



# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1985/0046(COD) Procedure completed
Credit institutions: reorganisation and winding up Amended by <a href="#">2012/0150(COD)</a>	
Subject 2.50.04 Banks and credit	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs	PPE-DE <a href="#">PEIJS Karla M.H.</a>	09/10/2000
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2335</a>	12/03/2001
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2283</a>	17/07/2000
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2258</a>	08/05/2000

Key events			
19/12/1985	Legislative proposal published	COM(1985)0788	Summary
17/02/1986	Committee referral announced in Parliament, 1st reading		
06/02/1987	Vote in committee, 1st reading		
06/02/1987	Committee report tabled for plenary, 1st reading	A2-0239/1986	
12/03/1987	Debate in Parliament		
13/03/1987	Decision by Parliament, 1st reading	T2-1057/1987	Summary
04/01/1988	Modified legislative proposal published	COM(1988)0004	Summary
23/11/1993	Vote in committee, 1st reading		
23/11/1993	Committee report tabled for plenary confirming Parliament's position	A3-0364/1993	
02/12/1993	Decision by Parliament, 1st reading	T3-0681/1993	Summary
17/07/2000	Council position published	<a href="#">08733/2/2000</a>	Summary

20/09/2000	Committee referral announced in Parliament, 2nd reading		
28/11/2000	Vote in committee, 2nd reading		Summary
28/11/2000	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0369/2000</a>	
15/01/2001	Debate in Parliament		
16/01/2001	Decision by Parliament, 2nd reading	<a href="#">T5-0002/2001</a>	Summary
12/03/2001	Act approved by Council, 2nd reading		
04/04/2001	Final act signed		
04/04/2001	End of procedure in Parliament		
05/05/2001	Final act published in Official Journal		

### Technical information

Procedure reference	1985/0046(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by <a href="#">2012/0150(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 047-p2-a1
Stage reached in procedure	Procedure completed
Committee dossier	ECON/5/12984

### Documentation gateway

Legislative proposal	<a href="#">COM(1985)0788</a> <a href="#">OJ C 356 31.12.1985, p. 0055</a>	19/12/1985	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0633/1986</a> <a href="#">OJ C 263 20.10.1986, p. 0013</a>	02/07/1986	ESC	
Committee report tabled for plenary, 1st reading/single reading	A2-0239/1986 <a href="#">OJ C 099 13.04.1987, p. 0026</a>	06/02/1987	EP	
Text adopted by Parliament, 1st reading/single reading	T2-1057/1987 <a href="#">OJ C 099 13.04.1987, p. 0190-0211</a>	13/03/1987	EP	Summary
Modified legislative proposal	COM(1988)0004 <a href="#">OJ C 036 08.02.1988, p. 0001</a>	04/01/1988	EC	Summary
Reconsultation	COM(1993)0570	10/11/1993	EC	
Committee final report tabled for plenary, 1st reading/single reading	A3-0364/1993 <a href="#">OJ C 342 20.12.1993, p. 0002</a>	23/11/1993	EP	
Text adopted by Parliament confirming position adopted at 1st reading	T3-0681/1993 <a href="#">OJ C 342 20.12.1993, p. 0015-0030</a>	02/12/1993	EP	Summary
Council position	<a href="#">08733/2/2000</a> <a href="#">OJ C 300 20.10.2000, p. 0013</a>	17/07/2000	CSL	Summary

Commission communication on Council's position		SEC(2000)1517	15/09/2000	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A5-0369/2000</a> <a href="#">OJ C 232 17.08.2001, p. 0010</a>	28/11/2000	EP	
Text adopted by Parliament, 2nd reading		<a href="#">T5-0002/2001</a> <a href="#">OJ C 262 18.09.2001, p. 0022-0040</a>	16/01/2001	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2001)0120	08/03/2001	EC	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 2001/24](#)  
[OJ L 125 05.05.2001, p. 0015](#) Summary

## Credit institutions: reorganisation and winding up

**PURPOSE:** To establish mutual recognition by Member States relating to the reorganisation and winding-up of credit institutions.

**PROPOSED ACT:** Council Directive.

**CONTENT:** The proposal provides a definition of "reorganization measures" as those measures which are intended to safeguard or restore the financial situation of a credit institution, e.g. the total or partial suspension of activities, the power to appoint an official to investigate the state and conduct of an authorized institution.

It puts forward rules for the application of reorganization measures to credit institutions having their head office within the Community, e.g. the respective roles of home and host country regulatory authorities.

It lays down corresponding rules for the application of reorganization measures to credit institutions having their head office outside the Community. Responsibility lies with the authorities in the host Member State, except where bilateral agreements exist with the home country.

The proposal also contains rules for the winding-up of credit institutions having their head office within the Community, e.g. role of the regulatory authorities, effect on banking authorization, cross-frontier powers of liquidators.

Corresponding rules for winding-up credit institutions having their head office outside the Community are provided for.

Existing Member State deposit-guarantee schemes should cover deposits in branches of institutions having their head office in other Member States. Pending the introduction of schemes in all Member States, Member States with schemes should extend the cover to deposits in branches of their institutions in other Member States with no scheme, and do so under the same conditions as apply to domestic deposits.

## Credit institutions: reorganisation and winding up

In adopting the report drafted by Mr Fernand HERMAN (EPP, B), the European Parliament accepted this proposal subject to the following amendments:

- the conditions defining the reorganisation measures are deleted; the measures taken will be those taken by the competent authorities and set down in the annexe; this list will need to be supplemented in the case of Spain and Portugal;
- an Annexe II is added, specifying the reasons for winding-up;
- deposit guarantee schemes have to compensate depositors or to protect them against any loss.

## Credit institutions: reorganisation and winding up

The Commission a number of the European Parliament's amendments, in particular those that : - clearly state that the provisions of the Directive are applicable to branches set up in Member States other than that in which the credit institutions has its head office; - require that reference is made to the 'competent authorities', as defined in the Directive, responsible for taking the measures set out in the annexed list; - delete the positive criteria which the Commission had felt it should include in order to define the reorganisation measures; - take up certain provisions relating to liquidation which would normally be covered by the Bankruptcy Convention and, therefore, the Commission has provided for an Annex II, modelled on the protocol annexed to that Convention, listing the winding-up procedures applicable to credit institutions; - define what is meant by a deposit-guarantee scheme.?

## Credit institutions: reorganisation and winding up

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The Council considers that all the amendments made to the amended Commission proposal are fully in line with the objectives of the proposed Directive. The main part of the amendments proposed by the European Parliament has been included in the common position. All changes made and the provisions aligned on the Insolvency Regulation which have been introduced serve to enhance the objectives of the Directive and to ensure legal consistency in Community legislation.?

## Credit institutions: reorganisation and winding up

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The Commission is of the view that the vast majority of amendments proposed by the European Parliament have been incorporated into the text of the common position. The fact that few amendments were not included either reflects the Council's decision to delete the annexes, which is supported by the Commission, or is a consequence of the adoption of the Deposit Guarantee Scheme Directive. Additional articles have been included to address some of the concerns that surfaced during the work on the Insolvency Regulation. The solutions adopted in this proposal are in line with the solutions adopted in the Insolvency Regulation. The Commission therefore takes the view that the common position is acceptable.?

## Credit institutions: reorganisation and winding up

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The committee adopted the draft recommendation for second reading (codecision procedure) by Karla PEIJS (EPP-ED, NL) proposing a limited number of amendments to the Council's common position with a view to improving the clarity of the text and ensuring its coherence with other financial legislation, namely, the Insolvency Regulation and the proposal for a directive on the reorganisation and winding up of insurance undertakings. The amendments would, it argued, strengthen the principle of universality and iron out any inconsistencies which could lead to legal uncertainty in the case of a financial conglomerate, including both credit and insurance businesses, being wound up. The committee also adopted an amendment designed to clarify Article 9(2) of the Settlement Finality Directive by extending its scope.?

## Credit institutions: reorganisation and winding up

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The European Parliament approved the report by Mrs Karla PEIJS (EPP/ED, NI) on the common position designed to put in place a common set of rules governing the reorganisation and winding up of credit institutions, together with amendments. The amendments are designed to ensure consistency with other financial legislation, especially that relating to insolvency and the winding up of insurance companies. They are also designed to ensure that repurchasing and 'netting' agreements are not affected by the legislation.?

## Credit institutions: reorganisation and winding up

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As empowered by the Commission on 6 December 2000, the Member responsible stated in plenary session that the Commission could accept all the amendments in substance, subject to a check for overall clarity and consistency. This check has been carried out, the texts have been found to be sufficiently clear and the Commission is now able to accept them as they stand, although it would not be opposed to any drafting improvements should the Council decide by qualified majority that it was in favour of such improvements. The amendments relate in particular to : - the retaining in the context of the unity and universality of the procedure the exception provided for in the common position from application of the law of the home country to repurchase agreements but replace, when indicating the applicable law, the law of the place of conclusions of the contract by the law of the contract; - following and confirming the same principle for netting agreements; - following and confirming the same principle for transactions on regulated markets; - marginally modifying the common position but retain the exception it contains for rights in respect of securities, whether or not dematerialised, recorded in a register, an account or centralised deposit system in a Member State that remain governed by the law of the Member State where the register, account or centralised deposit system is located; - stipulating in a more analytical manner than in the common position that the rights in rem or reservation of title in respect of assets belonging to the insolvent credit institution remain governed by the law applicable to them; - stipulating more clearly than in the common position the principle that the right of a creditor to set his claims off against the claims of the credit institution remains governed by the law applicable to the credit institution's claim. ?

## Credit institutions: reorganisation and winding up

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**PURPOSE** : to ensure mutual recognition of the rules relating to the reorganisation and winding up of credit institutions. **COMMUNITY MEASURE** : Directive 2001/24/EC of the European Parliament and of the Council on the reorganisation and winding up of credit institutions. **CONTENT** : This directive establishes that the administrative or judicial authorities of the home Member State have sole power to decide upon and implement the reorganisation measures of credit institutions, including branches established in other Member States. This is subject to certain exceptions which are specified in the directive. This directive fills a serious gap in the legislation relating to financial services in the Union. **ENTRY INTO FORCE** : 05/05/2001 **DATE OF TRANSPOSITION** : 05/05/2004?