:** to improve financial market supervision by strengthening the coordinating role of the European Supervisory Authorities (ESAs).

**LEGISLATIVE ACT:** Directive (EU) 2019/2177 of the European Parliament and of the Council amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on markets in financial instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing.

**CONTENT:** the Directive forms part of a package of measures with the purpose of enhancing the supervision of EU financial markets by improving the operation of the system of European Supervisory Authorities (ESAs) and accelerating and completing the Capital Markets Union.

## ***Increasing transparency and accessibility of data***

[Directive 2014/65/EU](#) of the European Parliament and of the Council creates a regulatory framework for data reporting services providers (DRSPs) and requires a post-trade data reporting services provider to be authorised as an approved publication arrangement (APA). In addition, a consolidated tape provider (CTP) is required to offer consolidated trading data covering all trades in both equity and non-equity instruments throughout the Union.

Directive 2014/65/EU also formalises transaction reporting channels to the competent authorities by requiring a third party that reports on behalf of investment firms to be authorised as an approved reporting mechanism (ARM).

In view of the cross-border dimension of data handling and the benefits of pooling data-related competences with a view to increasing transparency on financial markets, this Directive introduces the amendments required for the transfer of the competences currently attributed to competent authorities to the European Securities and Markets Authority (ESMA), which would be responsible for the authorisation and supervision of undertakings that intend to provide data communication services.

The transfer of the authorisation and supervision of DRSPs to ESMA is of key importance for tasks other than ESMA, such as the exercise of market surveillance, temporary intervention powers and position management powers, and will ensure uniform compliance with pre- and post-trade transparency requirements.

## ***Strengthening the convergent application of Union law in the case of cross-border insurance activity***

In view of the increase in cross-border insurance activities, this Directive includes amendments to [Directive 2009/138/EC](#) (Solvency II) in order to give the European Insurance and Occupational Pensions Authority (EIOPA) a greater role in contributing to supervisory convergence in the area of application of internal models.

In concrete terms, this Directive aims at strengthening the exchange of information and cooperation between supervisory authorities and the EIOPA by providing in particular for notification requirements in the case of significant cross-border insurance activity or in crisis situations, as well as for the conditions for the establishment of cooperation platforms where the envisaged cross-border insurance activity is significant.

Cooperation platforms shall allow for stronger cooperation between supervisory authorities at an early stage and thus enhance consumer protection. However, decisions on authorisation, supervision and enforcement shall remain the responsibility of the home Member State supervisory authority.

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

Following amendments to [Regulation \(EU\) No 1093/2010](#) of the European Parliament and of the Council, the European Banking Authority (EBA) shall take on a new role in preventing the use of the financial system for the purpose of money laundering or terrorist financing. Accordingly, 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 this Directive, the Commission shall make available a report to Member States and obliged entities to assist them in identifying, managing and mitigating the risks of money laundering and terrorist financing, and to enable other stakeholders, including national legislators, the European Parliament, the EBA and representatives of financial intelligence units, to better understand the risks. The reports shall be made public no later than six months after they have been made available to the Member States, with the exception of those parts of the reports which contain classified information.

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

By 26 June 2017 at the latest, the ESAs shall publish guidance for competent authorities and credit institutions on the risk factors to be taken into account and the measures to be taken in situations where simplified customer due diligence measures are appropriate. From 1 January 2020, the EBA shall publish, where appropriate, such guidance.

ENTRY INTO FORCE: 30.12.2019.

TRANSPOSITION: no later than 30.6.2021.