

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed <a href="#">2006/0306(COD)</a>
Securities: prospectus to be published when offered to the public or admitted to trading: implementing powers conferred on the Commission Amending Directive 2003/71/EC <a href="#">2001/0117(COD)</a>	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 4.60.06 Consumers' economic and legal interests	

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

Key events			
22/12/2006	Legislative proposal published	<a href="#">COM(2006)0911</a>	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	<a href="#">A6-0425/2007</a>	
14/11/2007	Results of vote in Parliament		
14/11/2007	Decision by Parliament, 1st reading	<a href="#">T6-0518/2007</a>	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	2006/0306(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2003/71/EC <a href="#">2001/0117(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 044; EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/44454

Documentation gateway					
Legislative proposal		<a href="#">COM(2006)0911</a>	22/12/2006	EC	Summary
European Central Bank: opinion, guideline, report		<a href="#">CON/2007/0004</a> <a href="#">OJ C 039 23.02.2007, p. 0001</a>	15/02/2007	ECB	Summary
Committee draft report		<a href="#">PE390.360</a>	18/09/2007	EP	
Amendments tabled in committee		<a href="#">PE396.418</a>	04/10/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0425/2007</a>	07/11/2007	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0518/2007</a>	14/11/2007	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2007)6527</a>	18/12/2007	EC	
Draft final act		<a href="#">03676/2007/LEX</a>	11/03/2008	CSL	

Additional information	
National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

Final act
<a href="#">Directive 2008/11</a> <a href="#">OJ L 076 19.03.2008, p. 0037</a> Summary

## Securities: prospectus to be published when offered to the public or admitted to trading: implementing powers conferred on the Commission

**PURPOSE** : to amend Directive 2003/71/EC relating to the prospectus to be published when securities are offered to the public or admitted to trading 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.

## Securities: prospectus to be published when offered to the public or admitted to trading: implementing powers conferred on the Commission

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The Committee on Economic and Monetary Affairs approved the report - at 1<sup>st</sup> reading under the codecision procedure - by Pervenche BERÈS (PES, FR), on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/71/EC relating to the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission (comitology).

In general, the report supports the introduction of the new regulatory procedure with scrutiny for this Directive (2003/71/EC). However, MEPs state that in order to ensure uniform application of this Directive, the Commission may adopt implementing measures in accordance with the regulatory procedure with scrutiny, stating that a third country ensures the equivalence of prospectuses drawn up in that country with this Directive, by reason of its national law or of practices or procedures based on international standards set by international organisations, including the IOSCO disclosure standards.

MEPs also introduced a revision clause in order to regularly assess the well functioning of the

Lamfalussy procedure : 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.

## Securities: prospectus to be published when offered to the public or admitted to trading: implementing powers conferred on the Commission

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The European Parliament adopted a resolution drafted by Pervenche BERÈS (PES, FR), on the proposal on amending Directive 2003/71/EC relating to the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission (comitology).

It made the following amendments:

- in order to ensure uniform application of this Directive, the Commission shall adopt implementing measures aimed at establishing general equivalence criteria, based on the requirements laid down in Articles 5 and 7. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny;
- on the basis of the above criteria, the Commission may adopt implementing measures in accordance with the old regulatory procedure, stating that a third country ensures the equivalence of prospectuses drawn up in that country with this Directive, by reason of its national law or of practices or procedures based on international standards set by international organisations, including the IOSCO disclosure standards ;
- 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.

## Securities: prospectus to be published when offered to the public or admitted to trading: implementing powers conferred on the Commission

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**PURPOSE:** to amend Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, by introducing a reference to the new regulatory procedure with scrutiny (comitology).

**LEGISLATIVE ACT:** Directive 2008/11/EC of the European Parliament and of the Council amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission.

**CONTENT:** Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (comitology) 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 the co-decision procedure, 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 exceeds the implementing powers provided for in the basic instrument,
- the draft is incompatible with the aim or the content of that instrument,
- it 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.

The purpose of this Directive, therefore, is to amend Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, 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: 20 March 2008.