


Procedure file

| Basic information | |
|---|---------------------|
| COD - Ordinary legislative procedure (ex-codecision procedure) Directive | Procedure completed |
| Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission Amending Directive 2004/109/EC 2003/0045(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 | 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)0909 | 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 | A6-0418/2007 | |
| 14/11/2007 | Results of vote in Parliament |  | |
| 14/11/2007 | Decision by Parliament, 1st reading | T6-0511/2007 | 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 | | |
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| Technical information | |
|----------------------------|--|
| Procedure reference | 2006/0282(COD) |
| Procedure type | COD - Ordinary legislative procedure (ex-codecision procedure) |
| Procedure subtype | Legislation |
| Legislative instrument | Directive |
| | Amending Directive 2004/109/EC 2003/0045(COD) |
| Legal basis | EC Treaty (after Amsterdam) EC 044; EC Treaty (after Amsterdam) EC 095 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | ECON/6/44485 |

| Documentation gateway | | | | | |
|---|--|---|------------|-----|---------|
| Legislative proposal | | COM(2006)0909 | 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 | | PE390.361 | 18/09/2007 | EP | |
| Amendments tabled in committee | | PE396.419 | 04/10/2007 | EP | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0418/2007 | 07/11/2007 | EP | |
| Text adopted by Parliament, 1st reading/single reading | | T6-0511/2007 | 14/11/2007 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2007)6527 | 18/12/2007 | EC | |
| Draft final act | | 03670/2007/LEX | 11/03/2008 | CSL | |

| Additional information | |
|------------------------|-------------------------|
| National parliaments | IPEX |
| European Commission | EUR-Lex |

| Final act |
|---|
| Directive 2008/22 OJ L 076 19.03.2008, p. 0050 Summary |

Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission

PURPOSE: to amend Directive 2004/109/EC relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market 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.

Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission

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".

Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission

The Committee on Economic and Monetary Affairs adopted a report drawn up by Pervenche BERES (PES, FR) on the proposal for a directive amending Directive 2004/109/EC relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market as regards the implementing powers conferred on the Commission (comitology).

The Committee made the following amendments:

- the Committee felt that the recital 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. A new recital states that the Commission should, at regular intervals, evaluate 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;
- 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;
- the Commission may draw up a list of the events referred to Article 9(2) in accordance with the regulatory procedure with scrutiny;
- in order to take account of technical developments in financial markets and to ensure the uniform application of Article 23(6), the Commission shall, in accordance with the regulatory procedure with scrutiny, adopt implementing measures stating that, by reason of its domestic law, regulations, or administrative provisions, a third country ensures the equivalence of the independence requirements provided for under the Directive and its implementing measures.

Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission

The European Parliament adopted a resolution drafted by Pervenche BERES (PES, FR) on the proposal for a directive amending Directive 2004/109/EC relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market as regards the implementing powers conferred on the Commission (comitology).

It made the following amendments:

- a new recital states that the Commission should, at regular intervals, evaluate 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;
- 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;
- with regard to equivalence provisions, certain amendments were made to ensure that measures setting rules of a general scope and supplementing the Directive would fall under the new regulatory procedure with scrutiny provisions. Commission powers not falling under this category would continue to be subject to the regulatory procedure.

Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market: implementing powers conferred on the Commission

PURPOSE: to amend Directive 2004/109/EC relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market by introducing a reference to the new regulatory procedure with scrutiny (comitology).

LEGISLATIVE ACT: Directive 2008/22/EC of the European Parliament and of the Council amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, 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 harmonisation of transparency requirement in relation to information about issuers whose securities are admitted to trading on a regulated market, by introducing the new *regulatory procedure with scrutiny*.

ENTRY INTO FORCE: 20 March 2008.