



Plenary sitting

A8-0362/2018

9.11.2018

*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (COM(2018)0099 – C8-0102/2018 – 2018/0047(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Caroline Nagtegaal

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
PROCEDURE – COMMITTEE RESPONSIBLE.....	9
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	10

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (COM(2018)0099 – C8-0102/2018 – 2018/0047(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0099),
 - having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0102/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2018¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0362/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2018/0099 (COD)

¹ OJ C 367, 10.10.2018, p. 65.

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■.

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2014/65/EU on markets in financial instruments

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Crowdfunding *is a financial technology solution that provides SMEs, and, in particular, start-ups and scale-ups, with alternative access to finance, in order to promote innovative entrepreneurship in the Union, thereby strengthening the Capital Markets Union. That in turn contributes to a more diversified financial system that is less dependent on bank financing, therefore limiting systemic and concentration risks. Other benefits of promoting innovative entrepreneurship through crowdfunding are the unlocking of frozen capital for investment in new and innovative projects, the acceleration of efficient allocation of resources and a diversification of assets.*
- (2) Under Regulation (EU) XXX/XXX of the European Parliament and of the Council³ legal persons can choose to apply to the *national competent authority* for an authorisation as crowdfunding service providers.
- (3) Regulation (EU) XXX/XXXX [Regulation on European crowdfunding service providers] provides for uniform, proportionate and directly applicable requirements for authorisation and supervision of crowdfunding service providers.
- (4) To provide legal certainty as to the scope of persons and activities falling within the respective scope of Regulation (EU) XXX/XXXX and of Directive 2014/65/EU of the

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ Regulation (EU) XXX/XXX of the European Parliament and of the Council on European crowdfunding service providers (OJ L [...], [...], p. [...]).

European Parliament and of the Council¹, and in order to avoid that the same activity is subject to different authorisations within the Union, legal persons authorised as crowdfunding service providers under Regulation (EU) XXX/XXXX [Regulation on European crowdfunding service providers] should be excluded from the scope of Directive 2014/65/EU.

- (5) As the amendment provided for in this Directive is directly linked to Regulation (EU) XXX/XXXX [Regulation on crowdfunding services in the European Union], the date from which Member States are to apply the national measures transposing that amendment should be deferred in order to coincide with the date of application laid down in that Regulation.
- (5a) *Virtual currencies are used by retail investors as substitutes for other assets. Unlike other financial instruments, virtual currencies are largely unregulated at present. As a consequence, markets for virtual currencies lack transparency, can be prone to market abuse and suffer from a lack of basic investor protection. The Commission should keep virtual currencies under review and propose clear guidance setting out the conditions under which virtual currencies could be classified as financial instruments and, if necessary, add virtual currencies to the list of financial instruments, as a new category. If the Commission concludes that it is appropriate to regulate virtual currencies, it should submit to the European Parliament and to the Council a proposal on the same.*

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Article 2(1) of Directive 2014/65/EU, the following point (p) is added:

“(p) crowdfunding service providers as defined in Article 3(1)(c) of Regulation (EU) XXX/XXX of the European Parliament and of the Council* *and legal persons providing crowdfunding services in accordance with national law, as long as they are below the threshold of Article 2(d) of Regulation (EU) XXX/XXX of the European Parliament and of the Council**.”

* Regulation (EU) XXX/XXX of the European Parliament and of the Council on European crowdfunding service providers (OJ L [...], [...], p. [...]).”

Article 2

1. Member States shall adopt and publish, by [Publications Office: 6 months from entry into force of the Crowdfunding Regulation], the laws, regulations and administrative provisions necessary to comply with this Directive.

¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

Members States shall apply those measures from [Publications Office: date of entry into application of the Crowdfunding Regulation].

2. Member States shall communicate to the Commission and to ESMA the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Markets in financial instruments		
References	COM(2018)0099 – C8-0102/2018 – 2018/0047(COD)		
Date submitted to Parliament	7.3.2018		
Committee responsible Date announced in plenary	ECON 16.4.2018		
Committees asked for opinions Date announced in plenary	ITRE 16.4.2018	IMCO 16.4.2018	JURI 16.4.2018
Not delivering opinions Date of decision	ITRE 24.4.2018	IMCO 23.4.2018	JURI 27.3.2018
Rapporteurs Date appointed	Caroline Nagtegaal 31.5.2018		
Discussed in committee	29.8.2018	9.10.2018	
Date adopted	5.11.2018		
Result of final vote	+: –: 0:	41 2 0	
Members present for the final vote	Pervenche Berès, David Coburn, Markus Ferber, Jonás Fernández, Stefan Gehrold, Roberto Gualtieri, Gunnar Hökmark, Danuta Maria Hübner, Petr Ježek, Philippe Lamberts, Bernd Lucke, Ivana Maletić, Marisa Matias, Gabriel Mato, Caroline Nagtegaal, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Martin Schirdewan, Kay Swinburne, Paul Tang, Ramon Tremosa i Balcells, Marco Valli, Jakob von Weizsäcker		
Substitutes present for the final vote	Richard Corbett, Mady Delvaux, Bas Eickhout, Ashley Fox, Eva Joly, Thomas Mann, Eva Maydell, Luigi Morgano, Lieve Wierinck		
Substitutes under Rule 200(2) present for the final vote	Tiziana Beghin, Esther de Lange, John Flack, Aleksander Gabelic, Anna Hedh, Agnes Jongerius, Syed Kamall, Ricardo Serrão Santos, Tom Vandenkendelaere, Roberts Zīle		
Date tabled	9.11.2018		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

41	+
ALDE	Petr Ježek, Caroline Nagtegaal, Ramon Tremosa i Balcells, Lieve Wierinck
ECR	John Flack, Ashley Fox, Syed Kamall, Bernd Lucke, Kay Swinburne, Roberts Zīle
EFDD	Tiziana Beghin, David Coburn, Marco Valli
PPE	Markus Ferber, Stefan Gehroid, Gunnar Hökmark, Danuta Maria Hübner, Esther de Lange, Ivana Maletić, Thomas Mann, Gabriel Mato, Eva Maydell, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Tom Vandenkendelaere
S&D	Pervenche Berès, Richard Corbett, Mady Delvaux, Jonás Fernández, Aleksander Gabelic, Roberto Gualtieri, Anna Hedh, Agnes Jongerius, Luigi Morgano, Ricardo Serrão Santos, Paul Tang, Jakob von Weizsäcker
VERTS/ALE	Bas Eickhout, Eva Joly, Philippe Lamberts

2	-
GUE/NGL	Marisa Matias, Martin Schirdewan

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention