Digital Finance: amending Directive regarding Digital Operational Resilience requirements

2020/0268(COD) - 24/09/2020 - Legislative proposal

PURPOSE: to amend or clarify certain provisions in existing EU financial services directives.

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 is part of the Digital Finance package, a package of measures to further enable and support the potential of digital finance in terms of innovation and competition while mitigating the risks. The digital finance package includes a new Strategy on digital finance for the EU financial sector with the aim to ensure that the Union's financial services legislation is fit for the digital age, and contributes to a future-ready economy that works for the people, including by enabling the use of innovative technologies. The Union has a stated and confirmed policy interest in developing and promoting the uptake of transformative technologies in the financial sector, including blockchain and distributed ledger technology (DLT).

This package also includes a proposal for a proposal on crypto-asset markets, a proposal for digital operational resilience, and a proposal on a common a EU pilot regime.

The particular reasons for this proposal for a directive is that, in order to provide legal certainty as regards crypto assets and achieve the objectives of strengthening digital operational resilience, it is necessary to establish a temporary exemption for multilateral trading facilities and amend or clarify certain provisions in existing EU financial services directives.

CONTENT: the proposed Directive puts forward a set of amendments that appear necessary to bring legal clarity and consistency in relation to the application by financial entities that are authorised and supervised in accordance with those Directives of various digital operational resilience requirements that are necessary in the pursuit of their activities, thus guaranteeing the smooth functioning of the internal market.

All Articles relate to and complement the proposal for a regulation on digital operational resilience.

In particular, they amend the various operational risk or risk management requirements foreseen in the following Directives:

- 2006/43/EC on statutory audits of annual accounts and consolidated accounts,

- 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities,

- 2009/138/EU on the taking-up and pursuit of the business of insurance and reinsurance,

- 2011/61/EU on alternative investment fund managers,

- EU/2013/36 on access to the activity of credit institutions and the prudential regulation of credit institutions and investment firms,

- 2014/65/EU on markets in financial instruments,

- (EU) 2015/2366 on payment services in the internal market,

- EU/2016/2341 on the activities and supervision of institutions for occupational retirement provision, by introducing precise cross-references in those provisions and thus attain legal clarity.