



Small investors to be shielded against reckless risk taking by investment funds

Committees Committee on Economic and Monetary Affairs [25-02-2014 - 16:47]

Small investors would be better protected against investment funds that take excessive or unnecessary risks with their money, under rules agreed by negotiators from the European Parliament and member states on Tuesday. The draft text clarifies who is liable for mismanagement of funds and tailors fund managers' remuneration rules to encourage them to take reasonable risks and a long-run view.

EU-regulated undertakings for collective investments in transferable securities (UCITS), which gather assets from small investors and pool them to buy bonds, shares or other financial products currently control almost €9,000 billion in funds.

Pay

According to the agreement, fund managers would be required not to take investment risks beyond what is accepted by their UCITS investors. At least half of the variable part of their remuneration would be paid in the assets of their UCITS, unless the management of UCITS accounts for less than half of the total portfolio. Payment of at least a further 40% of this variable remuneration would be deferred for at least 3 years, to encourage managers to take a long-run view.

European Securities and Markets Authority (ESMA) should prepare guidelines on to whom in the company the pay policy applies.

Depositary

To clarify who is responsible for small investors' funds, the agreed rules would require UCITS or UCITS management company to appoint a single "depositary" (credit institution or authorised legal entity with a proper amount of own funds), to oversee investor payments to the fund and act as a custodian of its assets. No management company should act as both a management company and depositary.

Depositaries would be required not to act without authorisation and would have to keep investors' money clearly separate from their own assets. They would be barred from investing these funds on their own account. Depositaries could also be deemed liable for any loss of assets, even if they delegate custody of them to a third party.

Penalties

All EU member states would have to provide in their laws for harmonised administrative penalties for funds that fail to comply with national UCITS authorisation and reporting rules. Member states may decide not to lay down rules for administrative penalties where the breaches are subject to at least equivalent criminal; penalties at national level until 24 months after the deadline for transposition of this directive.

These penalties would include, among others, a suspension of authorisation and temporary or permanent ban from fund management for the perpetrators.

Companies would be fined up to 10% of their annual turnover or 5 million euro and individuals up to 5 million euro. The sanctions would also consist of fines up to twice the amount of profits made.

Press release

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