Markets in financial instruments

2002/0269(COD) - 25/09/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Theresa VILLIERS (EPP-ED, UK) and made several amendments to the Commission's proposals. (Please see the document dated 02/09/03.) To expand on certain definitions, Parliament stated that systematic internalisation means the execution, on a systematic, regular and continuous basis, of: - orders up to a standard market size undertaken by any type of client or counterparty, - transactions in shares admitted to or included in trading on a regulated market, - transactions on own account or by means of matching with other client orders, - transactions within a system, a component of which is primarily aimed at facilitating the activities set out in the first and third points above; - transactions outside the rules or systems of a regulated market or MTF. Where executions in several securities are part of one transaction (such as portfolio transaction), the size of the total transaction will determine whether the transaction was of standard market size. Parliament also wanted investment firms exempted from the scope of Directive 93/6/EEC to have sufficient financial capacity, which entails: - minimum initial capital of EUR 50 000; - professional indemnity insurance covering the whole territory of the Community or some other comparable guarantee against liability arising from professional negligence, representing at least EUR 1 000 000 applying to each claim and in aggregate EUR 1 500 000 per year for all claims; or - a combination of the above points, in a form resulting in protection equivalent to one of them. On the question of conflict of interest, it must be left to investment firms, subject to regulatory oversight, to determine the appropriate mix of prevention, management and disclosure. The Commission must take into account the frequency of conflicts of interest (whether they occur regularly or in limited, individual cases) in different types of investment firms. Finally, Member States must require that investment firms implement effective procedures for monitoring execution quality. In assessing these procedures, account must be taken of the extent to which the procedures enable the firm to identify and correct recurrent inefficiencies in its execution practices. Member States must also ensure that investment firms inform their clients of any significant change to their execution policy, whereupon clients have the right to terminate any contractual arrangement.