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

2011/0360(COD) - 28/06/2012 - Committee report tabled for plenary, 1st reading/single reading

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 Parliament's position at first reading under the ordinary legislative procedure should be to amend the Commission's 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**.