Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1125/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2014 No. 1125 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Delegated Regulation (EU) No 1125/2014 of 19 September 2014 supplementing Directive 2014/17/EU of the European Parliament and of the Council with regard to regulatory technical standards on the minimum monetary amount of the professional indemnity insurance or comparable guarantee to be held by credit intermediaries (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 1125/2014

of 19 September 2014

supplementing Directive 2014/17/EU of the European Parliament and of the Council with regard to regulatory technical standards on the minimum monetary amount of the professional indemnity insurance or comparable guarantee to be held by credit intermediaries

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directive 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010[(1)], and in particular the second subparagraph of Article 29(2)(a) thereof,

Whereas:

(1) Article 29(2)(a) of Directive 2014/17/EU requires credit intemediaries to hold a professional indemnity insurance ('PII') covering the territories in which they offer services, or some other comparable guarantee against liability arising from professional negligence.

(2) While the requirement for credit intermediaries in the mortgages sector to hold PII or comparable guarantee is a novel regulatory requirement at Union level, that requirement exists at national level in certain Member States. Indeed, those jurisdictions with experience in PII requirements exhibit the highest shares of intermediated mortgage sales across the Union, a history of significant market penetration by credit intermediaries and, consequently, also follow a more specific approach to regulating that sector. Therefore, Union rules on the minimum amount of PII or comparable guarantee should be based on the experience of those jurisdictions when it comes to determining the most suitable approach for calculating that minimum amount.

(3) That approach would be appropriate for the Union as a whole, including for jurisdictions with smaller mortgage markets. This is because claims against credit intermediaries are not correlated to the underlying mortgage credit amount, which may vary widely across the Union, but are based on professional negligence, the resultant detriment of which vary much less.

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(4) The third subparagraph of Article 29(2)(a) of Directive 2014/17/EU requires a review of the minimum monetary amount of the professional indemnity insurance or comparable guarantee at regular intervals. Consequently, it could be possible in the future that other options or methodologies become more appropriate for determining the level of those obligations for credit intermediaries, especially with the availability of further historical data and increased supervisory experience related to the functioning of the professional indemnity insurance.

(5) For a clear stipulation of the minimum monetary amount of the PII or comparable guarantee and to ensure a more harmonised approach throughout the Union, it would be appropriate to specify the application of that minimum amount per claim and per year. Directive 2002/92/EC of the European Parliament and of the Council[(2)] lays down a requirement for a per-year-and-per-claim minimum amount of PII or comparable guarantee. Consequently, most intermediaries carrying out insurance intermediation, and their insurers, are familiar with that approach and therefore it is appropriate to establish a similar system for credit intermediaries. Further, the majority of Member States whose national laws require professional indemnity insurance by credit intermediaries also use such an approach. Therefore, rules on PII for credit intermediaries should also propose such a per-year-and-per-claim distinction.

(6) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

(7) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

The minimum monetary amount of the professional indemnity insurance or comparable guarantee required to be held by credit intermediaries as referred to in the first subparagraph of Article 29(2)(a) of Directive 2014/17/EU shall be:

(a) EUR 460 000 for each individual claim;

(b) in aggregate, EUR 750 000 per calendar year for all claims.

Article 2

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.