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MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 103(2) of the Rules of Procedure

by Piia-Noora Kauppi, on behalf of the PPE-DE Group,
Ieke van den Burg and Pervenche Berès, on behalf of the PSE Group,
Margarita Starkevičiūtė, on behalf of the ALDE Group,
Alain Lipietz, on behalf of the Verts/ALE Group,
Sahra Wagenknecht, on behalf of the GUE/NGL Group,
and Guntars Krasts, on behalf of the UEN Group

on the MiFID draft implementing measures

European Parliament resolution on the MiFID draft implementing measures

The European Parliament,

- having regard to the draft Commission regulation and draft Commission directive implementing Directive 2004/39/EC published by the Commission on 6 February 2006,
 - having regard to the informal drafts of the aforementioned implementing measures distributed to the European Parliament since then,
 - having regard to Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission,
 - having regard to the statement made to the European Parliament by Commission President Romano Prodi on 5 February 2002,
 - having regard to its resolution of 5 February 2002 on the implementation of financial services legislation,
 - having regard to Article 64 of Directive 2004/39/EC laying down the 'sunset clause' provision,
 - having regard to the proposed modifications to the draft implementing directive and the draft implementing regulation of Directive 2004/39/EC adopted by the Committee on Economic and Monetary Affairs on 30 May 2006,
 - having regard to the Commission's answer to those proposed modifications, forwarded to Parliament by letter of 9 June 2006, addressed to the rapporteur and the chairwoman of the Economic and Monetary Affairs Committee;
 - having regard to the outcome of the meeting of the European Securities Committee of 8-9 June 2006,
 - having regard the ECOFIN conclusions of 5 May 2006 stressing the importance of supervision, coordination and convergence within the EU,
 - having regard to Rules 81 and 103(2) of its Rules of Procedure,
- A. whereas the legal basis of Directive 2004/39/EC is Article 47 of the Treaty, which does not explicitly allow for implementing regulations; whereas Parliament, having in mind the objective of better regulation and enforcement of a true level playing field for financial markets, generally supports the use of regulations;
1. Asks the Commission to take the utmost account of the limits of the powers conferred on

it by Directive 2004/39/EC in accordance with the applicable provisions of the Treaty, in order to ensure legal certainty for financial market actors;

2. Points out that the draft implementing measures constitute a workable solution for achieving the objectives of improved operating conditions for investment firms and other trading venues as well as of efficient, transparent and secure financial markets in the European Union;
3. Stresses that the work undertaken by Parliament since the publication of the implementing measures has been stimulated by the need to respect those legislative provisions aimed at achieving a balanced outcome between competition and transparency for financial markets, stakeholders (shareholders, issuers and users), regulatory authorities and democratically elected representatives;
4. Welcomes the willingness the Commission has demonstrated in working with Parliament towards achieving the best possible outcome for all concerned parties; recalls the need to involve and inform Parliament from the earliest stages of the committee work;
5. Notes that the procedure regarding the completion of implementing measures of Directive 2004/39/EC is virtually unprecedented in the way EU legislation is usually developed; points therefore to the need to achieve a mutually satisfactory outcome for all institutions concerned for the sake of developing the inter-institutional relationship in a positive direction;
6. Notes that, in a letter of 23 March 2006 to the Chairwoman of the Committee on Economic and Monetary Affairs, Commissioner Charlie McCreevy specified that the background notes are 'a simple working document produced by the Commission's services for discussion purposes only. They do not in any way constitute formal amendments to the draft measures'; considers, therefore, that this document cannot add any new conditions over and above those set out in the implementing measures;
7. Points out that, despite the generally cooperative approach amongst EU institutions, there are structural deficiencies in the way the delegation of legislative powers to the Commission occurs, which can jeopardise the outcome of important acts of legislation such as the implementing measures of Directive 2004/39/EC;
8. Signals its willingness to continue to improve the functioning of the inter-institutional relationship across the whole range of policy areas, and especially within the Lamfalussy process, with a view to obtaining a lasting and mutually satisfactory solution which puts Parliament on an equal footing with the Council when calling back the delegation of legislative powers;
9. Considers that the conclusion of the adoption procedure of Directive 2004/39/EC by co-decision gives Parliament an integral role in determining what the implementing measures should and should not consist of; considers that Council Decision 1999/468/EC grants Parliament not only the authority to reject proposed implementing legislation if it is in breach of the scope of the powers granted but also to modify it in line with the underlying codecision powers and the spirit of the inter-institutional relationship

which needs to be wholly and solemnly respected;

10. Notes the importance of consolidating the role of the CESR in coordinating the activities of national regulators and with a view to promoting regulatory convergence, and as the indispensable key advisor at European level for issues falling under its competences;
11. Remarks that coordinative activity between national regulators should therefore be generally subject to discussion within the Committee of European Securities Regulators; notes that this particularly concerns the following matters:
 - the design and establishment of arrangements for the exchange of transaction information between the national competent authorities as required by Directive 2004/39/EC in accordance with Article 13(1) of the draft implementing regulation,
 - the determination of and the discussion between national competent authorities on the most relevant market in terms of liquidity or its alternative in accordance with Articles 8 and 9 of the draft implementing regulation and the resolution of potential conflicts on such issues between competent authorities;
12. Emphasises that, at the current stage, the Committee of European Securities Regulators lacks the operational means to effectively fulfil its role;
13. Calls on Member States to provide the CESR with the means necessary to put Directive 2004/39 and its implementing measures into effect;
14. Calls on Member States to strengthen the democratic accountability of the Committee of European Securities Regulators, in particular towards the European Parliament;
15. Takes the view that, as they currently stand, the implementing powers do represent the best achievable outcome for all parties concerned;
16. Accepts the implementing measures;
17. Instructs its President to forward this resolution to the Council, the Commission and the Committee of European Securities Regulators.