Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018 amending Directive (EU) 2016/97 as regards the date of application of Member States' transposition measures (Text with EEA relevance)

DIRECTIVE (EU) 2018/411 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 March 2018

amending Directive (EU) 2016/97 as regards the date of application of Member States' transposition measures

(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) and Article 62 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) Directive (EU) 2016/97 of the European Parliament and of the Council[(2)] harmonises national provisions concerning the distribution of insurance and reinsurance products and insurance-based investment products by insurance intermediaries and insurance companies, and their employees, and by ancillary insurance intermediaries in the Union.

(2) Pursuant to Article 42(1) of Directive (EU) 2016/97, Member States are to bring the laws, regulations and administrative provisions necessary to comply with that Directive into force by 23 February 2018.

(3) On 21 September 2017, the Commission adopted Delegated Regulations (EU) 2017/2358[(3)] and (EU) 2017/2359[(4)], supplementing Directive (EU) 2016/97.

(4) In its decisions not to raise any objections to Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359, the European Parliament invited the Commission to adopt a legislative proposal setting 1 October 2018, rather than 23 February 2018, as the date of application of the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2016/97. The European Parliament substantiated that request by highlighting the need to give insurance undertakings and insurance distributors more time to better prepare for a correct and effective implementation of Directive (EU) 2016/97 and to implement the necessary technical and organisational changes to comply with Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359.

(5) Directive (EU) 2016/97 should therefore be amended accordingly.

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(6) Given the very short period of time left before the national laws, regulations and administrative provisions necessary to comply with Directive (EU) 2016/97 are to be brought into force, and in order to ensure legal certainty and avoid potential market disruption, this Directive should enter into force as a matter of urgency and should apply, with retroactive effect, from 23 February 2018.

(7) Consequently, it is also justified to apply in this case the exception for urgent cases provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive (EU) 2016/97 is amended as follows:

(1) in Article 42(1), the first subparagraph is replaced by the following subparagraphs:

1. By 1 July 2018, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

Member States shall apply those measures from 1 October 2018 at the latest.;

(2) in Article 44, the first paragraph is replaced by the following:

Directive 2002/92/EC, as amended by the Directives listed in Part A of Annex II to this Directive, is repealed with effect from 1 October 2018, without prejudice to the obligations of the Member States relating to the time limits for the transposition into national law of the Directives set out in Part B of Annex II to this Directive..

Article 2

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

It shall apply, with retroactive effect, from 23 February 2018.

Article 3

This Directive is addressed to the Member States.