Prudential supervision of credit institutions, life assurance and non-life insurance, UCITS: review of directives

1993/0468(COD) - 06/06/1994 - Council position

The common position only took over a small part of the Commission's amended proposal, which took account of the amendment adopted by the European Parliament. Furthermore, certain provisions of the text differed formally and in substance from the Commission proposal. The Council's amendments, without wishing to affect the aims of the proposal, were intended to: step up monitoring of financial undertakings by extending the scope of the directive; respect the principle of subsidiarity by giving Member States the flexibility needed to take account of the specific situations that existed in each Member State; facilitate the direct incorporation of new provisions in the framework directives to be amended. More specifically, the Council moved the text of Article 7 of the Commission proposal to Article 1 of the common position. A reference to the Ucits was added in light of the inclusion of Directive 85/611/EEC among the basic directives to be amended. - With regard to transparency in the grouping of undertakings to which a financial company was connected, the common position: introduced the term "close links" instead of "grouping"; clarified and extended the definition of the term "close links" in order to facilitate monitoring of a group by including natural persons, subsidiary undertakings of a subsidiary undertaking and sister companies permanently linked to one and the same person by a control relationship; extended the powers of the competent authorities and provided them with the ability to assess the information that the undertakings should provide on changes to the structure of the group to which they belonged; - In the context of Article 3 on the location of the head office of a financial undertaking, the situation of certain undertakings that did not have company status was taken into account; - With regard to the extension of the opportunities for the exchange of information between the supervising authorities and certain other qualified authorities (Article 4), solutions already in place in certain Member States, as well as the Ucits and "undertakings that took part in those activities" were expressly included in the scope of the directive; similarly, the specific situation of the monetary authorities and authorities responsible for the supervision of payment systems was given special consideration; Finally, the common position set out the scope of the requirement for account auditors to inform the competent authorities of irregularities detected within financial undertakings.