EUROPEAN COMMISSION

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Dear Chair,

The Commission would like to thank the Assembleia da República for its Opinion on the proposal amending Directive 2014/65/EU on markets in financial instruments (MiFID II) and Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) {COM(2017) 537 final}.

The proposal to strengthen the system of financial supervision forms part of the Commission's efforts to promote further integration of the single financial services market and, in particular, to further develop the Capital Markets Union. A single financial services market and capital market integration are the main pillars to improve the competitiveness of the European Union's financial sector and the European economy as a whole. Therefore, it is a priority for this Commission to put in place all the necessary building blocks for a Capital Markets Union by 2019.

Market integration requires supervisory integration to be developed in parallel because the provision of financial services across borders is more efficient, effective and less prone to cause stability concerns when activities are regulated and supervised in a consistent manner in all the Member States of the European Union. This is why the review of the European system of financial supervision, which comprises also the European Supervisory Authorities, is such an important part of the Capital Markets Union project.

The proposal aims to enhance the tools and competences of the European Supervisory Authorities to promote further supervisory integration. To that end, the proposal enhances the European Insurance and Occupational Pensions Authority's role in order to achieve greater supervisory convergence in the area of internal models, in particular for insurance groups present in several Member States, whilst leaving the power to approve such applications with the supervisors and, as applicable, the supervisory college. The principle of supervisory approval for internal models is in fact already laid

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down in the Solvency II Directive. Moreover, the proposal amends the Directive on markets in financial instruments II to transfer the powers to authorise and supervise data reporting service providers and the transferral of such powers from national authorities to the European Securities and Markets Authorities.

With regard to the Assembleia da República's concern on whether the Directive complies with the principle of subsidiarity, the Commission recalls that most of the issues addressed by the Directive on markets in financial instruments were already covered by existing Union acquis as well as by the Directive on markets in financial instruments I. Furthermore, as financial markets have become inherently cross-border in nature, the conditions under which firms and operators can compete in this context need to become common across borders, whether this regards rules on pre-and post-trade transparency, investor protection or the assessment and control of risks by market participants. In this respect, action was warranted at Union level to update and modify the regulatory framework laid out by the Directive on markets in financial instruments I in order to take into account developments in financial markets since its implementation. As a result of this market integration, national intervention would be far less efficient and would lead to the fragmentation of markets, resulting in regulatory arbitrage and distortion of competition. For instance, different levels of market transparency or investor protection across Member States would fragment markets, compromise liquidity and efficiency.

The Commission hopes that these clarifications address the issues raised by the Assembleia da República and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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