

Company law: formation of public limited companies, maintenance and alteration of their capital (amend. Directive 77/91/EEC)

2004/0256(COD) - 29/10/2004 - Legislative proposal

PURPOSE : to facilitate capital related measures taken in public limited liability companies.

PROPOSED ACT : Directive of the European Parliament and of the Council.

CONTENT : this proposal is being presented to the European Parliament and the Council within the context of the fourth phase of the Simplification of the Legislation on the Internal Market, or SLIM process. Its main purpose is to seek a simplification of procedures and provisions in a bid to streamline European business efficiency and competitiveness, whilst at the same time protecting shareholders and creditors across Europe. The Second Company Law Directive was adopted in 1976. Its aim was, and has been, to co-ordinate national provisions applicable to public limited liability companies relating to the formation of companies, minimum share capital requirements, shareholder distribution, capital increase and capital reduction. The overall purpose of the Directive is to establish the right conditions to ensure that a company's capital is being correctly maintained in the interests of creditors. A further aim is to protect minority shareholder.

In order to streamline the Directive in line with the SLIM process the Commission proposes amending Directive in order to:

- Eliminate, under certain conditions, reporting requirements - such as share issuance for non-cash consideration, exclusion of pre-emptive rights;
- Facilitate company acquisitions of its own shares.
- Facilitate financial acquisition of its shares by a third party. And,
- Facilitate the streamlining of ownership in a company's share capital.

All of the aforementioned measures should help provide a basic harmonised legal procedure for creditors, under certain circumstances, in the context of capital reduction. Its eventual implementation will help modernise public limited liability companies and help them remain both efficient and competitive in the ever-evolving markets.