

Markets in financial instruments

2002/0269(COD) - 21/04/2004 - Final act

PURPOSE : to strengthen the capacity of the EU legislative framework to create a single market for investment services and regulated markets. **LEGISLATIVE ACT** : Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC. **CONTENT** : This Directive is a key element in the implementation of the Financial Services Action Plan. The main objectives of this Directive are: - the protection of investors and market integrity by establishing harmonised requirements governing the activities of authorised intermediaries; and - the promotion of fair, transparent, efficient and integrated financial markets: this will be furthered by the development of ground-rules governing the negotiation and execution of transactions in financial instruments on organised trading systems and marketplaces, and by investment firms. The directive establishes common regulatory requirements relating to investment firms wherever they are authorised in the Community and governing the functioning of regulated markets and other trading systems. The Directive will increase harmonisation of national rules and give investment firms an effective "single passport", which will allow them to operate throughout the European Union on the basis of authorisation in their home Member State. It will also ensure that investors enjoy a high level of protection when making use of investment firms, wherever they are located in the European Union. It seeks to establish, for the first time, a comprehensive regulatory framework governing the organised execution of investor transactions by exchanges, other multilateral trading systems and investment firms. The proposed directive will replace the previous investment services Directive, Directive 93/22/EEC, which laid down a regulatory framework which no longer provides an adequate response to pressing regulatory issues caused by evolving market structures and business and supervisory practices. The Directive introduces definitions of regulated market and MTF. These are closely aligned with each other to reflect the fact that they represent the same organised trading functionality. The definitions exclude bilateral systems where an investment firm enters into every trade on own account and not as a riskless counterparty interposed between the buyer and seller. The Directive covers undertakings the regular occupation or business of which is to provide investment services and/or perform investment activities on a professional basis. Its scope does not cover any person with a different professional activity. The Directive gives definitions of persons excluded from its scope. It should be noted that central banks and other bodies performing similar functions as well as public bodies charged with the management of the public debt are excluded. Member States' competent authorities must not grant authorisation where factors such as the content of programmes of operations, the geographical distribution or the activities actually carried on indicate clearly that an investment firm has opted for the legal system of one Member State for the purpose of evading the stricter standards in force in another Member State within the territory of which it intends to carry on or does carry on the greater part of its activities. Finally, the Directive imposes an effective "best execution" obligation to ensure that investment firms execute client orders on terms that are most favourable to the client. **ENTRY INTO FORCE** : 30/04/04. **DATE OF TRANSPOSITION** : 30/04/06.