

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

2017/0231(COD) - 20/09/2017 - Legislative proposal

PURPOSE: to create a stronger and more integrated European financial supervision through reinforcing the coordination role for all ESAs and new direct supervisory powers for ESMA.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: this proposal 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](#).

The Markets in Financial Instruments Directive 2014/65/EU ([MiFID II](#)) introduces a new type of services that are subject to authorisation and supervision: **Data Reporting Services** (DRSs) operated by Data Reporting Services Providers (DRSPs). The effective circulation, monitoring and reconstruction of trading data was not addressed in Directive 2004/39/EC on markets in financial instruments (MiFID I). This led to EU trading data that was neither consistent nor of adequate quality to monitor whether the objectives of MiFID were being properly achieved.

Since inconsistencies in quality, formatting and reliability have a **detrimental effect** on data transparency, investor protection and market efficiency, MiFID II intends to improve the quality and accessibility of trading data by setting a **standard format** for trading data that is easy to consolidate, readily understood and available at a reasonable cost, and by imposing formal organisational requirements on data reporting services providers (DRSPs) and requiring them to be authorised by their national authority.

Given the **cross-border dimension** of data handling, the benefits of pooling data-related competences and the adverse impact of potential divergences in supervisory practices on both the quality of trading data and on the tasks of data reporting service providers, it is appropriate to **transfer the authorisation of, and the supervision on, data reporting service providers from national authorities to ESMA**.

In addition, this proposal also concerns the **role of the European Insurance and Occupational Pensions Authority (EIOPA)** in the approval processes for internal models that some large insurance companies use to calculate requirements on solvency capital.

The [Solvency II Directive](#) (Directive 2009/138/EC) provides that in accordance with the risk oriented approach to the Solvency Capital Requirement (SCR), it is possible for insurance and reinsurance undertakings and groups, at the level of either individual undertakings or groups, to use internal models for the SCR calculation, rather than the standard formula. These internal models are subject to supervisory approval.

Despite the valuable work carried out by EIOPA on supervisory convergence as regards internal models, **major inconsistencies remain** with regard to the requirements of competent authorities for internal models, and difficulties exist in reaching joint agreements on group internal models within colleges of supervisors.

Divergence in the supervision and approval of internal models leads to inconsistencies and creates an uneven level playing field amongst market participants.

With a view to strengthening supervisory convergence, the Commission proposes to **define in detail the role of EIOPA** in the internal risk models adopted by insurance companies.

CONTENT: the main provisions of the proposal amending Directive 2016/65/EU and Directive 2009/138/EC seek to:

- set out amendments that are required for the **transfer of current powers and competences** vested in the competent authorities to ESMA, which will be responsible for the authorisation and supervision of firms that intend to carry out **data reporting services**;
- include the amendments to the Solvency II-Directive to give **EIOPA a greater role** to contribute to supervisory convergence in the area of **internal model application**, and comprises changes with respect to information sharing regarding such model applications, the possibility for **EIOPA to issue Opinions** in relation to that matter, as well as for EIOPA to assist in the settlement of disputes between supervisory authorities, either at their request, on its **own initiative** or, in certain circumstances, at the request of concerned undertakings;
- provide that EIOPA should prepare **annual reports** on this matter. This will allow close monitoring of the situation regarding internal model applications, including bringing to light any outstanding concerns with regard to supervisory convergence in this area. In addition, the proposal applies the necessary amendments to the Solvency II on binding mediation, removing references to a previous dispute settlement procedure with CEIOPS (the Committee of European Insurance and Occupational Pensions Supervisors), which has been superseded by EIOPA.