

# Financial conglomerates: supplementary supervision of financial entities

2010/0232(COD) - 16/11/2011 - Final act

**PURPOSE:** to improve the supplementary supervision of financial entities in a financial conglomerate.

**LEGISLATIVE ACT:** Directive 2011/89/EU of the European Parliament and of the Council amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

**CONTENT:** following agreement with the European Parliament in first reading, the Council adopted a directive amending the financial conglomerate directive in order to **close loopholes and ensure appropriate supplementary supervision of entities in a financial conglomerate.**

The new directive also adapts the supervision of financial conglomerates to the EU's new supervisory structure.

Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (the Financial Conglomerate Directive) gave national financial supervisors additional powers and tools to watch over conglomerates and apply supplementary supervision on them, in addition to specific banking and insurance supervision.

These groups are exposed to group risks that include: (i) the risks of contagion where risks spread from one end of the group to another; (ii) risk concentration, where the same type of risk materialises in various parts of the group at the same time; (iii) the complexity of managing many different legal entities; (iv) potential conflicts of interest; and (v) the challenge of allocating regulatory capital to all the regulated entities which are part of the financial conglomerate, thereby avoiding the multiple use of capital.

Financial conglomerates should therefore be subject to supervision supplementary to supervision on a stand alone, consolidated or group basis, without duplicating or affecting the group and regardless of the legal structure of the group.

The revision of the Financial Conglomerates Directive **amends the relevant legislation on banking and insurance supervision**, namely the Capital Requirements Directive (2006/48/EC and 2006/49/EC) and the Directive on supplementary supervision of insurance undertakings in insurance groups (98/78/EC).

A financial conglomerate is a group that combines different types of regulated financial firms (bank, securities firm, insurance company) and is therefore exposed to two or more sector-based regulatory regimes.

The amendments to the Financial Conglomerates Directive include the following:

- the **inclusion of asset management companies** in the threshold tests for identifying a conglomerate;
- a **waiver for smaller groups** if the relevant supervisor assesses the group risks to be negligible;
- allowing for **risk-based assessments**, in addition to existing definitions relating to size, in identifying financial conglomerates. Financial conglomerates must be identified throughout the Union according to the extent to which they are exposed to group risks, on the basis of common

guidelines to be issued by the European Banking Authority ([EBA](#)), the European Insurance and Occupational Pensions Authority ([EIOPA](#)) and the European Securities and Markets Authority ([ESMA](#)), through the Joint Committee of the European Supervisory Authorities;

- allowing for **both sector-specific (banking and insurance) supervision and supplementary supervision** of the conglomerate's parent entity, also if it concerns a holding company. Under the current rules, supervisors have to choose which supervision they apply when a group acquires a significant stake in another sector and when the parent entity is a holding company;
- **improved transparency**: the name of each regulated entity which is part of a financial conglomerate shall be entered in a list, which the Joint Committee shall publish on its website and keep up to date;
- **stress testing**: Member States may require the coordinator to ensure appropriate and regular stress testing of financial conglomerates;
- **common guidelines**: the ESAs shall, through the Joint Committee, develop (i) common guidelines on how risk-based assessments of conglomerates are to be conducted by the competent authority; (ii) common guidelines aimed at developing supervisory practices allowing for supplementary supervision of mixed financial holding companies.

**Review:** the Commission shall **fully review Directive 2002/87/EC**, including the delegated and implementing acts adopted pursuant thereto. Following that review, the Commission shall send a report by 31 December 2012, addressing, in particular, the scope of that Directive, including whether the scope should be extended, and the application of that Directive to non-regulated entities, in particular special purpose vehicles.

The report shall also cover **the identification criteria of financial conglomerates** owned by wider non-financial groups, whose total activities in the banking sector, insurance sector and investment services sector are materially relevant in the internal market for financial services.

In the same context, the report shall cover **systemically relevant financial conglomerates**, whose size, inter-connectedness or complexity make them particularly vulnerable, and which are to be identified by analogy with the evolving standards of the Financial Stability Board and the Basel Committee on Banking Supervision. In addition, that report shall review the possibility of introducing mandatory stress testing. The report shall be followed, if necessary, by appropriate legislative proposals.

ENTRY INTO FORCE: 09/12/2011.

TRANSPOSITION: 10/06/2013.

**DELEGATED ACTS:** the Commission has the power to adopt delegated acts regarding technical changes to the Directive. The delegation of power is conferred on the Commission for a period of four years from 9 December 2011 (tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension.)

A delegated act only if no objection has been expressed either by the European Parliament or the Council within a period of three months of the notification (extended by three months at the initiative of the European Parliament or the Council.) The delegated act will not enter into force if the European Parliament or Council objects.