Financial services: investor-compensation schemes

1993/0471(COD) - 22/09/1993 - Legislative proposal

OBJECTIVE: to protect investors following the failure of an investment firm. CONTENT: this Directive is a necessary supplement to the single authorisation system based on supervision by the home country introduced by Council Directive 93/22/EEC on investment services in the securities field. It requires Member States to set up one or more investor compensation schemes. All investment firms supplying investment services must belong to this scheme or schemes (credit institutions may be exempted if they already belong a protection scheme which guarantees protection at least equivalent to that provided under a compensation scheme and if they fulfil certain specific conditions). The Directive therefore confirms the principle of supervision by the home country in the matter of investor compensation: the scheme(s) of the home country is (are) to cover investment activities performed by domestic companies in other Member States, whether or not transactions are performed by branches or as a result of the freedom to provide cross-border services. The compensation scheme operates when it is determined that an investment firm is unable, or may no longer be able, to meet its obligations arising out of investors' claims. If the investment firm is also a credit institution, the home Member State decides which Directive should apply to money claims: the above-mentioned Directive or the Directive governing deposit-guarantee schemes. No claim in respect of a single amount is eligible for compensation under both Directives. The Directive sets a Community minimum level of compensation per investor, in principle of ECU 20 000, while at the same time authorising Member States to provide for a higher level of compensation if they so wish. However, certain categories of investors may be excluded by Member States from the scheme's coverage or may be afforded a lower level of coverage. The arrangements for organising and financing schemes are left to the discretion of the Member States. Procedures are to be followed where an investment firm fails to comply with the obligations incumbent on it as a member of a scheme (going as far as exclusion). The coverage applies to the investor's aggregate claim, irrespective of the number of accounts, the currency and the location in the Community. In principle, joint accounts are divided equally among the investors. An investor's claim must be met within three months of the date of establishment of the non-availability of the funds. Investors may be liable to submit their claims within six months of this same date. The fact that this period has expired may not, however, be invoked by the scheme to deny cover to an investor. The Commission is required to submit a report on the application of this Directive by 31 December 1999 at latest. Source: European Commission - Info92 08/95