DIRECTIVE 98/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 June 1998

amending, as regards in particular mortgages, Council Directive 89/647/EEC on a solvency ratio for credit institutions

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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 [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure referred to in Article 189b of the Treaty [3],

(1) Whereas it is appropriate to treat mortgage-backed securities as loans referred to in Article 6(1)(c)(1) and Article 11(4) of Council Directive 89/647/EEC [4] if the competent authorities consider that they are equivalent in the light of the credit risk; whereas the market for securitisation is undergoing rapid development; whereas it is therefore desirable that the Commission should examine with the Member States the prudential treatment of asset-backed securities and put forward, within a year from the adoption of this Directive, proposals aimed at adapting existing legislation in order to define an appropriate prudential treatment for asset-backed securities;

(2) Whereas Article 11(4) of Directive 89/647/EEC provides for a derogation from Article 6(1)(c)(1), on certain conditions, for four Member States as regards the weighting to be applied to assets secured by mortgages on offices or on multi-purpose commercial premises; whereas this derogation expired on 1 January 1996;

(3) Whereas when Directive 89/647/EEC was adopted, the Commission undertook to examine this derogation to determine whether, in the light of its findings and of international developments and in view of the need to avoid distortions of competition, there was a case for amending this provision and, if so, to put forward appropriate proposals; whereas the results of the study relating to this provision, although not absolutely conclusive, show that there is no significant difference between the rates of losses recorded in the Member States covered by the derogation and in those not covered; whereas, therefore, this derogation can be extended to all Member States which so wish until 31 December 2006;

(4) Whereas the property to which the mortgage relates must be subject to rigorous assessment criteria and regular revaluation to take account of the developments in the commercial property market; whereas the property must be either occupied or let by the owner; whereas loans for property development are excluded from this provision;

(5) Whereas this Directive is the most appropriate means for attaining the objectives sought and does not go beyond what is necessary to achieve these objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/647/EEC is amended as follows:

1. In Article 6(1)(c)(1) the following subparagraph shall be added:

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(1) OJ C 114, 19.4.1996, p. 9.
(2) OJ C 30, 30.1.1997, p. 99.
(3) Opinion of the European Parliament of 17 September 1996 (OJ C 320, 28.10.1996, p. 26), Council common position of 9 March 1998 (OJ C 135, 30.4.1998, p.1) and Decision of the European Parliament of 30 April 1998 (OJ C 152, 18.5.1998). Council Decision of 19 May 1998.
(4) OJ L 386, 30.12.1989, p. 14. Directive as last amended by Directive 96/10/EC (OJ L 85, 3.4.1996, p. 17).