Press release

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

Committees Committee on Economic and Monetary Affairs
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Small investors will be better protected against investment funds that take excessive or unnecessary risks with their money, under rules approved by Parliament on Tuesday. These rules clarify who is liable for mismanagement of funds and tailor fund managers' remuneration rules to encourage them to take reasonable risks and a long-run view.

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 manage, around 85% of the European investment fund sector's assets (European Commission figures).

Depositary

To clarify who is responsible for small investors' funds, the agreed rules will require UCITS fund or UCITS fund manager to appoint a single independent "depositary" (credit institution or authorised legal entity with sufficient 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 will be required not to act without authorisation and will have to keep investors' money clearly separate from their own assets. They will be barred from investing these funds on their own account. Depositaries will also be deemed liable for any loss of assets, even if they delegate custody of them to a third party.

Pay

Fund managers will 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 will 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 40% of variable remuneration will be deferred for at least 3 years. Where the variable share of remuneration is particularly high, at least 60% of this share is to be deferred, to encourage managers to take a long-run view.

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

Penalties and whistle blowers

EU member states will have to provide in their laws for harmonised administrative penalties for funds that fail to comply with organisational, risk management, and other requirements. Member states may decide not to lay down rules for administrative penalties where the breaches are subject to penalties at national level but they will have to inform the European Commission of the relevant criminal law provisions.

Administrative penalties will include issuing a public statement identifying the person responsible and the nature of the breach,suspending authorisation and temporarily or permanently banning the perpetrators from fund management.

Companies may be also fined up to 10% of their annual turnover or €5 million. Individuals may be fined up to €5 million. Alternatively, individuals and companies may be fined up to twice the amount of profits made, even if that exceeds the €5 million or 10%.

Parliament inserted a provision requiring member states and ESMA to establish effective and reliable mechanisms to encourage reporting of potential or actual breaches to competent authorities, including secure communication channels for whistle blowers.

Next steps

The new rules still need to be officially endorsed by the member states, which will have 18 months to put them into effect.

The text was approved by 607 votes to 28, with 34 abstentions

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