




Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1995/0188(COD) Procedure rejected
Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs, Citizens' Rights		29/09/1995
		PSE ODDY Christine Margaret	
	Former committee responsible		
	JURI Legal Affairs, Citizens' Rights		29/09/1995
		PSE ODDY Christine Margaret	
	Former committee for opinion		
	ECON Economic and Monetary Affairs, Industrial Policy		16/10/1995
		ELDR WATSON Sir Graham	
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	2019	26/06/1997
	Culture	1981	16/12/1996

Key events			
17/07/1995	Legislative proposal published	COM(1995)0360	Summary
18/09/1995	Committee referral announced in Parliament, 1st reading		
12/02/1996	Vote in committee, 1st reading		Summary
12/02/1996	Committee report tabled for plenary, 1st reading	A4-0034/1996	
08/05/1996	Debate in Parliament		
09/05/1996	Decision by Parliament, 1st reading	T4-0214/1996	Summary
20/06/1996	Modified legislative proposal published	COM(1996)0292	Summary

16/12/1996	Council position published	07898/1/1996	Summary
16/01/1997	Committee referral announced in Parliament, 2nd reading		
19/03/1997	Vote in committee, 2nd reading		Summary
19/03/1997	Committee recommendation tabled for plenary, 2nd reading	A4-0093/1997	
08/04/1997	Debate in Parliament		Summary
09/04/1997	Decision by Parliament, 2nd reading	T4-0145/1997	Summary
26/06/1997	Parliament's amendments rejected by Council		
18/11/1997	Formal meeting of Conciliation Committee		Summary
10/02/1998	Formal meeting of Conciliation Committee		Summary
03/04/1998	Final decision by Conciliation Committee		Summary
11/05/1998	Debate in Parliament		Summary
12/05/1998	End of procedure in Parliament		
12/05/1998	End of procedure in Parliament		

Technical information

Procedure reference	1995/0188(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC before Amsterdam E 057-p2
Stage reached in procedure	Procedure rejected

Documentation gateway

Legislative proposal	COM(1995)0360 OJ C 253 29.09.1995, p. 0019	17/07/1995	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A4-0034/1996 OJ C 078 18.03.1996, p. 0003	12/02/1996	EP	
Text adopted by Parliament, 1st reading/single reading	T4-0214/1996 OJ C 152 27.05.1996, p. 0012-0018	09/05/1996	EP	Summary
Modified legislative proposal	COM(1996)0292 OJ C 221 30.07.1996, p. 0031	20/06/1996	EC	Summary
Council position	07898/1/1996 OJ C 069 05.03.1997, p. 0001	16/12/1996	CSL	Summary
Commission communication on Council's position	SEC(1997)0030	13/01/1997	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	A4-0093/1997 OJ C 132 28.04.1997, p. 0007	19/03/1997	EP	
Text adopted by Parliament, 2nd reading	T4-0145/1997	09/04/1997	EP	Summary

		OJ C 132 28.04.1997, p. 0067-0083			
Commission opinion on Parliament's position at 2nd reading		COM(1997)0355	10/07/1997	EC	Summary
Document attached to the procedure		N4-0228/1998	03/04/1998	CSL	

Additional information

European Commission

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Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

OBJECTIVE: to do away with the temporary provisions contained in the directives on capital adequacy (93/6/EEC) and on investment services (93/22/EEC) with a view to establishing a securities committee. SUBSTANCE: - establishment of the new securities committee, which will be composed of representatives of the Member States and chaired by the Commission. It will operate in exactly the same way as the Insurance Committee; - the new committee will act as a forum for the discussion of all issues relating to the directives concerning the securities markets; - the proposal amends the notification arrangements for certain technical aspects covered by the directive on capital adequacy pending the creation of the securities committee. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

In adopting amendments to a Commission proposal on investment, the committee reaffirmed Parliament's long-standing view that, in implementing Community legislation, the Commission should be as free as possible from interference by the representatives of the Member States. The Commission proposal is concerned with comitology, the system whereby different committees of experts appointed by Member States' governments supervise the implementation of Community legislation by the Commission in particular areas. Parliament has criticized the committee system as reflecting the democratic deficit on the grounds that it gives the Member States too much power vis-à-vis the Commission. The Commission proposed that this Securities Committee take the form of a regulatory committee (under Procedure III (a) of the Council's 1987 decision on comitology). However, on 12 February Parliament's Committee on Legal Affairs and Citizens' Rights unanimously adopted amendments to change the form of this committee to that of a management committee (under Procedure II (b) of the Council's 1987 decision). The effect of the amendments, which were contained in a report (PE 214.591) by Mrs Christine ODDY (PES, UK), are to give the Commission slightly more freedom to exercise its implementing powers. This is because, in the event of disagreement between the Commission and the committee of national experts, the Commission is not obliged to wait until the Council has taken a decision before implementing the measures it wishes to introduce. However, should the Council, acting by a qualified majority, decide to reject the measures within three months, the Commission must nevertheless rescind them. The committee has adopted a similar position on numerous occasions in the past. The ODDY report mirrors a report by former Member Carlos BRU PURON, which the committee adopted in 1993, concerning an earlier version of this Commission proposal. The committee also inserted into the current Commission proposal a recital referring to the modus vivendi on comitology reached on 20 December 1994 between the Council, the Commission and Parliament.

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The European Parliament adopted the report by Mrs Christine Margaret ODDY (PSE, UK) on the proposal for a Directive amending Directive 93/6/EEC on the capital adequacy of firms and credit institutions and Directive 93/22/EEC on investment services in the securities field. As it stands, the proposal opts for a regulatory committee, which would enable the Commission to adopt its position if the Council has been unable to decide otherwise. In addition to an amendment specifically referring to the modus vivendi on the subject, Parliament proposed setting up a management committee instead of the regulatory committee proposed by the Commission. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The Commission's modified proposal incorporates Parliament's amendment on the insertion of a recital relating to the modus vivendi between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the EC Treaty. However, the Commission cannot accept the amendments concerning the proposed change in committee procedure. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The Council adopted its common position concerning the proposal for a Directive amending Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions and Directive 93/22/EEC on investment services in the securities field. The common position retained the essential elements of the initial proposal, with some modifications. The main difference in comparison with the positions of the Commission and Parliament concerned comitology: the Council opted for procedure III, variant (b), rather than procedure III, variant (a) (Commission) or procedure II, variant (b) (Parliament). Moreover, the Council inserted a paragraph indicating that the committee was to have an advisory role in addition to its specific role in the comitology procedure. The Council did not retain the recital referring to the modus vivendi of 1994. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The Commission supported the common position, with the exception of the Council's decision to impose a type IIIb committee procedure so that it had the power to block the adoption of a particular measure by the Commission. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The committee unanimously adopted the report by Mrs Christine ODDY (PSE, UK) on the amendment to two directives on the capital adequacy of investment firms and credit institutions and investment services in the securities field (codecision, second reading). The committee proposed maintaining the European Parliament's main request with regard to comitology. The legislative procedure provided for in the proposal aimed to create a committee in charge of carrying out the tasks set out in the two directives. Parliament called for a type IIb committee, not a type IIIb; otherwise Council would have unlimited powers and the directive would not be a "European Parliament and Council directive". ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The rapporteur accused the Council of favouring an approach which would give it implementing powers. She had therefore tabled two amendments proposing to set up a committee which would allow Parliament to have a vote on the chapter. Commissioner Monti stated that he could accept Amendment No 3, which introduced a recital on the modus vivendi. However, he was against all the amendments relating to the committee, particularly its role and any urgent decision-making procedure (Amendments Nos 1, 2, 6, 7, 9 and 10). He also rejected Amendments Nos 5 and 8, which called into question the Council's provisional competence during the period prior to the establishment of the securities committee.

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

In adopting the recommendation for second reading by Ms Christine Margaret ODDY (PSE, UK), the European Parliament upheld its main demand, which concerned comitology. Parliament proposed a type II (b) rather than a type III (b) committee, as otherwise the Council would have the power to block the adoption of a particular measure by the Commission. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The Commission has incorporated the European Parliament's amendment which refers to the modus vivendi concluded between the three institutions in 1994. However, it has not accepted those amendments relating to comitology, considering that the best recommended comitology procedure for the exercise of the powers of enforcement within the framework of the Directive on the adequacy of own funds and the Directive on investment services is procedure III, variant (a). The Commission considers that procedure III, variant (b) (which is preferred by the Council) gives the latter too much power in the blocking of decisions. Furthermore, procedure II, variant (b) (proposed by Parliament) proposes the adoption of decisions in the event of urgency, which is not suitable for technical amendments to directives relating to financial services. The Commission has also rejected those amendments which are aimed at: - the adoption by the securities committee of its rules and regulations; - the deletion of the reference to the role of the Consultative Committee; - the deletion of the reference to the cooperation between the securities committee and the other two financial services committees, the consultative committee on banking and the insurance committee. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

Following the delegation meeting on 18 november 1997, a triologue session took place on the 5 december 1997 at Brussels at which the chairman of the Committee on Legal Affairs, Mr De Clercq, met the Chairman-in-Office of Coreper 2, Mr Kasel. Despite emerging avenues for

compromise for all others points, discussions remain deadlocked on the main issue, i.e. the choice of comitology procedure. Parliament voted in favour of a management committee (type II B) when the Council unanimously was in favour of a regulatory committee (type III B). This question will be presented to a Conciliation Committee under the UK Presidency.

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The first meeting of the Conciliation Committee was held on 10 February, but the two delegations were unable to reach an agreement. The dispute centres on the comitology arrangements. The Council has introduced a type-IIIb committee (regulatory committee), whereas at second reading Parliament had proposed a type-IIb committee (management committee). This issue is particularly important in the light of the forthcoming revision of the 1987 decision on comitology. Parliament's delegation will meet again in Strasbourg on 11 March 1998.

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

The Parliament and Council delegations were unable to reach agreement on the directive establishing a securities committee. A "last chance" trilogue meeting (in the words of Nicole FONTAINE, who co-chaired the meeting with Ms Helen LIDDELL, UK Economic Secretary, was held in Strasbourg on 31st March in the presence of Commissioner Mario MONTI. The Council confirmed its position at a meeting in Brussels on 2nd April at which it refused to accept Parliament's standpoint. The stumbling block was the new "securities committee", which was to help the Commission in implementing the two directives (Directive 93/6/EEC and Directive 93/22/EEC). Parliament's delegation wanted the committee to be a management committee (type II-b), while the Council insisted it should be a regulatory committee (type III-b). The entire delegation maintained that a regulatory committee would allow the Member States too much scope to thwart the Commission in the use of its implementing powers (a simple majority of Member States would be enough to block a measure that the Commission regards as necessary to implement the legislation) and Parliament would have no say in the outcome. The committee chair pointed out that the comitology system was being overhauled and that the choice of a type III-b committee would therefore be particularly inappropriate. Mrs FONTAINE sought to play down the failure to reach agreement. In the absence of an agreement, the directives in question would remain unchanged and the current legal position would be that the Council had sole responsibility for implementing measures. Since the co-decision procedure was established under the Maastricht Treaty, two directives have failed to surmount the conciliation stage. In the first case (voice telephony), Parliament's plenary rejected the position confirmed by the Council in July 1994 following a failure to reach agreement within the Conciliation Committee. On that occasion too, the problem was one of committees. As a result, a new proposal was brought forward which was eventually adopted in January 1998. In the second case, the initial version of the directive on the legal protection (patents) of biotechnological inventions was not adopted after Parliament's plenary rejected the Conciliation Committee's joint draft text in June 1995. As the rapporteur, Christine ODDY (PES, UK), pointed out, a rejection can also be part of the institutional game. ?

Investment firms, credit institutions: capital adequacy, securities field (amend. Directives 93/6/EEC, 93/22/EEC)

In a statement on the failure of the conciliation procedure on investment services in the securities sector, the part-session President, Mr Renzo IMBENI (PSE, IT), pointed out the generally successful operation of the codecision procedure. Since this procedure had entered into force, 124 acts had been adopted, including 77 without any recourse to the Conciliation Committee. For the other 47, the Conciliation Committee had reached an agreement. Therefore, over the previous four years, there had only been one disagreement between Parliament and Council within the Committee: this was in 1994 on the subject of voice telephony. In the case of the proposal for a directive on securities, the Conciliation Committee had failed to reach agreement specifically on the comitology provisions. As the Council had not confirmed its common position (which involved the early application of the new provisions of the Treaty of Amsterdam eliminating the third reading), the act had to be regarded as not adopted and the President announced a new Commission proposal for the beginning of June. The Chairperson of the Conciliation Committee, Mrs Nicole FONTAINE (EPP, FR), considered that the procedure's failure stemmed from the Council's stubbornness in wanting to impose a type 3b committee, which she denounced as anti-democratic. The European Parliament delegation to the Conciliation Committee had been unable to accept a solution that would have committed it to an unfortunate precedent. Following this particular case, Mrs Nicole FONTAINE urged all parties to find a long-term solution on comitology. The Council should realise that implementation measures needed to be adopted which respected the principles of transparency and democracy.