

Markets in financial instruments

2020/0152(COD) - 25/11/2020 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 361 votes to 156, with 179 abstentions, amendments to the proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU as regards information requirements, product governance and position limits to help the recovery from the COVID-19 pandemic.

The matter was referred back to the committee responsible for inter-institutional negotiations.

As a reminder, the main aim of the proposal is to make targeted adjustments to the requirements of the Markets in Financial Instruments Directive (MIFID II) to facilitate the economic recovery post COVID-19 pandemic.

The main amendments adopted in plenary concern the following points:

Aim of the amendments

Members stressed that the changes introduced should remove unnecessary red tape and provide for temporary exceptions that are considered effective in alleviating economic hardship.

The amendments should avoid making changes that result in more burdens on the sector and leave complex legislative questions to be settled during the planned review of MIFID II.

To better enhance investor protection, Parliament stressed that it is critical that the debt level of retail investors is taken into account in the suitability assessment, in particular given the rising level of consumer debt due to the COVID-19 pandemic.

Assessing the ancillary nature of a trading activity

The amendments clarify that quantitative tests should remain the basic rule regarding the exemption for ancillary activities. Alternatively, national supervisory authorities should be able to be authorised to rely on qualitative elements, subject to clearly defined conditions.

The European Securities and Markets Authority (ESMA) would be empowered to provide guidance on the circumstances under which national authorities could apply a qualitative approach and to develop draft technical regulatory standards on qualitative criteria.

Investment research services

Member States would be required to ensure that investment firms can pay jointly for the provision of execution services and the provision of investment research services, provided that a number of conditions are met.

Members clarified the definition of ‘investment research’, i.e. research material or services enabling an opinion to be formed on financial instruments, assets or issuers in this sector or in a given market.

Loss reporting thresholds

Investment firms providing the service of portfolio management or holding the account of a retail client including positions in leveraged financial instruments or contingent liability transactions shall inform the client, where the initial value of any instrument depreciates by 10 %.

Review clause

By 31 July 2021 at the latest, after consulting ESMA, the Commission should present a proposal for a review of Directive 2014/65/EU and Regulation (EU) No 600/2014. The review should be broad and should take into account issues such as those related to market structure, data, trading and post trading, research rules, rules on payment of inducements to advisors, level of professional qualifications of advisers in Europe, client categorisation and Brexit.