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

1993/0468(COD) - 29/06/1995 - Final act

PURPOSE: to modify the Framework Directives for the financial services sector, which comprises banks (Second Banking Directive), insurance (third-generation insurance Directives) and movable property (Investment Services Directive), with the objective of strengthening the powers of the supervisory authorities to make them better able to prevent fraud and other irregularities. LEGISLATIVE ACT : Directive 95/26/EC of the European Parliament and of the Council

amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239 /EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision.

CONTENT : The Directive makes the following provisions:

-when a financial undertaking forms part of a group, the structure of the group must be sufficiently transparent to allow adequate monitoring of that financial undertaking. To that end, sufficient information must be disclosed to the competent authorities at the time of initial authorisation;

-the Directive used the term "close links" instead of "grouping";

-the Directive clarifies and extends the definition of the term "close links" with a view to facilitating surveillance 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;

-the head offices of credit institutions and insurance undertakings should be situated in the same Member State as their registered offices. The situation of certain undertakings that did not have company status was taken into consideration;

- there are additions to the list of bodies with which the competent authorities could exchange confidential information concerning surveillance, by including authorities responsible for overseeing the bodies involved in the liquidation of financial undertakings and persons charged with carrying out the statutory audits of accounts;

-exchanges of information between, on the one hand, the competent authorities and, on the other, central banks and other bodies with a similar function in their capacity as monetary authorities and, where appropriate, other public authorities responsible for supervising payment systems are also authorized;

-the same obligation of professional secrecy on the authorities responsible for authorizing and supervising Ucits and the undertakings that take part in those activities and the same possibilities for exchanging information as those granted to the authorities responsible for authorizing and supervising credit institutions, investment firms and insurance undertakings, are included in Directive 85/611/EEC;

- an auditor has a duty to report promptly to the competent authorities, wherever, as provided for by this Directive, he becomes aware, while carrying out his tasks, of certain facts which are liable to have a serious effect on the financial situation or the administrative and accounting organization of a financial undertaking;

-the specific situation of monetary authorities and the authorities responsible for supervising payment systems is given special consideration.

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