

Question ID

2025_7317

Legal act

Directive 2015/2366/EU (PSD2)

Topic

Monetary amount of the professional indemnity insurance

Article

5

Paragraph

4

COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations

EBA/GL/2017/08 - Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance

Article/Paragraph

5.4

Name of institution / submitter

Finantsinspektsioon

Country of incorporation / residence

Estonia

Type of submitter

Competent authority

Subject matter

Minimum monetary amount of professional indemnity insurance in ongoing supervision

Question

Are points 5.4, 5.7, 5.10 and 7.4 of EBA/GL/2017/08 guideline applicable only while applying for authorisation or in ongoing supervision as well? Is 50 000 per indicator minimal amount after

authorisation procedure/first year as well?

Background on the question

Directive (EU) 2015/2366 (PSD2) article 5 (2 and 3) states that Member States shall require undertakings that apply for authorisation to provide payment services as referred to in point (7) and (8) of Annex I, as a condition of their authorisation, to hold a professional indemnity insurance.

PSD2 article 5 (4) states that by 13 January 2017, EBA shall, after consulting all relevant stakeholders, including those in the payment services market, reflecting all interests involved, issue guidelines, addressed to the competent authorities, in accordance with Article 16 of Regulation (EU) No 1093/2010 on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in paragraphs 2 and 3.

EBA published 07.07.2017 guidelines "Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under Article 5(4) of Directive (EU) 2015/2366 (PSD2)" (EBA/GL/2017/08).

In calculations the undertaking should use previous 12 months data. For undertakings that have not offered services at any time in the previous 12 months, competent authorities should use data forecasted by the undertaking for the purpose its application for authorisation. If the undertaking does not provide any forecasts relating to the data, or if the amount resulting from the application of the forecasted number of data is lower than 50 000, competent authorities should set to 50 000 the value for indicator in the formula.

EBA also has developed an Excel tool for calculating the minimum monetary amount of professional indemnity insurance and published that on its website: <https://www.eba.europa.eu/publications-and-media/press-releases/eba-publishes-final-guidelines-professional-indemnity>.

Situation: Undertaking has applied for an authorisation to provide payment services as referred to in point (7) of Annex I of PSD2. Undertaking is not engaged in any other business. Forecasts are rather humble, so minimum monetary amount of professional indemnity insurance for the first year is calculated 150 000 eur (based on points 5.4, 5.7 and 7.4 of EBA/GL/2017/08 guideline).

Undertaking receives authorisation, start operations, but volumes are very small. By next review date (EBA/GL/2017/08 guidelines 9), for example after one year, undertaking has provided services in amount: number of initiated payment transactions in previous 12 months 15 units; value of initiated payment transitions 100 eur. Undertaking hasn't had any requests for refunds. As guidelines does not explicitly tell, that 50 000 per indicator is minimal amount after authorisation procedure as well, then reviewed total amount of minimum monetary amount of professional indemnity insurance for the next year for such undertaking is 46 eur (based on points 5.2, 5.5 and 7.1 of EBA/GL/2017/08 guideline). EBA Excel tool calculates 40 eur.

Submission date

24/01/2025

Final publishing date

03/10/2025

Final answer

Guidelines 5.4, 5.7, 5.10 and 7.4 of the Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under Article 5(4) of Directive (EU) 2015/2366 (PSD2) refer to cases where an undertaking has not offered services at any time in the previous 12 months and has not provided any forecasts for that period. This includes cases where the undertaking has applied for authorisation or has just been authorised but has not provided services for longer than 12 months.

Where an undertaking has offered services in the previous 12 months, guidelines 5.4, 5.7, 5.10 and 7.4 do not apply.

Status

Final Q&A

Answer prepared by

Answer prepared by the EBA.
