

The future of hedge funds and derivatives

2003/2082(INI) - 15/01/2004 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own initiative report drafted by John PURVIS (EPP-ED, UK) on hedge funds and derivatives. (Please see the summary of 02/12/03.) Parliament felt that it was timely to develop a light handed and appropriate EU-wide regulatory regime for SAIVs which will help to attract them to locate in the EU and provide the benefits of a common European passport by means of mutual recognition. Furthermore, the regulator must verify that the promoters, directors and managers of a SAIV are fit and proper persons to be entrusted with responsibility for the savings and investment funds of third parties and are adequately expert and well-informed in the investment techniques and instruments employed in that undertaking. The risks inherent in any SAIV must be clearly advertised and communicated to investors, the advertised style of investment and level of risk must not be exceeded and risk should be properly monitored and controlled. The SAIVs regime should concentrate most particularly on the distribution and sales methods employed, so as to avoid investment in them by persons for whom they are inappropriate. It is essential to provide individuals investing in SAIVs with a clear and simple risk description and warning to be acknowledged by them as representing their understanding of the risks involved. Parliament stated that it expected the Commission to take action against Member States which, by differential taxation, additional regulatory requirements or other means, discriminate against SAIVs domiciled in other Member States. With regard to derivatives, Parliament asked the Commission to draw together the various relevant items of EU legislation in order to facilitate comprehensive legislative treatment (inter alia) of derivatives. The latter should also instigate a means of measuring and monitoring global exposure in derivatives and the accumulated credit risk (including settlement risk) of credit derivatives. Only those with appropriate capital cover may deal in derivatives, in order that, in periods of crisis, losses do not have to be borne by taxpayers. Parliament did recognise that significant regulation and regulatory structures already exist to cover derivatives. Reporting requirements must have adequate product coverage and relevant regulators should have the resources and expertise to assess this data effectively. Parliament went on to urge accountancy and investment management associations to require a high level of understanding of derivatives, their mechanisms and risks, as part of their qualification criteria. In addition, derivatives exposure (including timing gaps), which gives a fair and consistent indication of a company's true condition, should be a required disclosure in the accounts of European companies. Derivative valuations should take into account, by way of contingency reserve, the additional risks which could pertain in difficult market conditions and relative to the credit standing of counter parties.