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## COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	20 December 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2017) 8681 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 20.12.2017 amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards their dates of application

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Delegations will find attached document C(2017) 8681 final.

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Encl.: C(2017) 8681 final



Brussels, 20.12.2017  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 20.12.2017**

**amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards their dates of application**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Directive (EU) 2016/97 of 20 January 2016 on insurance distribution ("IDD") replaces Directive 2002/92/EC of 9 December 2002 on insurance mediation. It provides an updated harmonised legal framework governing the rules applicable to the distribution of insurance and reinsurance products, including insurance-based investment products.

On the basis of the delegated powers conferred to the Commission by Articles 25, 28, 29 and 30 of the IDD, the Commission adopted on 21 September 2017 two Delegated Regulations supplementing IDD with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (POG Regulation) and to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products (IBIP Regulation).

The provisions of those delegated Regulations shall be applicable at the same time as the laws, regulations and administrative provisions necessary to comply with the provisions of IDD. Therefore due to the new date application, as proposed by the Commission in its proposal COM(2017)792, it is necessary to adapt the date of application of those two delegated Regulations.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The changes proposed in this amending Delegated Regulation are not of substantial nature, but aim to align the date of application of the two amended Delegated Regulations to the new date of application of IDD.

A Commission proposal has been made to change the date of application of IDD as consequence of a request of the European Parliament and a number of Member States, in order to give more time to the relevant market participants to implement the technical and organisational changes required in order to comply with the Delegated Regulations and the provisions of the IDD at the same time, notwithstanding the Commission's view that the industry has already been given considerable time to adapt.

According to the European Parliament and a number of Member States, the extended application will allow the insurance sector, which includes small operators such as one-person distribution businesses and small-scale insurance, to better prepare for a correct and effective implementation of IDD with the full knowledge of the two Delegated Regulations and the relevant national transposition measures, ensuring legal certainty for all the addressees.

No consultations of EIOPA or the relevant stakeholders were conducted prior to the adoption of the act due to the non-substantial nature of the changes and due to the urgency of ensuring legal certainty.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Only one amendment is proposed for each delegated Regulations, which is for both the alignment of the dates of application with the amended date of application of Directive (EU) 2016/97.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 20.12.2017**

**amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards their dates of application**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution<sup>1</sup>, and in particular Article 25(2), Article 28(4), Article 29(4) and (5) and Article 30(6) thereof,

Whereas:

- (1) Directive (EU) 2016/97 harmonises national provisions on insurance and reinsurance distribution and empowers the Commission to adopt delegated acts to further specify criteria and practical details as regards conduct of business rules applicable to the distribution of the insurance-based investment products and as regards product oversight and governance requirements for insurance undertakings and insurance distributors. On 21 September 2017, the Commission adopted Commission Delegated Regulation (EU) 2017/2358<sup>2</sup> and Commission Delegated Regulation (EU) 2017/2359<sup>3</sup> on the basis of those empowerments.
- (2) In order to enable competent authorities and insurance professionals to better adapt to the requirements laid down in the two Delegated Regulations referred to in the first recital, the date of application of those Delegated Regulations should be aligned with the date from which Member States are to apply the measures necessary to comply with Directive (EU) 2016/97, as laid down in Article 42(1) of that Directive,

HAS ADOPTED THIS REGULATION:

*Article 1*

*Amendment to Commission Delegated Regulation (EU) 2017/2358*

In Article 13 of Commission Delegated Regulation (EU) 2017/2358, the second paragraph is replaced by the following:

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<sup>1</sup> OJ L 26, 2.2.2016, p. 19.

<sup>2</sup> Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341 du 20.12.2017, p. 1.).

<sup>3</sup> Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of the insurance-based investment products (OJ L 341 of 20.12.2017, p. 8.).

"It shall apply from the date from which Member States are to apply the measures referred to in the first subparagraph of Article 42(1) of Directive (EU) 2016/97."

## *Article 2*

### *Amendment to Commission Delegated Regulation (EU) 2017/2359*

In Article 20 of Commission Delegated Regulation (EU) 2017/2359, the second paragraph is replaced by the following:

"It shall apply from the date from which Member States are to apply the measures referred to in the first subparagraph of Article 42(1) of Directive (EU) 2016/97."

## *Article 3*

### *Entry into force*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20.12.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*