

Directive – 2022/2556

Information Note from the Department of Finance

1. Directive Title

Directive (EU) 2022/2556 of the European Parliament and of the Council of 14 December 2022 amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector

2. Transposition Deadline

17/01/2025

3. Anticipated Transposition date

01/10/2024

4. COM number of original Commission proposal

COM/2020/596 final

5. Department with primary responsibility

Department of Finance

6. Other Departments involved

N/A

7. Background to, short summary and aim of the directive

Background

This Directive is part of the EU Commission's Digital Finance Package, which is a package of measures developed to further enable and support the potential of digital finance in terms of innovation and competition while mitigating risks, and published as part of the Digital Operational Resilience Act (DORA).

Summary

This Directive amends the various operational risk or risk management requirements in Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341, by introducing precise cross-references in those provisions and thus attain legal clarity.

Aim

The amendments made by this directive address digital risks to financial entities stemming from an increased use of information and communication technology (ICT) in the provision and consumption of financial services.

8. Legal basis of the Directive

Articles 53(1) and 114 of the Treaty on the Functioning of the European Union (TFEU).

9. Category of Directive

This is a new Directive of small significance.

10. Implications for Ireland (including details of regulatory impact assessments carried out in Ireland, if required)

The Directive aims to mitigate against digital operational risks and ensure resilience across the EU financial sector. A regulatory impact assessment has been carried out on the Digital Operational Resilience Act.

11. Impact on the public

This Directive will ensure higher levels of digital operational resilience of the EU financial system.

12. Estimated cost to the Exchequer

Transposition of the directive will not impose an additional cost to the Exchequer.

13. Consequences and possible costs, arising from non-transposition

Under article 258 of the TFEU, if the European Commission considers that a Member State has failed to fulfil an obligation under the Treaties – in this case failure to transpose a directive, it must deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

The European Commission may bring a case before the Court of Justice of the European Union under article 260(3) of the TFEU on the grounds that a Member State has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure. The Commission may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

14. Have consultations taken place with stakeholders or are there any plans to do so?

Consultation is not required for these amendments.

15. Are there areas of the Directive where Member States have discretion on implementation?

N/A

16. Does Ireland intend to seek any derogations from the provisions of the Directive?

N/A

17. Offences or penalties (if any) to be created by the transposition of the Directive

N/A

18. Competent authorities or market surveillance authorities (if any) to be designated by the transposition of the Directive

The Central Bank of Ireland will be designated as the competent authority in the State for the purposes of this regulation.

19. Consequences for national legislation?

N/A

20. Are there any parts of the Directive which are planned to be transposed by primary legislation, and if so, which parts?

The transposition will be completed through secondary legislation.

21. When is it anticipated that the draft statutory instrument(s) transposing this Directive will be available?

Summer 2024

22. Contact name, telephone number and e-mail address of official in Department with primary responsibility