


Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive 2006/0283(COD)	Procedure completed
Capital adequacy of investment firms and credit institutions: implementing powers conferred on the Commission Amending Directive 2006/49/EC 2004/0159(COD)	
Subject 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs	PSE BERÈS Pervenche	13/02/2007
Council of the European Union	Council configuration	Meeting	Date
	Environment	2856	03/03/2008
European Commission	Commission DG	Commissioner	
	Economic and Financial Affairs	ALMUNIA Joaquín	

Key events			
22/12/2006	Legislative proposal published	COM(2006)0901	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	A6-0419/2007	
14/11/2007	Results of vote in Parliament		
14/11/2007	Decision by Parliament, 1st reading	T6-0512/2007	Summary
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	2006/0283(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2006/49/EC 2004/0159(COD)
Legal basis	EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/44440

Documentation gateway					
Legislative proposal		COM(2006)0901	22/12/2006	EC	Summary
European Central Bank: opinion, guideline, report		CON/2007/0004 OJ C 039 23.02.2007, p. 0001	15/02/2007	ECB	Summary
Committee draft report		PE390.364	18/09/2007	EP	
Amendments tabled in committee		PE396.423	04/10/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0419/2007	07/11/2007	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0512/2007	14/11/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)6527	18/12/2007	EC	
Draft final act		03671/2007/LEX	11/03/2008	CSL	

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Final act
Directive 2008/23 OJ L 076 19.03.2008, p. 0054 Summary

Capital adequacy of investment firms and credit institutions: implementing powers conferred on the Commission

PURPOSE: to amend Directive 2006/49/EC on the capital adequacy of investment firms and 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.

Capital adequacy of investment firms and credit institutions: implementing powers conferred on the Commission

The Committee on Economic and Monetary Affairs adopted the report by Pervenche BERES (PES, FR) approving with amendments ? at 1st reading of the codecision procedure ? the proposal for a directive of the European Parliament and of the Council amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission.

Directive 2006/49/EC establishes a capital adequacy regime for investment firms and complements that for credit institutions (banks). Comitology provisions have been foreseen for adjustments of the calculations concerning position risk, settlement and counterparty risk, foreign exchange risk, commodities risk, large exposure risk and provisions relating to trading activity, as well as for adjustments of definitions and monetary thresholds in line with the economic developments.

In general, the committee supports the introduction of the new regulatory procedure with scrutiny for this Directive (2004/49/EC). It feels however that the recitals and articles referring to the so called "sunset clause" should be kept, since there are still some remaining questions to be solved between the EU institutions as to the new procedure.

More specifically, the report calls for the Commission to evaluate, at regular intervals, the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.

It also notes that by 31 December 2009, 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 provisions and on the need for any modifications thereto. The Commission shall examine, in particular, the need for any modifications in order to ensure an appropriate delimitation of the implementing powers conferred on it and full respect for all conditions applicable to the exercise of those powers. The report shall be accompanied by a legislative proposal to modify those provisions. Should the report conclude that there is no need for any modification to existing provisions, it shall set out a detailed statement of reasons explaining why none is deemed to be necessary.

Capital adequacy of investment firms and credit institutions: implementing powers conferred on the Commission

The European Parliament adopted a resolution drafted by Pervenche BERES (PES, FR) the proposal for a directive of the European Parliament and of the Council amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission.

Parliament inserted a sunset clause, stating 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. 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.

Capital adequacy of investment firms and credit institutions: implementing powers conferred on the Commission

PURPOSE: to amend Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions by introducing a reference to the new regulatory procedure with scrutiny (comitology).

LEGISLATIVE ACT: Directive 2008/23/EC of the European Parliament and of the Council amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, 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 Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, by introducing 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: 20 March 2008.