

DIRECTIVE 2008/37/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
amending Directive 2005/68/EC on reinsurance, as regards the implementing powers conferred on
the Commission

(Text with EEA relevance)

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) and 55 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Directive 2005/68/EC of the European Parliament and of the Council ⁽³⁾ 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 Commission ⁽⁴⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2005/68/EC in order to take account of technical developments in the insurance sector or financial markets and to ensure the uniform application of that Directive. More particularly, those measures are designed to extend the list of legal forms, clarify or adjust the items constituting the solvency margin, increase the premiums or claims amounts used for the calculation of the solvency margin for certain reinsurance activities or contract types, alter the minimum guarantee fund, and clarify definitions. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2005/68/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (5) Directive 2005/68/EC should therefore be amended accordingly.

- (6) Since the amendments made to Directive 2005/68/EC by this Directive are technical in nature and concern committee procedure only, 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

Amendments

Directive 2005/68/EC is hereby amended as follows:

1. Article 55 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

'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.;

- (b) paragraph 3 shall be deleted;

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 10 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 323, 9.12.2005, p. 1. Directive as amended by Directive 2007/44/EC (OJ L 247, 21.9.2007, p. 1).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

2. in Article 56, the introductory phrase shall be replaced by the following:

‘The following implementing measures designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 55(2):’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ
