



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**EXPLANATORY MEMORANDUM common to the 26 acts to be adapted as a matter of
urgency to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures
for the exercise of implementing powers, as amended by Council Decision 2006/512/EC
of 17 July 2006**

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EXPLANATORY MEMORANDUM common to the 26 acts to be adapted as a matter of urgency to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers, as amended by Council Decision 2006/512/EC of 17 July 2006

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

Council Decision 2006/512/EC and the new regulatory procedure with scrutiny

Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹, has been amended by Council Decision 2006/512/EC of 17 July 2006².

Article 5a of 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.

Joint statement by the European Parliament, the Council and the Commission

In a joint statement³, the three institutions agreed on a list of basic instruments that should urgently be adjusted to the amended Decision, so as to introduce the new *regulatory procedure with scrutiny*, where appropriate. The Commission also indicated that it would shortly submit proposals to introduce the *regulatory procedure with scrutiny* in these instruments. The Commission has thus screened the basic instruments listed to decide when the new procedure should apply. 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 policy sector.

In the above-mentioned joint statement, the three institutions further recognised that the principles of good legislation require that implementing powers be conferred on the Commission without time-limit. As a result, the joint statement foresees that the Commission will take the opportunity of this priority alignment to repeal any provisions of these instruments that provide for a time-limit on the delegation of implementing powers to the Commission.

¹ OJ C 203, 17.7.1999, p. 1.

² OJ L 200, 22.7.2006, p. 11.

³ OJ C 255, 21.10.2006, p. 1.

Complete list of priority acts

In three cases, the listed co-decision instruments not only modify already existing basic acts but also merely refer to comitology provisions which have to be aligned in those acts. In these cases, the Commission has therefore proposed to adjust the latter. In particular:

To align Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005, the Commission proposes to adjust:

- Directive 91/675/EEC of 19 December 1991 setting up a European insurance and occupational pensions committee
- Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)
- Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance
- Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC

To align Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, the Commission proposes to adjust:

- Directive 2002/83/EC of the European Parliament and of the Council mentioned above.

To align Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002, the Commission proposes to adjust:

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

For the sake of completeness, the list of instruments to be aligned as a matter of priority is reproduced below:

- (1) Directive 2006/49/EC of the European Parliament and the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions
- (2) Directive 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions
- (3) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC
- (4) Regulation 2006/562/EC of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

- (5) Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC
- (6) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing
- (7) Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council
- (8) Regulation 2005/396/EC of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC
- (9) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC
- (10) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and replacing Council Directive 93/22/EEC
- (11) Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC
- (12) Regulation 2003/1829/EC of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed
- (13) Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)
- (14) Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)
- (15) Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment
- (16) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council
- (17) Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance

- (18) Regulation 2002/1606/EC of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards
- (19) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use
- (20) Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC
- (21) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy
- (22) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles
- (23) Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market
- (24) Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)
- (25) Directive 91/675/EEC of 19 December 1991 setting up an insurance committee
- (26) Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)