



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

DIRECTIVE 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

(presented by the Commission)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal of the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

- (1) Directive 85/611/EEC⁴ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁵.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC which introduced a regulatory procedure with scrutiny to be used for the adoption of implementing measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 375, 31.12.1985, p. 3. Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.3.2005, p. 9).

⁵ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (3) In accordance with the joint statement of the European Parliament, the Council and the Commission⁶ on Decision 2006/512/EC, instruments which are already in force must be adjusted in accordance with the applicable procedures. That statement indicates a list of instruments which should be adjusted as a matter of urgency, including Directive 2001/107/EC. To align this Directive, Directive 85/611/EEC should be amended.
- (4) In particular power should be conferred on the Commission to adopt measures necessary for the implementation of Directive 85/611/EEC in accordance with Decision 1999/468/EC, in order to adopt technical amendments clarifying the definitions in order to ensure uniform application of Directive 85/611/EEC throughout the Community, and align terminology and framing definitions in accordance with subsequent acts on UCITS and related matters. Since those measures are of general scope, and are designed to amend non-essential elements of Directive 85/611/EEC, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 85/611/EEC should therefore be amended accordingly.
- (6) Since the amendments to be made to Directive 85/611/EEC are adjustments of a technical nature which only concern the committee procedure they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Articles 53a and 53b of Directive 85/611/EEC are replaced by the following:

"Article 53a

The Commission shall adopt technical amendments to this directive in the following areas:

- (a) clarification of the definitions in order to ensure uniform application of this Directive throughout the Community;
- (b) alignment of terminology and the framing of definitions in accordance with subsequent acts on UCITS and related matters.

Those measures, designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 53b(2).

⁶ OJ C 255, 21.10.2006, p. 1.

Article 53b

1. The Commission shall be assisted by the European Securities Committee instituted by Commission Decision 2001/528/EC⁷ (hereinafter referred to as "the Committee")

2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof."

Article 2

This Directive shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

⁷ OJ L 191, 13.7.2001, p. 45.