



Directive 97/9/EC on Investor Compensation Schemes

9-10 April 2019

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Background

- ❑ *The Directive on Investment Compensation Schemes adopted in 1997 (97/9/EC) is a minimum harmonisation measure.*
- ❑ *It complemented the Investment Services Directive (93/22/EEC) in establishing the single market in investment services, repealed by MiFID (Directive 2004/39/EC).*
- ❑ *The Commission proposed to amend the Directive in July 2010 but decided to withdraw the proposal in March 2015.*

Directive 97/9/EC: main objective

The Directive protects investors' money and financial instruments where an investment firm is unable to return them to investors (essentially retail investors) due to insolvency or default events.

This includes protection against the risk of fraudulent misappropriation (or loss in the event of a default derived from errors, negligence or problems in the firms' systems and controls) concerning assets held on behalf of the clients.

It does not cover investment risk, such as when an investor has bought stocks which then fall in value.

Investor compensation schemes

- ❑ **Trigger:** *Investment firm unable to return monies or instruments for reasons directly related to its financial situation (Article 2(2))*
- ❑ **Minimum coverage level:** *20 000 € (Article 4(1))*
- ❑ **Compensation deadline:** *as soon as possible; in any case, within 3 months after the establishment of the eligibility and amount of the claim (Article 9)*
- ❑ **Funding:** *Participation of investment firms is mandatory (Article 2(1)); The cost must "in principle be borne by investment firms themselves" (recital 23).*

Unsuccessful attempt to revise the Directive

- ❑ **Commission** – *Legislative proposal – 12 July 2010*
- ❑ **Parliament** – *First reading – 5 July 2011*
- ❑ **Council** – *General approach – 23 November 2011*
- ❑ *However, the positions of the co-legislators were quite far apart. Political negotiations (trilogues) have never started.*
- ❑ *March 2015 – Commission **withdrew** the proposal of the revised Directive.*

State of play

- ❑ *Investor protection is at the heart of the Capital Markets Union;*
- ❑ *Currently, no intentions to revise the Directive;*
- ❑ *Enhanced investor protection measures in MiFID II and PRIIPS Regulation;*

*More information available at
https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/consumer-financial-services/investor-compensation-schemes_en#eu-rules-to-protect-investors*