Basic information

2006/0284(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Credit institutions: taking up and pursuit of business; Commission implementing powers Amending Directive 2006/48/EC 2004/0155(COD) **Subject** 2.50.04 Banks and credit	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	BERÈS Pervenche (PSE)	13/02/2007

Council of the European Union

Council configuration	Meetings	Date
Environment	2856	2008-03-03

European Commission

Commission DG	Commissioner
Economic and Financial Affairs	ALMUNIA Joaquín

Key events

Date	Event	Reference	Summary
22/12/2006	Legislative proposal published	COM(2006)0902	Summary
17/01/2007	Committee referral announced in Parliament, 1st reading		
05/11/2007	Vote in committee, 1st reading		Summary
07/11/2007	Committee report tabled for plenary, 1st reading	A6-0420/2007	
14/11/2007	Decision by Parliament, 1st reading	T6-0513/2007	Summary
14/11/2007	Results of vote in Parliament		
03/03/2008	Act adopted by Council after Parliament's 1st reading		
11/03/2008	Final act signed		
11/03/2008	End of procedure in Parliament		
20/03/2008	Final act published in Official Journal		

Technical information

Procedure reference	2006/0284(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2006/48/EC 2004/0155(COD)
Legal basis	EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/44481

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE390.363	18/09/2007	
Amendments tabled in committee		PE396.422	04/10/2007	
Committee report tabled for plenary, 1st reading/single reading		A6-0420/2007	07/11/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0513/2007	14/11/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03672/2007/LEX	11/03/2008	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2006)0902	22/12/2006	Summary
Commission response to text adopted in plenary	SP(2007)6527	18/12/2007	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2007/0004 OJ C 039 23.02.2007, p. 0001	15/02/2007	Summary

Additional information

Source	Document	Date

National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Directive 2008/0024 OJ L 081 20.03.2008, p. 0038	Summary

Credit institutions: taking up and pursuit of business; Commission implementing powers

2006/0284(COD) - 15/02/2007

The European Central Bank adopted an Opinion at the request of the Council of the European Union on eight proposals amending Directives 2006/49 /EC, 2006/48/EC, 2005/60/EC, 2004/109/EC, 2004/39/EC, 2003/71/EC, 2003/6/EC and 2002/87/EC, as regards the implementing powers conferred on the Commission.

The ECB welcomes the new agreement on comitology reached between the European Parliament, the Council and the Commission, which is of great importance for the continued functioning of the Lamfalussy process.

The ECB has no specific comments on the proposals which are in line with the joint statement of the European Parliament, the Council and the Commission on the introduction of the new ‘regulatory procedure with scrutiny’ into the comitology framework).

Having regard to the importance of the role played by implementing measures in EU legislation in the financial services field, the ECB takes this opportunity to underline the importance of its advisory role under Article 105(4) of the Treaty, which requires the ECB to be consulted ‘on any proposed Community act in its fields of competence’.

As recently noted, the ECB considers that proposed Level 2 acts constitute “proposed Community acts” within the meaning of Article 105(4) of the Treaty’. Therefore the Treaty provision which requires the ECB to be consulted on any proposed Community act in its field of competence includes an obligation for it to be consulted on these implementing acts.

It should be noted that the lack of consultation between Community institutions has been the subject of several judgments by the Court of Justice. As far as Article 105(4) of the Treaty is concerned, in Case C-11/00 Commission v European Central Bank [2003] ECR I-7147, Advocate General Jacobs emphasised that: ‘Consultation of the ECB on proposed measures in its field of competence is a procedural step, required by a provision of the Treaty, which is clearly capable of affecting the content of the measures adopted. Failure to comply with such requirement must, in my view, be capable of leading to the annulment of the measures adopted’,

Credit institutions: taking up and pursuit of business; Commission implementing powers

2006/0284(COD) - 11/03/2008 - Final act

PURPOSE: to amend Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions by introducing a reference to the new regulatory procedure with scrutiny (comitology).

LEGISLATIVE ACT: Directive 2008/24/EC of the European Parliament and of the Council amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred to the Commission.

CONTENT: Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission has been amended by Council Decision 2006/512/EC (CNS/2002/0298).

The amended Decision introduces a new regulatory procedure with scrutiny to be used for measures of general scope which seek to amend non-essential elements of a basic instrument, adopted under co-decision, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

This procedure allows the legislator to oppose the adoption of "quasi-legislative" measures implementing a codecision-based instrument in cases where:

- the draft may exceed the implementing powers provided for in the basic instrument;

- the draft is incompatible with the aim or the content of that instrument; or
- the draft fails to respect the principles of subsidiarity or proportionality.

In a joint statement, the three institutions agreed on a list of **26 basic instruments** already in force to be adjusted without delay in accordance with the new regulatory procedure with scrutiny (see ACI/2006/2152). Each case has been assessed on the nature of the implementing powers conferred on the Commission and the specificity of each sector.

The purpose of this Directive, therefore, is to amend Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions by introducing a reference to the new regulatory procedure with scrutiny.

By 31 December 2010, and thereafter at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers and on the need for the Commission to propose possible amendments.

ENTRY INTO FORCE: 21 March 2008.

Credit institutions: taking up and pursuit of business; Commission implementing powers

2006/0284(COD) - 14/11/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Pervenche **BERES** (PES, FR)on the proposal for a directive amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred to the Commission (comitology).

It made the following amendments:

- since it considered that a sunset clause was necessary, Parliament stated that by 31 December 2010 and, thereafter, at least every 3 years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. This report shall examine, in particular, the need for the Commission to propose amendments to the Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether a modification is necessary or not shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to modify the provisions conferring implementing powers on the Commission;

- certain amendments aimed to ensure that measures setting rules of a general scope and supplementing the Directive would fall under the new regulatory procedure with scrutiny. Commission powers not falling under this category would continue to be subject to the old regulatory procedure.

Credit institutions: taking up and pursuit of business; Commission implementing powers

2006/0284(COD) - 22/12/2006 - Legislative proposal

PURPOSE: to amend Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions by introducing a reference to the new regulatory procedure with scrutiny (comitology).

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

CONTENT: Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission has been amended by Council Decision 2006/512/EC (CNS/2002/0298).

The amended Decision introduces a new *regulatory procedure with scrutiny* to be used for measures of general scope which seek to amend non-essential elements of a basic instrument, adopted under co-decision, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

This procedure allows the legislator to oppose the adoption of "quasi-legislative" measures implementing a codecision-based instrument when it considers that the draft exceeds the implementing powers provided for in the basic instrument, or that the draft is incompatible with the aim or the content of that instrument or fails to respect the principles of subsidiarity or proportionality.

In a joint statement, the three institutions agreed on a list of 26 basic instruments already in force to be adjusted without delay in accordance with the new regulatory procedure with scrutiny (see ACI/2006/2152). Each case has been assessed on its own merits, notably in view of the nature of the implementing powers conferred on the Commission and the specificity of each sector.

Lastly, in accordance with the abovementioned statement, the Commission is proposing to repeal any provisions of these instruments that provide for a time-limit on the delegation of implementing powers to the Commission.