

Basic information	
2006/0305(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Markets in financial instruments: implementing powers conferred on the Commission Amending Directive 2004/39/EC 2002/0269(COD)	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments	

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)0910 	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	A6-0424/2007	
14/11/2007	Decision by Parliament, 1st reading	T6-0517/2007	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		
19/03/2008	Final act published in Official Journal		

Technical information	
Procedure reference	2006/0305(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2004/39/EC 2002/0269(COD)
Legal basis	EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/44455

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE390.362	18/09/2007	
Amendments tabled in committee		PE396.421	04/10/2007	
Committee report tabled for plenary, 1st reading/single reading		A6-0424/2007	07/11/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0517/2007	14/11/2007	Summary
Council of the EU				
Document type	Reference		Date	Summary
Draft final act	03675/2007/LEX		11/03/2008	
European Commission				
Document type	Reference		Date	Summary
Legislative proposal	COM(2006)0910 		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 2008/0010 OJ L 076 19.03.2008, p. 0033	Summary

Markets in financial instruments: implementing powers conferred on the Commission

2006/0305(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',

Markets in financial instruments: implementing powers conferred on the Commission

2006/0305(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 of the European Parliament and of the Council amending Directive 2004/39/EC relating to markets in financial instruments as regards the implementing powers conferred on the Commission (comitology).

It made the following amendments:

- 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. The 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;

- some technical amendments were made to ensure that the old regulatory procedure continues to apply to exchange of information between competent authorities.

Markets in financial instruments: implementing powers conferred on the Commission

2006/0305(COD) - 11/03/2008 - Final act

PURPOSE: to amend Directive 2004/39/EC on markets in financial instruments, by introducing a reference to the new regulatory procedure with scrutiny (comitology).

LEGISLATIVE ACT: Directive 2008/10/EC of the European Parliament and of the Council amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission.

CONTENT: to recall, 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. This may include deleting some of those elements or 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 act, therefore, is to amend EU legislation on markets in financial instruments, by introducing the new *regulatory procedure with scrutiny*.

ENTRY INTO FORCE: 20 March 2008.

Markets in financial instruments: implementing powers conferred on the Commission

2006/0305(COD) - 22/12/2006 - Legislative proposal

PURPOSE : to amend Directive 2004/39/EC relating to markets in financial instruments 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.