

Markets in financial instruments: extending the transposition deadline for Member States and the compliance date for firms

2005/0111(COD) - 05/04/2006 - Final act

PURPOSE: to extend the deadline for Member State transposition of Directive 2004/39/EC into national law. To change provisions relating to implementation measures.

LEGISLATIVE ACT: Directive 2006/31/EC of the European Parliament and of the Council amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines.

CONTENT: Directive 2004/39/EC states that the Member States are to adopt the laws, regulations and administrative provisions necessary to comply with it by 30 April 2006. However, a number of developments have occurred which make application of this transposition deadline difficult, if not impossible, both for the Member States and for industry. For example, in order to comply with the requirements of the Directive and national implementing legislation, investment firms and other regulated entities will have to introduce new information technology systems, new organisational structures and reporting and record-keeping procedures. This can only be done once the contents of the implementing measures have been adopted by the Commission and subsequently transposed into national legislation. Taking the above into account, this Act extends the deadline for Member States to transpose Directive 2004/39/EC. At the same time, the Directive also amends the aforementioned Directive in order to bring provisions relating to implementing measures in line with the wishes of the European Parliament and the Council.

The revised deadlines are as follows:

- The European Parliament will be given three months from the first transmission of draft amendments and implementing measures for its opinion and comment. In urgent cases this time frame can be shortened.
- Following 1 April 2008 any new technical provisions relating to this Directive will be done in accordance with Article 251 of the TEU.
- By 31 October 2007 the Commission will prepare a report on a possible extension of the Directive's scope concerning pre- and post-trade transparency obligation to transactions in classes of financial instruments other than shares.
- By 31 October 2008 the Commission will prepare a report on the application of Article 27.
- By 30 April 2008 the Commission will prepare a report on the continued appropriateness of certain exemptions for undertakings whose main business is dealing on own account in commodity derivatives. The report will also examine the content and form of proportionate requirements for the authorisation and supervision of such undertakings as investment firms as well as the appropriateness of rules concerning the appointment of tied agents.
- By 30 April 2008, the Commission will present a report on the state of the removal of obstacles which may prevent the consolidation, at a European level, of the information that trading venues are required to publish.

- By 31 October 2006, the Commission will prepare a report on the continued appropriateness of the requirements for professional indemnity insurance imposed on intermediaries under Community law.
- As from 1 November 2007, Directive 93/22/EC will be repealed.
- By 31 January 2007 the Member States will adopt the laws, regulations and administrative provisions necessary to comply with this Directive.
- By 1 November 2007, the Member States must apply these measures.
- Investment firms, regulated market or market operators and tied agents entered in a public register, who are already authorised and/or registered in their home Member State will be deemed authorised to continue their activities for the purpose of this Directive, provided that they comply with the provisions relevant to their sector, as set out in this Directive.

ENTRY INTO FORCE: 28 April 2006.