

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 170 final - COD 468
Brussels, 02.05.1994

**AMENDED PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL
DIRECTIVE
AMENDING DIRECTIVES 77/780/EEC AND 89/646/EEC IN THE FIELD OF
CREDIT INSTITUTIONS, 73/239/EEC AND 92/49/EEC IN THE FIELD OF
NON-LIFE INSURANCE, 79/267/EEC AND 92/96/EEC IN THE FIELD OF
LIFE ASSURANCE, AND 93/22/EEC IN THE FIELD OF INVESTMENT FIRMS
IN ORDER TO REINFORCE PRUDENTIAL SUPERVISION**

(presented by the Commission pursuant to Article 189 A (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

I. GENERAL CONSIDERATIONS

1. On 28 July 1993 the Commission adopted a proposal for a Directive¹ amending Directives 77/780/EEC and 89/646/EEC (on credit institutions), 73/239/EEC and 92/49/EEC (on non-life insurance), 79/267/EEC and 92/96/EEC (on life assurance), and 93/22/EEC (on investment firms). The proposal was sent to the Council by letter of the same date.

The Council immediately sent copies of the proposal to Parliament and the Economic and Social Committee. It began consideration of the proposal on 9 September.

2. At its 311th plenary session in Brussels on 21 December 1993, the Economic and Social Committee unanimously adopted an opinion on the proposal for a Directive,² approving the principle but requesting certain amendments.
3. Parliament adopted a legislative resolution embodying its opinion on the Commission proposal for a Directive at its sitting on 9 March 1994.³ Parliament's opinion includes the amendment considered below.
4. The amended proposal has been drafted to take account of the results of the consultations with both institutions. It also includes certain amendments resulting from the Treaty on European Union, in particular the new Article 189b inserted in the EC Treaty (co-decision procedure).

1 OJ C 229, 25.8.1993, p. 10.

2 OJ C 52, 19.2.1994, p. 15.

3 PE 180.578 - Minutes of the sitting of 9 March 1994.

II. COMMENTS ON PARLIAMENT'S PROPOSED AMENDMENT

Parliament suggests an amendment to the initial proposal. As the purpose of this amendment is to align the wording of Article 3, which requires the central administration and the registered office of a financial undertaking to be in the same Member State, on Article 58 of the Treaty, it is perfectly acceptable. At the sitting in March, the Commission representative approved it without reservation.

Moreover, in line with the opinion of the Economic and Social Committee, the Commission agreed to delete the penultimate recital (the fifteenth) from its proposal.

The fifteenth recital referred to the desirability of entrusting to a single external auditor the organization and coordination of the separate audits of group accounts; it can be dispensed with since, as the Economic and Social Committee points out in its opinion, it could favour large international accounting firms if it were ever to become an article in a directive.

Amended proposal for a European Parliament and Council Directive amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, 73/239/EEC and 92/49/EEC in the field of non-life insurance, 79/267/EEC and 92/96/EEC in the field of life assurance, and 93/22/EEC in the field of investment firms in order to reinforce prudential supervision

INITIAL PROPOSAL

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular the first and third sentences of Article 57(2) thereof,

Having regard to the Treaty establishing the European Community, and in particular the first and third sentences of Article 57(2) thereof,

Having regard to the proposal from the Commission,

unchanged

In cooperation with the European Parliament,

deleted

Having regard to the opinion of the Economic and Social Committee,

unchanged

Recital 15

deleted

Whereas in the case of a credit institution, insurance undertaking or investment firm with branches operating in more than one country, or which is part of a group of credit institutions, insurance undertakings or investment firms which is established in more than one country, it is desirable to have a single auditor for the organization and coordination of separate audits wherever possible; whereas however it is not appropriate to lay this down as an obligation in this Directive;

HAS ADOPTED THIS DIRECTIVE:

HAVE ADOPTED THIS DIRECTIVE:



Article 3
Head office and Registered office

Article 3
Central administration and Registered office

To Article 3(2) of Directive 77/780/EEC unchanged
and to Article 6(a) of Directive 79/239/EEC, as amended by Directive 92/49/EEC, and to Article 6(a) of Directive 79/267/EEC, as amended by Directive 92/96/EEC, the following indent shall be added which reads:

— the head office of the financial undertaking must be in the same Member State as its registered office and that in which the authorization is being requested.

— the central administration (where the most important decision-making bodies are established) of the financial undertaking must be in the same Member State as its registered office and that in which the authorization is being requested.

Signatures

Done at Brussels,
For the Council,
The President

Signatures

Done at Brussels,
For the European Parliament,
The President
For the Council,
The President

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