

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2011/0360(COD) Directive</p>	Procedure completed
<p>Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management</p> <p>Amending Directive 2003/41/EC 2000/0260(COD) Amending Directive 2009/65/EC 2008/0153(COD) Amending Directive 2011/61/EU 2009/0064(COD)</p> <p>Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.05 Insurance, pension funds 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		10/05/2011
		S&D DOMENICI Leonardo	
		Shadow rapporteur	
		PPE GAUZÈS Jean-Paul	
		ALDE KLINZ Wolf	
		Verts/ALE GIEGOLD Sven	
		ECR FOX Ashley	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs		19/12/2011
		PPE BODU Sebastian Valentin	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	3237	13/05/2013
	Economic and Financial Affairs ECOFIN	3205	04/12/2012
	Economic and Financial Affairs ECOFIN	3178	22/06/2012
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel	

Key events			
15/11/2011	Legislative proposal published	COM(2011)0746	Summary
30/11/2011	Committee referral announced in Parliament, 1st reading		
19/06/2012	Vote in committee, 1st reading		
22/06/2012	Debate in Council	3178	Summary

28/06/2012	Committee report tabled for plenary, 1st reading	A7-0220/2012	Summary
15/01/2013	Debate in Parliament		
16/01/2013	Results of vote in Parliament		
16/01/2013	Decision by Parliament, 1st reading	T7-0013/2013	Summary
13/05/2013	Act adopted by Council after Parliament's 1st reading		
21/05/2013	Final act signed		
21/05/2013	End of procedure in Parliament		
31/05/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0360(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2003/41/EC 2000/0260(COD) Amending Directive 2009/65/EC 2008/0153(COD) Amending Directive 2011/61/EU 2009/0064(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 053-p1
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/07818

Documentation gateway

Legislative proposal		COM(2011)0746	15/11/2011	EC	Summary
Document attached to the procedure		SEC(2011)1354	15/11/2011	EC	
Document attached to the procedure		SEC(2011)1355	15/11/2011	EC	
Committee draft report		PE480.851	07/02/2012	EP	
Amendments tabled in committee		PE486.063	29/03/2012	EP	
European Central Bank: opinion, guideline, report		CON/2012/0024 OJ C 167 13.06.2012, p. 0002	02/04/2012	ECB	Summary
Committee opinion	JURI	PE483.524	27/04/2012	EP	
Economic and Social Committee: opinion, report		CES1296/2012	23/05/2012	ESC	
Committee report tabled for plenary, 1st reading/single reading		A7-0220/2012	28/06/2012	EP	Summary
Document attached to the procedure		COM(2012)0367	06/07/2012	EC	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0013/2013	16/01/2013	EP	Summary

Commission response to text adopted in plenary	SP(2013)176	05/03/2013	EC
Draft final act	00069/2012/LEX	21/05/2013	CSL

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Directive 2013/14](#)
[OJ L 145 31.05.2013, p. 0001](#) Summary
 Final legislative act with provisions for delegated acts

Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management

PURPOSE: to reduce the risk of over-reliance on credit ratings by financial market participants, including undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIFs).

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: [Regulation \(EC\) No 1060/2009](#) on credit rating agencies (CRA Regulation) entered into full application on 7 December 2010. It requires credit rating agencies (CRAs) to comply with rigorous rules of conduct in order to mitigate possible conflicts of interest, ensure high quality and sufficient transparency of ratings and the rating process. The Regulation was amended by [Regulation \(EU\) No 513/2011](#) which entrusted the European Securities and Markets Authority (ESMA) with exclusive supervisory powers over CRAs registered in the EU in order to centralise and simplify their registration and supervision at European level.

However, a number of issues related to credit rating activities and the use of ratings have not been sufficiently addressed in the existing CRA Regulation.

One of these issues is the risk of overreliance on credit ratings by financial market participants, including UCITS and AIFs who do not necessarily conducting their own assessments of the creditworthiness of issuers of such debt instruments.

The European Commission pointed to these open issues in its [Communication of 2 June 2010 on Regulating financial services for sustainable growth](#), and announced the need for a targeted review of the CRA Regulation. On 8 June 2011, the European Parliament adopted a non-legislative [resolution on CRAs](#), which supports the need to enhance the regulatory framework for credit rating agencies and to take measures to reduce the risk of over-reliance of ratings.

The European Council of 23 October 2011 concluded that progress is needed on reducing overreliance on credit ratings.

On the international level, the Financial Stability Board (FSB) issued in October 2010 principles to reduce authorities and financial institutions reliance on external ratings.

IMPACT ASSESSMENT: an impact assessment has been produced for this proposal. It can be found at http://ec.europa.eu/internal_market/securities/agencies/index_en.htm.

LEGAL BASIS: Article 53 (1) TFEU.

CONTENT: in order to reduce the risk of over-reliance of managers of UCITS and AIFs on credit ratings, the Commission proposes to introduce amendments to [Directive 2009/65/EC](#) on the coordination of law, regulations and administrative provisions relating to the undertakings for collective investment in transferable securities (UCITS) and [Directive 2011/61/EU](#) on Alternative Investment Fund Managers. The Commission is presenting in parallel a proposal of Regulation for the amendment of the CRA Regulation.

Amendment of Directive 2009/65/EC on UCITS: the proposal amends Article 51 of Directive 2009/65/EC as regards the risk management process:

- § it introduces a requirement for the management or investment company not to solely or mechanically rely on external credit ratings for assessing the creditworthiness of the UCITS assets. External credit ratings may be used as one factor among others in this process but shall not prevail;
- § it proposes corresponding amendments to the existing powers of the Commission to adopt delegated acts with a view to specifying the provisions of Article 51(1) of 2009/65/EC.

Amendment of Directive 2011/61/EC on managers of AIFs: the proposal amends Article 15 of Directive 2011/61/EU as regards the risk management systems:

- § it introduces a requirement for the AIF Manager not to solely or mechanically rely on external credit ratings for assessing the creditworthiness of the AIF assets. External credit ratings may be used as one factor among others in this process but shall not prevail;

§ it proposes corresponding amendments to the existing powers of the Commission to adopt delegated acts with a view to specifying the provisions of Article 15(1) of Directive 2011/61/EU.

The proposal provides for a transposition period of 12 months.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the EU.

Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management

The Council took stock of progress on a [draft regulation](#) and draft directive on credit rating agencies ('CRA 3').

Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management

The Committee on Economic and Monetary Affairs adopted the report by Leonardo DOMENICI (S&D, IT) on the proposal for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings of collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of the excessive reliance on credit ratings.

The Committee recommended that the European Parliaments position at first reading under the ordinary legislative procedure should be to amend the Commissions proposal as follows:

Placement rules: institutions shall not adopt investment rules that would result in the automatic sale of assets in the event of a downgrade of their creditworthiness by an external credit rating agency.

Definitions: Members propose incorporating in Directive 2004/109/EC definitions of financial instrument, securitisation, structured finance instrument, originator and sponsor.

Additional information requirements for issuers whose structured finance instruments are admitted to trading on a regulated market: an amendment stipulates that the issuer shall ensure that either the originator or the sponsor of a structured finance instrument established in the Union shall disclose to the public:

- information on the credit quality and performance of the individual underlying assets of that structured finance instrument, the structure of the securitisation transaction, the cash flows and any collateral supporting a securitisation exposure
- as well as any information that is necessary to conduct comprehensive and well-informed stress tests on the cash flows and collateral values supporting the underlying exposures.

This obligation to disclose information shall not extend to the provision of such information that would breach statutory provisions governing the protection of confidentiality of information sources or the processing of personal data.

Moreover, the European Securities and Markets Authority (ESMA) shall develop draft regulatory technical standards to specify: (i) the information that the persons are to disclose; (ii) the frequency with which such information is to be updated; and (iii) a template by which to disclose the information.

Members call for ESMA to submit those draft regulatory technical standards to the Commission by 1 January 2013 and to set up a webpage for the publication of the information on structured finance instruments.

Method of risk management (Directive 2009/65/EC): a UCITS shall not include in its fund rules any rule that would result in the automatic sale of its assets in the event of a downgrade of its creditworthiness by an external credit rating agency.

Use of external ratings (Directive 2011/61/EU): Members consider that investment firms, management companies and insurance undertakings shall not suggest that their customers insert, in their standard investment agreements, fund rules or insurance contracts, references to reliance on ratings.

Members feel that in the medium term, further initiatives should be evaluated with a view to taking ratings out of financial regulation.

Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management

The European Parliament adopted by 599 votes to 27, with 68 abstentions, a legislative resolution on the proposal for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings of collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of the excessive reliance on credit ratings.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise reached between the European parliament and the Council. They amend the proposal as follows:

Introduction of a reference to Directive 2003/41/EC of the European Parliament and of the Council: the new Directive also seeks to amend Directive 2003/41/EC which provides for regulation at Union level of institutions for occupational retirement provision (IORPs).

Excessive reliance on credit ratings: the amended text underlines the need to require IORPs, managers of UCITS and managers of Alternative Investment Funds (AIFs) to avoid relying exclusively and automatically on external credit ratings or using them as the only parameter when assessing the risk involved in the investments made by IORPs, by managers of UCITS and by managers of AIFs.

More specifically, Directives 2003/41/EC, 2009/65/EC and 2011/61/EU are amended in order to make provision for the competent authorities, taking into account the nature, scale and complexity of the investments of UCITS to monitor the adequacy of their credit assessment processes of the management companies, assess the use of references to credit ratings in their investment policies and, where appropriate, encourage mitigation of the impact of such references, with a view to reducing sole and mechanistic reliance on ratings.

Delegated acts: the Commission shall publish the results of consultations it carries out in the course of its preparatory work with a view to the adoption of delegated acts.

Institutions for occupational retirement provision, undertakings of collective investment in transferable securities (UCITS) and Alternative Investment Funds Managers: risk management

PURPOSE : to amend EU rules on credit rating agencies.

LEGISLATIVE ACT : [Directive 2013/14/EU of the European Parliament and of the Council](#)

amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings.

CONTENT : the Directive adopted at the same time as [Regulation \(EU\) n° 462/2013 of the European Parliament and of the Council](#) existing legislation on credit rating agencies (CRAs) on the activities and supervision of institutions for occupational retirement provision, on undertakings of collective investment in transferable securities (UCITS) and on alternative investment funds managers (AIFM) in order to reduce the institutions' reliance on external credit ratings when assessing the creditworthiness of their assets.

In order to protect investors in those funds, the Directive requires IORPs, management and investment companies with regard to UCITS, and AIFMs to avoid relying solely or mechanistically on credit ratings or using them as the only parameter when assessing the risk involved in the investments made by IORPs, UCITS and AIFs.

ENTRY INTO FORCE: 20/06/2013.

TRANSPOSITION : 21/12/2014.

DELEGATED ACTS : the Commission may adopt delegated acts to ensure that management and investment companies with regard to UCITS, and AIFMs are effectively prevented from over-reliance on credit ratings for assessing the creditworthiness of the assets held.