

| Basic information  |                     |
|--|---------------------|
| <b>2005/0111(COD)</b><br><br>COD - Ordinary legislative procedure (ex-codecision procedure)<br>Directive                               | Procedure completed |
| Markets in financial instruments: extending the transposition deadline for Member States and the compliance date for firms             |                     |
| Amending Directive 2004/39/EC <a href="#">2002/0269(COD)</a>   |                     |
| <b>Subject</b><br><br>2.50.03 Securities and financial markets, stock exchange, CIUTS, investments<br>8.50.01 Implementation of EU law |                     |

| Key players                   |   |   |            |
|-------------------------------|---|---|------------|
| European Parliament           | Committee responsible   | Rapporteur                                    | Appointed  |
|                               | <b>ECON</b> Economic and Monetary Affairs                         | KAUPPI Pia-Noora (PPE-DE)                     | 04/07/2005 |
|                               | Committee for opinion   | Rapporteur for opinion                        | Appointed  |
|                               | <b>JURI</b> Legal Affairs   | The committee decided not to give an opinion. |            |
| Council of the European Union | Council configuration   | Meetings                                      | Date       |
|                               | Employment, Social Policy, Health and Consumer Affairs            | 2714  | 2006-03-10 |
| European Commission           | Commission DG   | Commissioner                                  |            |
|                               | Financial Stability, Financial Services and Capital Markets Union |   |            |

| Key events |   |  |         |
|------------|---|--|---------|
| Date       | Event   | Reference  | Summary |
| 14/06/2005 | Legislative proposal published                          | COM(2005)0253<br> | Summary |
| 22/06/2005 | Committee referral announced in Parliament, 1st reading |  |         |
| 22/11/2005 | Vote in committee, 1st reading                          |  | Summary |
| 24/11/2005 | Committee report tabled for plenary, 1st reading        | A6-0334/2005   |         |
|            |   |  |         |

|            |   |   |         |
|------------|---|---|---------|
| 12/12/2005 | Debate in Parliament                                  |   |         |
| 13/12/2005 | Decision by Parliament, 1st reading                   | T6-0498/2005  | Summary |
| 13/12/2005 | Results of vote in Parliament                         |  |         |
| 10/03/2006 | Act adopted by Council after Parliament's 1st reading |   |         |
| 05/04/2006 | Final act signed                                      |   |         |
| 05/04/2006 | End of procedure in Parliament                        |   |         |
| 27/04/2006 | Final act published in Official Journal               |   |         |

| Technical information             |  |
|-----------------------------------|--|
| <b>Procedure reference</b>        | 2005/0111(COD)   |
| <b>Procedure type</b>             | COD - Ordinary legislative procedure (ex-codecision procedure) |
| <b>Procedure subtype</b>          | Legislation  |
| <b>Legislative instrument</b>     | Directive  |
| <b>Amendments and repeals</b>     | Amending Directive 2004/39/EC <a href="#">2002/0269(COD)</a>   |
| <b>Legal basis</b>                | EC Treaty (after Amsterdam) EC 047                             |
| <b>Stage reached in procedure</b> | Procedure completed  |
| <b>Committee dossier</b>          | ECON/6/29054   |

| Documentation gateway   |  |                  |                         |                         |
|---|--|------------------|-------------------------|-------------------------|
| European Parliament   |  |                  |                         |                         |
| <b>Document type</b>  | <b>Committee</b>   | <b>Reference</b> | <b>Date</b>             | <b>Summary</b>          |
| Amendments tabled in committee                                  |  | PE364.809        | 28/10/2005              |                         |
| Committee report tabled for plenary, 1st reading/single reading |  | A6-0334/2005     | 24/11/2005              |                         |
| Text adopted by Parliament, 1st reading/single reading          |  | T6-0498/2005     | 13/12/2005              | <a href="#">Summary</a> |
| Council of the EU   |  |                  |                         |                         |
| <b>Document type</b>  | <b>Reference</b>   | <b>Date</b>      | <b>Summary</b>          |                         |
| Draft final act   | 03678/1/2005   | 05/04/2006       |                         |                         |
| European Commission   |  |                  |                         |                         |
| <b>Document type</b>  | <b>Reference</b>   | <b>Date</b>      | <b>Summary</b>          |                         |
| Legislative proposal  | COM(2005)0253<br> | 14/06/2005       | <a href="#">Summary</a> |                         |
| Commission response to text adopted in plenary                  | SP(2006)0053   | 12/01/2006       |                         |                         |
| Other institutions and bodies                                   |  |                  |                         |                         |

| Institution/body | Document type                                     | Reference  | Date       | Summary                 |
|------------------|---|--|------------|-------------------------|
| ECB              | European Central Bank: opinion, guideline, report | CON/2005/0053<br>OJ C 323 20.12.2005, p. 0031-0031 | 09/12/2005 | <a href="#">Summary</a> |

|   |
|---|
| <a href="#">Final act</a>   |
| Directive 2006/0031<br>OJ L 114 27.04.2006, p. 0060-0063 <span style="float: right;"><a href="#">Summary</a></span> |

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

2005/0111(COD) - 13/12/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Piia-Noora KAUPPI (EPP-ED, FI) and made several amendments to the Commission's proposal. In a new recital, Parliament indicated that it should have an equal role in supervising the way in which the Commission exercises its executive role in order to reflect the legislative powers of the European Parliament under Article 251 of the Treaty. Parliament and Council should have the opportunity of evaluating the conferral of implementing powers on the Commission within a determined period. Parliament felt, therefore, that it is appropriate to limit the period during which the Commission may adopt implementing measures. Comitology provisions were amended in order to align them with those adopted in the Capital Adequacy directive. Accordingly, Parliament should be given a period of three months from the first transmission of draft amendments and implementing measures to allow it to examine them and to give its opinion. However, in urgent and duly justified cases, it should be possible to shorten that period. If, within that period, a resolution is adopted by the European Parliament, the Commission should re-examine the draft amendments or measures. On 1 April 2008 at latest the application of the directive's provisions requiring the adoption of technical rules, amendments and decisions shall be suspended. Acting on a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article 251 of the Treaty and, to that end, they shall review them prior to the 1 April 2008.

Furthermore:

- the report and review deadlines were extended by 6 months;
- the proposed deadline of 30 October 2006 for repealing Directive 93/22/EEC was delayed until 1 November 2007;
- the deadline for transposition by the Member States was extended from 30 October 2006, as proposed by the Commission, to 31 January 2007. The provisions under Member States' national law should be applied as from 1 November 2007;
- the deadlines laid down under the transitional arrangements were extended by 6 months. Moreover, a new clause stipulated that "any existing system falling under the definition of an MTF operated by a market operator of a regulated market" should, at the request of that market operator, be authorised as an MTF provided that it complies with equivalent rules on authorisation and operation required by the directive and that the request is made within 18 months after 1 November 2007;

-A new paragraph states that none of the implementing measures enacted may change the essential provisions of the Directive.

## 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.

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

2005/0111(COD) - 14/06/2005 - Legislative proposal

PURPOSE : to extend the transposition deadline for Member States and the compliance date for regulated firms of Directive 2004/39/EC on Market in Financial Instruments (MiFID).

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

CONTENT : this proposal concerns extending the transposition deadline for Member States and the

compliance date for regulated firms of Directive 2004/39/EC on Market in Financial Instruments (MiFID). This is because serious difficulties have been reported by industry and Member States in relation to the ability of regulated entities to comply with the current deadline for transposition of the Directive (30 April 2006).

In order to remedy these difficulties that Member States and the industry will face in the transposition and application of the Directive, the Commission proposes to :

- extend the deadline by which Member States must transpose the MiFID into national law by 6 months, i.e. until October 2006;
- grant an extra 6 month period, after transposition into national law, for the effective application of the MiFID in order to allow firms sufficient time to adapt their systems and internal procedures so as to comply with the requirements of the Directive i.e. until April 2007.

Given the close interaction between the various parts of the MiFID, these proposals apply to the whole Directive (and not just those provisions which will be supplemented by implementing measures).

These modifications are purely technical, and are necessary to preserve the timetable for the various stages of entry into force and the review of the directive. For reasons of coherence the transposition deadline for this proposal has been aligned to the proposed extended transposition deadline (i.e.

30 October 2006) for Directive 2004/39/EC (Article 2). However, national legislation, implementing the previous regime established by Directive 93/22/EC may remain into force until the full application of the MiFID into national law (i.e. 30 April 2007).

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

2005/0111(COD) - 09/12/2005 - European Central Bank: opinion, guideline, report

**Opinion of the European Central Bank** : on 20 October 2005, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a directive of the European Parliament and of the Council amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines. The ECB's competence to deliver an opinion is based on the first indent of Article 105(4) of the Treaty establishing the European Community, since the proposed directive contains provisions which have a bearing on the functioning and integration of EU financial markets and which could possibly affect financial stability. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

The ECB welcomes the extension by six months until October 2006 of the deadline by which Member States must transpose Directive 2004/39/EC into national law and the granting of an extra six months after transposition for the effective application of Directive 2004/39/EC, steps which have proven necessary for both Member States and investment firms. Moreover, the ECB understands that the Council and the European Parliament are currently considering extending the deadlines by a further three months to nine months. The ECB would have no objections to such an extension either.