

Markets in financial instruments

2002/0269(COD) - 10/08/2006 - Implementing legislative act

ACT: Commission Regulation 1287/2006/EC implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading and defined terms for the purposes of that Directive.

CONTENT: Directive 2004/39/EC establishes the framework for a regulatory regime applying to the Community's financial markets. Amongst others this Regulation governs:

- operating conditions relating to an investment firms service performance;
- ancillary services and investment activities;
- organisational requirements for investment firms performing such services and activities;
- regulated markets;
- reporting requirements in respect of transactions in financial instruments;
- transparency requirements in respect of transactions in shares admitted to trading on a regulated market.

The purpose of this Regulation is to guarantee a harmonised regime in all of the EU Member States in order to promote market integration and the cross-border provision of investment and ancillary services. Indeed, provisions concerning certain aspects of record-keeping, transaction reporting, transparency and commodity derivatives do not interface often with national law. In providing fully harmonised transparency requirements and rules regulating transaction reporting, the Community is able to ensure equivalent market conditions and the smooth operation of securities markets across the EU.

To recall, Directive 2004/39/EC includes provisions ensuring that national competent authorities are properly informed about transactions in which they have a supervisory interest. In order to guarantee that businesses operating across borders are subject to the same reporting requirements, this Regulation establishes a single data set applicable to all investment firms. The measures have been designed in such a way that the competent authorities are in a position to carry out their obligations under the Directive as expeditiously and efficiently as possible.

This is a comprehensive implementing Regulation covering a wide range of related issues. In summary, this Regulation:

- Sets out and defines a number of terms. They are: commodity; issuer; Community issuer; third country issuer; normal trading hours; portfolio trade; relevant competent authority; trading venue; turnover and security financing transaction.
- Establishes provisions on transactions relating to an individual share in a portfolio trade and the weighted volume average price transaction.
- Sets out measures on references to “trading day” and references to transactions.

- Establishes provision on record-keeping, client orders and transactions.
- Establishes provisions on transaction reporting. More specifically, setting out conditions on determining the most relevant market in terms of liquidity; seeking alternative determination of the most relevant markets in terms of liquidity and establishing a list of financial instruments. It also sets out provisions on reporting channels; the content of a transaction report and the exchange of information on transactions.
- Establishes provisions on market transparency. For example, on pre-trade transparency obligations; waivers based on market model and the type of order or transaction and reference to negotiated transactions. In other matters the Regulation specifies the criteria for determining whether an investment firm is a systematic internaliser as well as measures on the determination of liquid shares and standard market shares.
- Establishes provisions on the admission of financial instruments to trading. This covers issues relating to transferable securities; units in collective investment undertakings and on derivatives.
- Establishes provisions concerning derivative financial instruments including the characteristic of other derivative financial instruments.
- Requires the Commission to re-examine the definition of “transaction” at least once every two years.
- Requires the Commission to re-examine provisions relating to criteria determining which instruments should be treated as having the characteristics of other derivative financial instruments.

ENTRY INTO FORCE: 22 September 2006. It shall apply from 1 November 2007.