Financial services: investor-compensation schemes

1993/0471(COD) - 23/10/1995 - Council position

The Council's common position adopted the approach retained by the Commission in its amended proposal, in other words bringing the provisions into line with the corresponding provisions in Directive 94 /19/EC on deposit guarantee schemes. The Council retained Parliament's amendments concerning, in particular: the concept of "investment firm", the addition of the definition of a "branch", the application of the home country control principle, the inclusion of a reference to the return to investors of "negotiated" instruments belonging to them and the need to work actively to combat financial fraud. Furthermore, with a view to ensuring as much coherence as possible with Directive 94/19/EC and improving the transparency of the text, the Council included the following provisions in its common position: - transitional measures were authorised in certain cases, increasing the level of cover from ECU 15 000 to ECU 20 000; - if a compensation scheme had notified one of its members of its intention to exclude it, it should nevertheless guarantee its cover during the period of notice; - the host Member State may, during a limited period, prevent branches of investment firms of other Member States from offering a higher level of investment cover than that proposed by the local system; - the supplementary cover linked to the supplementary scheme would continue to apply even if the investment firm was excluded from the scheme in the host Member State where supplementary cover was sought; - the Member States may exclude from cover funds (but not instruments) in currencies other than those of the Member States or the ecu; - in exceptional circumstances, a compensation scheme may apply to the competent authorities for a three-month extension of the time limit fixed for paying investors' claims, which was normally restricted to three months; - if an investor was charged with laundering money, the compensation scheme may suspend any payment of a claim by this investor pending a judgement; - Member States should limit the use in advertising of information relating to compensation schemes; - Member States should ensure that investors had the right to bring actions against compensation schemes; - the definition of the concept of "joint investment business" replaced that of "joint investment"; - in order to represent an acceptable alternative to an investment compensation scheme, systems based on solidarity which guaranteed the solvency of certain credit establishments should respect certain conditions; - the minimum period that the compensation scheme may fix for the submission of claims may not be less than five months.