


Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission Repealed by 2008/0153(COD)	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	PSE BERÈS Pervenche	13/02/2007
Council of the European Union	Council configuration Environment	Meeting 2856	Date 03/03/2008
European Commission	Commission DG Economic and Financial Affairs	Commissioner ALMUNIA Joaquín	

Key events			
22/12/2006	Legislative proposal published	COM(2006)0926	Summary
17/01/2007	Committee referral announced in Parliament, 1st reading		
11/06/2007	Vote in committee, 1st reading		Summary
15/06/2007	Committee report tabled for plenary, 1st reading	A6-0239/2007	
10/07/2007	Results of vote in Parliament		
10/07/2007	Decision by Parliament, 1st reading	T6-0299/2007	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	2006/0293(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealed by 2008/0153(COD)
Legal basis	EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/44439

Documentation gateway					
European Central Bank: opinion, guideline, report		CON/2006/0057 OJ C 031 13.02.2007, p. 0001	12/12/2006	ECB	Summary
Legislative proposal		COM(2006)0926	22/12/2006	EC	Summary
Committee draft report		PE388.707	15/05/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0239/2007	15/06/2007	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0299/2007	10/07/2007	EP	Summary
Draft final act		03689/2007/LEX	11/03/2008	CSL	

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Final act
Directive 2008/18 OJ L 076 19.03.2008, p. 0042 Summary

Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission

The ECB has decided to submit an opinion concerning the proposed Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). It is doing so on its own initiative.

To recall, the main purpose of the proposed implementing Directive is to clarify the meaning and scope of certain definitions under the UCITS Directive in order to ensure its uniform application throughout the EU and to improve the functioning of the UCITS product passport. Since implementation of the draft Directive is linked to the implementation of the euro area monetary policy the ECB has the authority to deliver an opinion based on Article 105(4) of the Treaty establishing the European Community.

The European short-term securities market is the least integrated money market in the EU. The ECB, therefore, follows with particular attention market led initiatives that seek to enhance the integration and transparency of short-term securities markets in Europe.

The ECB is dissatisfied that the implementing measure is being proposed as a Directive. The ECB states: a proposed implementing measure in the form of a Regulation, containing detailed provisions capable of direct application to all UCITS, would be more appropriate and better placed to remedy the current uneven application of some general principles contained in the UCITS Directive ? such as the rules on the eligibility of money market instruments.

The ECB also makes a number of specific comments that relate to:

- disclosure and information requirements: In general, the ECB considers that for the smooth and efficient functioning of the market it is important that standardised and adequate information, as well as standardised statistics, are accessible to market participants;
- the inclusion of money market instruments issued by a Member State's local or regional authority that are not guaranteed by the Member State: The ECB asks the Commission to consider deleting references to local, regional and federal authorities, as well as public international bodies, in order to treat all such public entities in the same way;
- the need for reliable statistics on the issue of issuance programmes: The ECB asks that references to "or other data enabling an appropriate assessment of the credit risks related to the investment in such instruments be deleted.
- the control of information by an appropriately qualified third party: The ECB considers that the introduction of unspecified information control mechanisms by "an appropriately qualified third party" into the proposed Directive would seem to approximate the information requirements for money market instrument with those for formal prospectuses. The ECB considers that prospectus requirements appear to be exhaustively covered by the Prospectus Directive, under which money market instruments are exempted from the definition of securities. The ECB, therefore, proposes that this provision be dropped altogether;
- information on the issue of issuance programme or on the legal and financial situation of the issuer prior to the issue of money market instruments: The ECB suggests that all money market instruments issued by either the ECB or a Member State central bank should be excluded from the application of this provision.
- The definition of "money market instruments as instrument normally dealt in on the money market" (Article 3(2): The ECB suggests that the Commission should return to solutions proposed in earlier drafts, whereby the maturity period of one year is set "without prejudice to any additional delay for settlement as provided for in the issue or the issuance programme".

Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission

PURPOSE: to amend Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) 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.

Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission

The Committee on Economic and Monetary Affairs unanimously adopted, at first reading of the codecision procedure, the report drafted by Pervenche BERÈS (PES, FR) on the proposal for a directive amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as regards the implementing powers conferred on the Commission.

This new comitology procedure shall apply to certain aspects of the directive concerning the clarification of definitions of eligible assets for UCITS, i.e. the rules on investment policy.

Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission

The European Parliament adopted the report drafted by Pervenche BERÈS (PES, FR) on the proposal for a directive amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as regards the implementing powers conferred on the Commission.

Undertakings for collective investment in transferable securities (UCITS): implementing powers conferred on the Commission

PURPOSE: to amend Directive 85/611/EC relating to UCITS by introducing a reference to the new regulatory procedure with scrutiny

(comitology).

LEGISLATIVE ACT: Directive 2008/18/EC of the European Parliament and of the Council amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), 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 relating to the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), by introducing the new *regulatory procedure with scrutiny*.

ENTRY INTO FORCE: 20 March 2008.