II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive on monitoring and controlling large exposures of credit institutions

(92/C 175/04)

COM(92) 273 final — SYN 333

(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 22 June 1992)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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 proposal from the Commission (1),

in cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas this Directive is consistent with the aims set out in the Commission's White Paper on completing the internal market (4),

Whereas the essential rules for monitoring should be harmonized; whereas Member States should have the option of adopting more stringent provisions than those provided for by this Directive;

Whereas this Directive has been the subject of consultation with the Banking Advisory Committee, which is responsible, pursuant to Article 6 (4) of Council Directive 77/780/EEC of 12 December 1977 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (5), as last amended by Directive 89/646/EEC (6), for making suggestions to the Commission with a view to coordinating the coefficients applicable in the Member States;

Whereas monitoring and controlling the exposures of a credit institution is an integral part of its supervision; whereas an excessive concentration of exposures through a single client or group of connected clients may result in an unacceptable risk of loss; whereas such a situation may be deemed to be prejudicial to the solvency of a credit institution;

Whereas common guidelines for monitoring and controlling exposures of credit institutions were introduced initially by Commission Recommendation 87/62/EEC (7); whereas that instrument was chosen since it permitted existing systems to be adjusted gradually and new systems to be established without causing dislocation to the banking system of the Community; whereas, with that first phase now over, it is necessary for a binding instrument to be adopted, applicable to all Community credit institutions;

Whereas the monitoring requirement throughout the Community should be equivalent as credit institutions in a unified banking market are engaged in direct competition with one another; whereas, to that end, the criteria applied for determining the concentration of exposures should be the subject of legally binding rules at Community level and cannot be left entirely to the discretion of the Member States; whereas the adoption

(1) OJ No C 123, 9. 5. 1991, p. 18.
(2) Not yet published.
(3) OJ No C 339, 31. 12. 1991, p. 35.
(4) Doc. COM(85) 310.
(5) OJ No L 322, 17. 12. 1977, p. 30.
(6) OJ No L 386, 30. 12. 1989, p. 1.
(7) OJ No L 33, 4. 2. 1987, p. 10.

of common rules will therefore best serve the interests of the Community, since it will prevent differences in competitive conditions, while at the same time strengthening the Community's banking system;

Whereas, as regards the precise accounting technique to be used for assessing exposures, reference is made to the provisions of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (1);

Whereas Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions (2) contains a list of credit risks which may be incurred by credit institutions; whereas it is therefore justified to refer to that list in the definition of exposure for the purposes of this Directive; whereas it is not, however, appropriate to refer on principle to the weightings or degrees of risk set out by Directive 89/647/EEC; whereas those weightings and degrees of risk have been devised in order to set up a general solvency requirement to cover the credit risk of credit institutions; whereas, in the framework of regulating large exposures, the purpose is to limit the maximum potential loss that a credit institution may incur through a single client or a group of connected clients; whereas it is therefore appropriate to adopt a prudent approach involving taking account of the nominal value of exposures, without application of any weightings or degree of risk;

Whereas, when a credit institution has an exposure to its own parent undertaking or to other subsidiaries of its parent undertaking, particular prudence is necessary, whereas the management of exposures incurred by credit institutions must be carried out in a fully autonomous manner, with respect to the principles of sound banking management, without regard to any other considerations beyond these principles; whereas the provisions of the second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions, and amending Directive 77/780/EEC, require that where the influence exercised by persons holding a qualifying participation in a credit institution directly or indirectly is likely to operate to the detriment of the sound and prudent management of the institution, the competent authorities shall take appropriate measures to put an end to that situation; whereas, in the large exposures field, specific standards should also be laid down with respect to exposures held by a credit institution on its own group and whereas in such cases more stringent restrictions are justified than for other exposures; whereas more stringent restrictions must, however, not be applied when the parent undertaking is a financial holding company or a credit institution and the other subsidiaries are either credit or financial institutions or undertakings offering ancillary banking services, to the extent that all such undertakings are covered by the supervision of the credit institution on a consolidated basis; whereas in such cases the consolidated monitoring of the grouped undertakings allows for an adequate level of supervision, without the imposition of more stringent limits on exposure being necessary; whereas under this approach banking groups will also be encouraged to organize their structures in such a way as to make consolidated monitoring possible, which is a desirable result because it allows a more comprehensive level of monitoring to be carried out;

Whereas, in order to ensure harmonious application of the Directive, Member States should be allowed to make provision for a two-stage application of the new limits; whereas, for smaller credit institutions, a longer transitional period may be warranted inasmuch as too rapid an application of the 25 % rule would reduce their lending activity too abruptly;

Whereas, as regards the risks assumed in respect of two undertakings whose continued financing is of vital importance for Portugal's energy supply, the Portuguese Republic should be given a transitional period until 31 December 1998 in order to allow Portuguese credit institutions to undertake a restructuring operation to enable them to maintain, at the end of that period, their capacity to finance the said undertakings while respecting the limits laid down in this Directive;

Whereas implementing powers of the same nature as those which the Council reserved for itself in Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions (3) were granted to the Commission in Directive 89/646/EEC;

Whereas, taking account of the specific characteristics of the sector in question, it is appropriate to give the committee provided for in Article 22 of Directive 89/646/EEC the role of assisting the Commission in carrying out the responsibilities conferred on it according to Procedure III, Variant (a) of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission (4);

Whereas, with regard to the monitoring of large exposures concerning activities which are principally subject to market risks, the requisite coordination of methods of monitoring can be ensured under a Community arrangement regarding capital adequacy of investment firms and credit institutions; whereas this implies that, pending Community legislation

(1) OJ No L 372, 31. 12. 1986, p. 1.
(2) OJ No L 386, 30. 12. 1989, p. 14.
(3) OJ No L 124, 5. 5. 1989, p. 16.
(4) OJ No L 197, 18. 7. 1987, p. 33.

concerning the abovementioned large exposures, the monitoring of large exposures relating to activities which are principally subject to market risk, such as the trading portfolio, underwriting commitments for the issue of securities and claims related to settlement of securities transactions, may be left to the competent authorities of each Member State.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Definitions

For the purposes of this Directive:

(a) 'credit institution' means a credit institution as defined in the first indent of Article 1 of Directive 77/780/EEC, including branches in third countries of such a credit institution, and any private or public undertaking, including its branches, which corresponds to the definition given in the first indent of Article 1 of Directive 77/780/EEC and which has been authorized in a third country:

(b) 'competent authorities' means the competent authorities as defined in the ninth indent of Article 1 of Directive 92/30/EEC of 6 April 1992 on the supervision of credit institutions on a consolidated basis [1];

(c) 'parent undertaking' means a parent undertaking as defined in the seventh indent of Article 1 of Directive 92/30/EEC;

d) 'subsidiary undertaking' means a subsidiary undertaking as defined in the eighth indent of Article 1 of Directive 92/30/EEC;

(e) 'financial holding company' means a financial holding company as defined in the third indent of Article 1 of Directive 92/30/EEC;

(f) 'financial institution' means a financial institution as defined in the second indent of Article 1 of Directive 92/30/EEC;

(g) 'ancillary banking services undertaking' means an undertaking as defined in the fifth indent of Article 1 of Directive 92/30/EEC;

(h) 'exposures' means the assets and off-balance-sheet items in Article 6 of Directive 89/647/EEC and in Annexes I and III thereto, without application of the weightings or degrees of risk set out in those provisions; the risks mentioned in Annex III must be calculated in accordance with the method set out in Annex II to that Directive, without application of the weightings for counterparty risk; all elements 100 % of the amount of which is covered by own funds may, with the approval of the competent authorities, be excluded from the definition of exposures provided that such own funds are not included in the calculation of the solvency ratio and of other monitoring ratios laid down in Community acts; exposures shall not include:

— in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the period of 48 hours after payment is made, or

— in the case of transactions for the sale or purchase of securities, exposures incurred in the ordinary course of settlement during the period of five working days following the time when payment is made, or the securities are delivered, whichever is the earlier;

(i) 'Zone A' means the zone defined in the second indent of Article 2 (1) of Directive 89/647/EEC;

(j) 'Zone B' means the zone defined in the third indent of Article 2 (1) of Directive 89/647/EEC;

(k) 'own funds' means the own funds of a credit institution within the meaning of Directive 89/299/EEC;

(l) 'control' means the relationship between a parent undertaking and a subsidiary, as defined in Article 1 of Directive 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking;

(m) 'group of connected clients' means:

(i) either two or more persons, whether natural or legal, who, unless shown otherwise, constitute a single risk because one of them has, directly or indirectly, control over the other or others; or

[1] OJ No L 110, 28. 4. 1992, p. 52.

(ii) two or more persons, whether natural or legal, between whom there is no relationship of control as referred to in (i) above but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of them would be likely to encounter repayment difficulties.

Article 2

Scope

This Directive shall apply to credit institutions which have obtained the authorization referred to in Article 3 of Directive 77/780/EEC.

However, Member States need not apply this Directive to:

(a) institutions listed in Article 2 (2) of Directive 77/780/EEC;

(b) institutions in the same Member State which, as defined in Article 2 (4) (a) of Directive 77/780/EEC, are affiliated to a central body in that Member State, provided that, without prejudice to the application of this Directive to the central body, the whole as constituted by the central body and its affiliated institutions is subject to global monitoring.

Article 3

Reporting of large exposures

1. An exposure of a credit institution to a client or group of connected clients shall be considered to be a 'large exposure' where its value is equal to or exceeds 10 % of its own funds.

2. A report of every large exposure within the meaning of paragraph 1 shall be made by the credit institution to the competent authorities. Member States shall provide that this reporting is to be carried out, at their discretion, in accordance with one of the following two methods:

— notification of all large exposures at least once a year, backed up by communication during the year of all new large exposures and any increase of existing large exposures of at least 20 % compared with the last communication,

— notification of all large exposures at least four times a year.

3. However, exposures exempted under Article 4 (7) (a), (b), (c), (d), (f), (g) and (h) may be dispensed from reporting within the meaning of paragraph 2. The reporting frequency laid down in the second indent of paragraph 2 may be reduced to twice a year in the case of other exposures referred to in other points of paragraph 7 and in Article 4 (8), (9) and (10).

4. The competent authorities shall require that every credit institution has sound administrative and accounting procedures and adequate internal control mechanisms for identifying and recording all large exposures, and subsequent changes to them, as defined and required by this Directive, and for monitoring these exposures against the credit institution's own exposure policies.

Where a credit institution takes advantage of the provisions of paragraph 3, it shall keep a record of the grounds put forward for at least one year from the event giving rise to the dispensation, in order to enable the competent authorities to verify whether it is justified.

Article 4

Limits on large exposures

1. Credit institutions may not incur an exposure to a client or group of connected clients where its value exceeds 25 % of own funds.

2. Where that client or group of connected clients is the parent undertaking or subsidiary of the credit institution and/or one or more subsidiaries of that parent undertaking, the percentage provided for in paragraph 1 shall be reduced to 20 %. However, Member States may exempt the abovementioned large exposures from this limit if they provide for specific monitoring of such exposures by other measures or procedures. They shall inform the Banking Advisory Committee and the Commission of the content of those measures or procedures.

3. Credit institutions may not incur large exposures which, in the aggregate, exceed 800 % of own funds.

4. Member States may impose more stringent limits than those laid down in paragraphs 1, 2 and 3.

5. A credit institution shall comply with the limits laid down in paragraphs 1, 2 and 3 at all times in respect of its exposures. However, if in an exceptional case exposures exceed those limits, this must be reported without delay to the competent authorities which may, where the circumstances warrant it, allow the credit institution a limited period of time in which to comply with the limits.

6. Member States may fully or partially exempt from the application of paragraphs 1, 2 and 3 exposures incurred by a credit institution to its parent undertaking, to other subsidiaries of that undertaking or to its own subsidiaries, in so far as those undertakings are included in the supervision on a consolidated basis to which the credit institution itself is subject, in accordance with Directive 92/30/EEC or with equivalent standards in force in a third country.

7. Member States may fully or partially exempt the following exposures from the application of paragraphs 1, 2 and 3:

(a) asset items constituting claims on Zone A central governments and central banks;

(b) asset items constituting claims on the European Communities;

(c) asset items constituting claims carrying the explicit guarantees of Zone A central governments and central banks or of the European Communities;

(d) other exposures attributable to, or guaranteed by, Zone A central governments and central banks or the European Communities;

(e) asset items which constitute claims and other exposures on Zone B central governments and central banks and which are denominated and, where applicable, funded in the national currencies of the borrowers;

(f) asset items and other exposures secured, to the satisfaction of the competent authorities, by collateral in the form of Zone A central government or central bank securities, or securities issued by the European Communities or by the regional or local authorities in the Member States for which Article 7 of Directive 89/647/EEC lays down a zero weighting as regards solvency;

(g) asset items and other exposures secured, to the satisfaction of the competent authorities, by collateral in the form of cash deposits placed with the lending institution or with a credit institution which is the parent undertaking or a subsidiary of the lending institution;

(h) asset items and other exposures secured, to the satisfaction of the competent authorities, by collateral in the form of certificates of deposit issued by the lending institution or by a credit institution which is the parent undertaking or a subsidiary of the lending institution and lodged with either one of them;

(i) asset items constituting claims and other exposures on credit institutions, with a maturity of one year or less, but not constituting such institutions' own funds as defined in Directive 89/299/EEC;

(j) asset items constituting claims and other exposures, with a maturity of one year or less, on those institutions which are not credit institutions but which meet the terms of Article 8 (2) of Directive 89/647/EEC, and secured in accordance with the terms of that paragraph;

(k) bills of trade and other similar bills, with a maturity of one year or less, bearing the signature of another credit institution;

(l) bonds defined in Article 22 (4) of Council Directive 85/611/EEC, as amended by Council Directive 88/220/EEC;

(m) pending subsequent coordination, holdings in the insurance companies referred to in Article 12 (3) of Directive 89/646/EEC up to a maximum of 40 % of the own funds of the credit institution acquiring the holding;

(n) asset items constituting claims on regional or central credit institutions with which the lending institution is associated as part of a network by virtue of legal or statutory provisions and which are responsible, in accordance with those provisions, for cash clearing operations within the network;

(o) exposures secured, to the satisfaction of the competent authorities, by collateral in the form of securities other than those issued by Zone A central governments or central banks or the European Communities, provided that the securities are not issued by the credit institution itself or its parent company or one of their subsidiaries, or by the client or group of connected clients in question. The securities given as collateral must be valued on the basis of market prices and have an excess value over the exposures guaranteed and either be traded on a stock exchange or be genuinely negotiable and regularly quoted on a market operated under the auspices of recognized stock market operators and allowing, to the satisfaction of the competent authorities of the Member State of origin of the credit

institution, for the establishment of an objective price which enables the excess value of the securities to be verified at any time. The required excess value is 100 %; however, it is 150 % in the case of shares and 50 % in the case of bonds issued by credit institutions, regional or local authorities of the Member States other than those referred to in Article 7 of Council Directive 89/647/EEC, and in the case of bonds issued by the European Investment Bank and multilateral development banks as defined in Article 2 of Council Directive 89/647/EEC. Collateral in the form of securities may not constitute credit institutions' own funds as defined in Directive 89/299/EEC.

(p) mortgage loans on residential property secured, to the satisfaction of the competent authorities, by collateral as well as transactions in respect of leasing under which the lessor retains full ownership of the residential property leased for as long as the lessee has not exercised his option to purchase, in both cases up to 50 % of the value of the property concerned. The value of the property shall be calculated, to the satisfaction of the competent authorities, on the basis of strict valuation standards laid down by statute or administrative provisions. The valuation shall be performed at least once a year. In this context residential property is defined as a residence to be occupied or rented out by the borrower;

(q) 50 % of the off-balance-sheet items with a moderate risk as mentioned in Annex I to Directive 89/647/EEC;

(r) subject to agreement by the competent authorities, guarantees other than loan guarantees, which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institutions as defined in Article 1 (a), subject to a weighting of 20 % of their amount. Member States shall inform the Commission of the use they make of this option in order to ensure that it does not involve distortions of competition. No later than five years after adoption of this Directive, the Commission shall submit to the Council a report accompanied, if necessary, by any appropriate proposals.

(s) off-balance-sheet items with a low risk as mentioned in Annex I to Council Directive 89/647/EEC to the extent that an agreement has been concluded with the client or group of connected clients under which exposure may only be risked provided that it has been ascertained that it will not lead to the limits applicable under Article 4 (1), (2) and (3) being exceeded.

8. Member States may, for the purposes of paragraphs 1, 2 and 3, apply a weighting of 20 % to asset items constituting claims on regional and local authorities in the Member States and to other exposures to, or guaranteed by, such authorities; however, subject to the conditions laid down in Article 7 of Directive 89/647/EEC, Member States may reduce this rate to 0 %.

9. Member States may, for the purpose of paragraphs 1, 2 and 3, apply a weighting of 20 % to asset items constituting claims and to other exposures on credit institutions with a maturity of over one year but not more than three years and a weighting of 50 % to asset items constituting claims on credit institutions with a maturity of over three years, provided that the latter are represented by debt instruments issued by a credit institution and that those debt instruments are, in the opinion of the competent authorities, genuinely negotiable on a market made up of professional operators and are subject to daily quotation on this market, or the issue of which has been authorized by the competent authorities of the Member State of origin of the issuing credit institution. In no case may any of these items constitute own funds within the meaning of Directive 89/299/EEC.

10. By way of derogation from the provisions of the preceding paragraph and of paragraph 7 (i), Member States may apply a weighting of 20 % to asset items constituting claims and other exposures on credit institutions, regardless of their maturity.

11. Where an exposure to a client is guaranteed by a third party, or by collateral in the form of securities issued by a third party under the conditions set out in paragraph 7 (o), Member States may:

— deem the exposure to have been incurred to the third party and not to the client, if the exposure is directly and unconditionally guaranteed by such third party, to the satisfaction of the competent authorities,

— deem the exposure to have been incurred to the third party and not to the client, if the exposure defined in paragraph 7 (o) is guaranteed by collateral under the conditions set out therein.

12. No later than five years after the date laid down in Article 8 (1), the Council will examine, on the basis of a report from the Commission, the treatment of the interbank exposures provided for in paragraphs 7 (i), 9 and 10. The Council will, if necessary, decide on changes to be made but on the basis of a proposal from the Commission.

Article 5

Supervision on a consolidated or unconsolidated basis

1. If the credit institution is neither a parent undertaking nor a subsidiary, compliance with the obligations set out in Articles 3 and 4 or in any other Community provision applicable to this area shall be monitored on an unconsolidated basis.

2. In the other cases, compliance with the obligations set out in Articles 3 and 4 or in any other Community provision applicable to this area shall be monitored on a consolidated basis in accordance with Directive 92/30/EEC.

3. Member States may waive monitoring of compliance with the obligations set out in Articles 3 and 4 or in any other Community provision applicable to this area on an individual or subconsolidated basis with respect to a credit institution which, as a parent undertaking, is subject to monitoring on a consolidated basis and to any subsidiary of such a credit institution which is subject to their authorization and supervision and is included in the monitoring on a consolidated basis.

The same right of waiver shall be allowed where the parent undertaking is a financial holding company established in the same Member State as the credit institution, provided that that company is subject to the same monitoring as credit institutions.

In both the above cases, if the right of waiver is exercised, measures must be taken to ensure the satisfactory allocation of risks within the group.

4. Where a credit institution the parent of which is a credit institution has been authorized and is situated in another Member State, the competent authorities which granted that authorization shall require compliance with the obligations set out in Articles 3 and 4 or in any other Community provision applicable to this area, on an individual basis or, when appropriate, a subconsolidated basis.

5. Notwithstanding paragraph 4, the competent authorities responsible for authorizing the subsidiary of a parent undertaking which is a credit institution situated in another Member State may, by way of a bilateral agreement, transfer responsibility for monitoring compliance with the obligations set out in Articles 3 and 4 or in any other Community provision applicable to this area to the competent authorities which have authorized and which monitor the parent undertaking. The Commission and the Banking Advisory Committee shall be kept informed of the existence and content of such agreements.

Article 6

Transitional provisions relating to exposures in excess of the limits

1. Where, at the time of the publication of this Directive in the *Official Journal of the European Communities*, a credit institution has already incurred an exposure or exposures exceeding either the large exposure limit or the aggregate large exposure limits, as referred to in this Directive, the competent authorities shall require the credit institution concerned to take steps to have the exposure or exposures brought into line with the provisions of this Directive.

2. The process of having the exposure or exposures brought into line shall be devised, adopted, implemented and completed within the period deemed by the competent authorities to be consistent with the principle of sound administration and fair competition. The competent authorities shall inform the Commission and the Banking Advisory Committee of the schedule for the general process adopted.

3. A credit institution may not take any measure which would cause the exposures referred to in paragraph 1 to exceed the level existing at the date of the publication of this Directive in the *Official Journal of the European Communities.*

4. The period applicable under paragraph 2 shall expire no later than 31 December 2001. Exposures with a longer maturity for which the lending institution is bound to respect the contractual terms may be continued until their maturity.

5. Until 31 December 1998, Member States may as an option increase the limit laid down in Article 4 (1) to 40 % and the limit provided for in Article 4 (2) to 30 %. In such cases and subject to paragraphs 1 to 4, the time limit for bringing the exposures existing at the end of this period into line with the levels in Article 4 shall expire on 31 December 2001.

6. In the case of credit institutions whose own funds, within the meaning of Article 2 (1) of Directive 89/299/EEC, do not exceed ECU 7 million, and only in the case of such institutions, Member States may extend by five years the time limits laid down in paragraph 5. Member States making use of the provisions of this paragraph shall take measures to prevent distortions of competition from occurring and shall inform the Commission and the Banking Advisory Committee thereof.

7. In the cases referred to in paragraphs 5 and 6, an exposure may be considered to be a 'large exposure' if its value is equal to or exceeds 15 % of own funds.

8. Until 31 December 2001, Member States may substitute for the frequency of notification of large exposures, as referred to in Article 3 (1), second indent, a frequency of at least twice a year.

9. Member States may fully or partially exempt from application of Article 4 (1), (2) and (3) exposures incurred by a credit institution consisting of mortgage loans as defined in Article 11 (4) of Directive 89/647/EEC concluded within eight years of the date laid down in Article 8 (1), as well as property leasing transactions as defined in Article 11 (5) of Directive 89/647/EEC concluded within eight years of the date laid down in Article 8 (1), in both cases up to 50 % of the value of the property concerned.

10. Without prejudice to the provisions of paragraph 4, Portugal may, until 31 December 1998, fully or partially exempt from the application of Article 4 (1) and (3) exposures incurred by a credit institution to Electricidade de Portugal (EDP) and Petrogal.

Article 7

Subsequent amendments

1. Technical amendments to the following points shall be adopted in accordance with the procedure set out in paragraph 2:

— clarification of definitions to take account of developments on financial markets,

— clarification of definitions to ensure uniform application of this Directive,

— alignment of the terminology and of the wording of the definitions with those contained in subsequent instruments concerning credit institutions and related matters,

— clarification of the exemptions provided for in Article 4 (5) to (10).

2. The Commission shall be assisted by the committee provided for in the first subparagraph of Article 22 (2) of Directive 89/646/EEC.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 8

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

3. Pending Community legislation governing the monitoring of large exposures concerning activities which are principally subject to market risks on a consolidated or non-consolidated basis, the competent authorities shall treat those large exposures in accordance with methods to be determined by those authorities, having regard to the particular nature of the risks involved.

Article 9

This Directive is addressed to the Member States.