

Prudential supervision of investment firms

2017/0358(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 534 votes to 63, with 55 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the prudential supervision of investment firms and amending Directives 2013/36/EU and 2014/65/EU.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amend the Commission's proposal as follows.

Objective

The proposed proposal for a Directive establishes effective, appropriate and proportionate prudential arrangements at Union level that help to ensure that investment firms authorised to operate within the Union operate on a sound financial basis and are managed in an orderly way including in the best interests of their clients.

To this end, it shall establish rules concerning:

- the initial capital of investment firms;
- supervisory powers and tools for the prudential supervision of investment firms by competent authorities;
- publication requirements for competent authorities in the field of prudential supervision of investment firms.

Discretion of competent authorities to subject certain investment firms to the requirements of Regulation (EU) 575/2013 (the Own Funds Regulation, or CRR)

Competent authorities may decide to apply the requirements of the Regulation and the Capital Requirements Directive (CRR/CRD IV) to an investment firm that carries out any of the activities where the total value of the consolidated assets of the investment firm exceeds EUR 5 billion, in particular where the firm carries out these activities on such a scale that the failure or distress of the investment firm could lead to systemic risk.

Investment firms which are not considered small and non-interconnected should have internal capital available which is adequate in quantity, quality and distribution to cover the specific risks to which they are or may be exposed. Competent authorities should ensure that investment firms have the adequate strategies and processes in place to assess and maintain the adequacy of their internal capital. Competent authorities should be able to request also small and non-interconnected firms to apply similar requirements where appropriate.

Competent authorities could define additional requirements, in particular with regard to capital and liquidity requirements, in particular for investment firms that are not considered to be small non-interconnected investment firms and, where the competent authority considers it justified and appropriate, for small non-interconnected investment firms.

Remuneration policy

The remuneration policy shall: (i) be clearly documented and proportionate to the size, internal organisation, nature, scope and complexity of the investment firm's activities; (ii) be a gender neutral remuneration policy; (iii) be in line with the business strategy and objectives of the investment firm, and also takes into account long term effects of the investment decisions taken; (iv) be subject, at least once a year, to a central and independent internal review on control functions.

Member States shall ensure that investment firms provide the competent authorities, on request, with the total amounts of remuneration for each member of the management body or general management.

EBA report on environmental, social or governance (ESG) related risks

EBA shall prepare a report on the introduction of technical criteria related to exposures to activities associated substantially with environmental, social, and governance (ESG) objectives for the supervisory review and evaluation process of risks, with a view to assessing the possible sources and effects of such risks on investment firms.

The EBA shall submit a report on its conclusions to the European Parliament, the Council and the Commission no later than two years after the date of entry into force of this Directive.

Cooperation between the competent authorities of different Member States

The competent authorities of different Member States should cooperate closely in carrying out their tasks under the Directive, in particular by exchanging information on investment firms without delay.

Any investment firm may trade through a clearing member in another Member State. The amended text provides that the competent authority of an investment firm's home Member State may request to the competent authority of a clearing member's home Member State information relating to the margin model and parameters used for the calculation of the margin requirement of the relevant investment firm.

Sanctions

To safeguard compliance with the obligations laid down in this Directive, Member States should provide for administrative sanctions and other administrative measures which are effective, proportionate and dissuasive. In order to ensure that administrative sanctions have a dissuasive effect they should be published except in certain well-defined circumstances. To enable clients and investors to make an informed decision about their investment options, those clients and investors should have access to information on administrative sanctions and measures imposed on investment firms.