



# The proposed EU AIFM directive: update as to timing and legislative process

November 2009



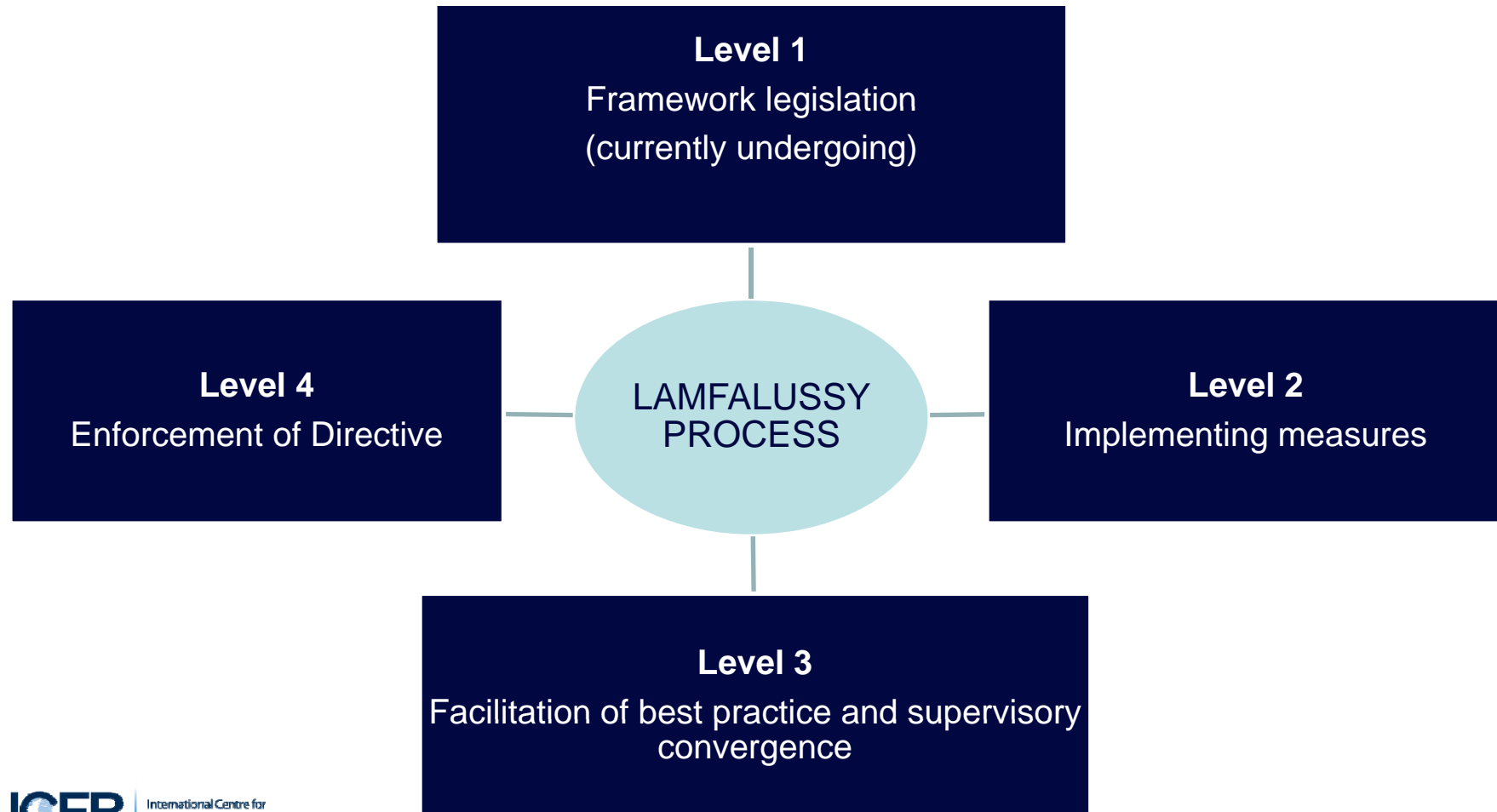
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# AIFM directive and the Lamfalussy process

- The AIFM directive is being considered under the Lamfalussy process
- This is a four-level regulatory approach for the adoption, implementation and enforcement of legislation and implementing measures across the securities, banking and insurance sectors. The levels are as follows:



# AIFM Directive - Level 1 tentative timeline



# AIFM Directive - Levels 2 to 4 & general process

## **Level 2**

If/when the Directive is adopted, the European Commission will prepare detailed implementing measures

## **Level 3**

The Committee of European Securities Regulators will draft and issue non-legally binding guidance

## **Level 4**

The Commission ensures that Member States are complying with the legislation

## **General process:**

The AIFM directive is undergoing the EU's codecision procedure. This means that the European Parliament and European Council must agree on an identical text for the legislation to be adopted. *Please see Appendix for overview of the codecision procedure*

If the Directive obtains political approval by the beginning of 2010 (i.e. at the end of the first reading), the Commission forecasts that the member states may have to implement the Directive into national law by 2012

However, the Directive could undergo a maximum of three readings if an agreement isn't reached at the end of the first reading

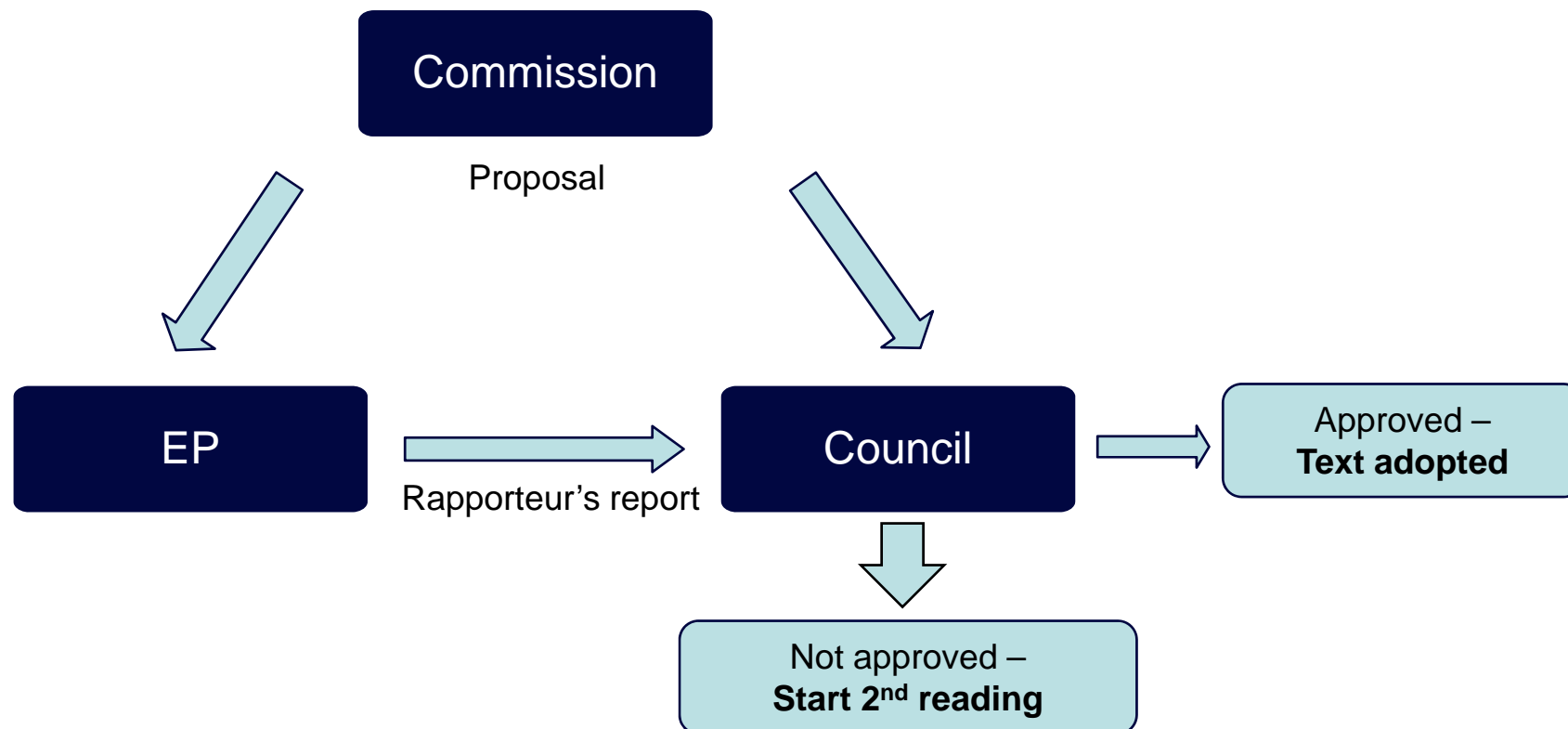
# Appendix: The codecision procedure

The codecision procedure was introduced by the Maastricht Treaty (1992), and extended and made more effective by the Amsterdam Treaty (1999). It is usually the means by which all financial services and some consumer protection legislation is made

The EU's "codecision procedure" can be summarised as follows:

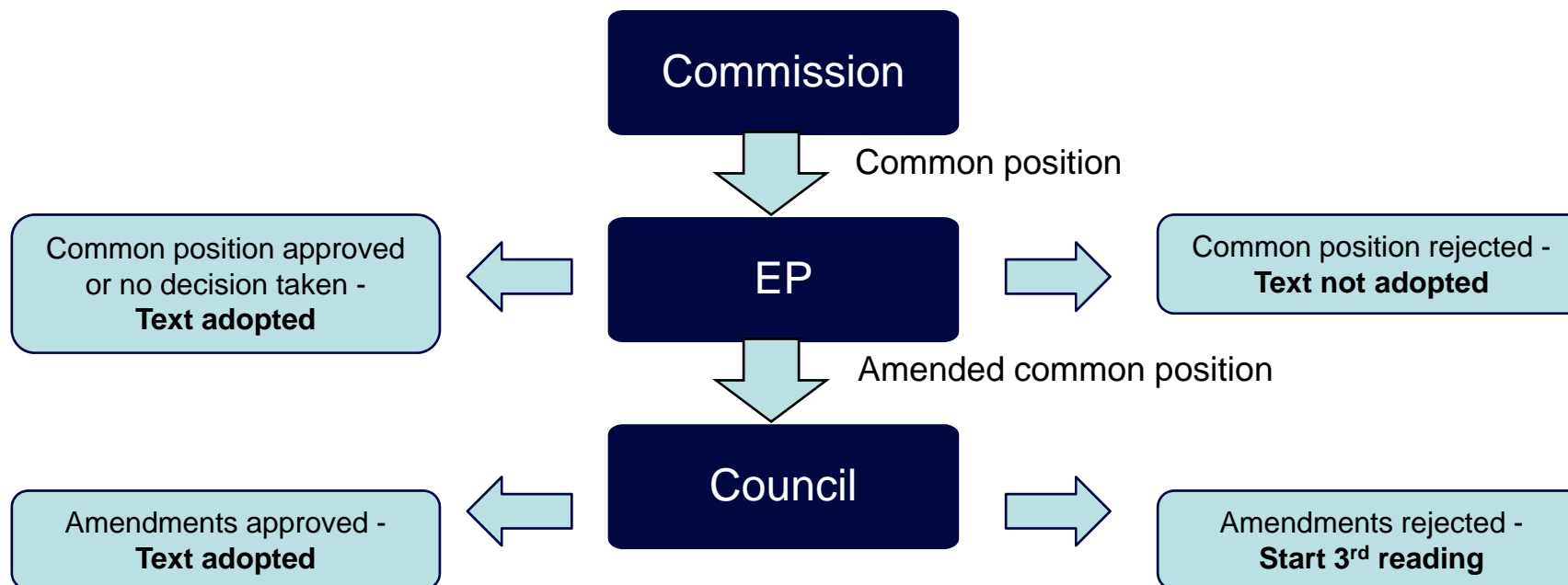
- (1) Commission's proposal is sent to EP and Council for consideration
- (2) if the EP and the Council agree on a Commission proposal, it is approved
- (3) if they disagree, the Council forms a common position; the EP can then either accept the Council's common position, or reject or amend it, by an absolute majority of its members
- (4) if the Council cannot accept the EP's amendments, a conciliation meeting is convened, after which the EP and the Council approve an agreement if one can be reached. If they are unable to agree, the proposal is not adopted

## Appendix: The codecision procedure – 1<sup>st</sup> reading



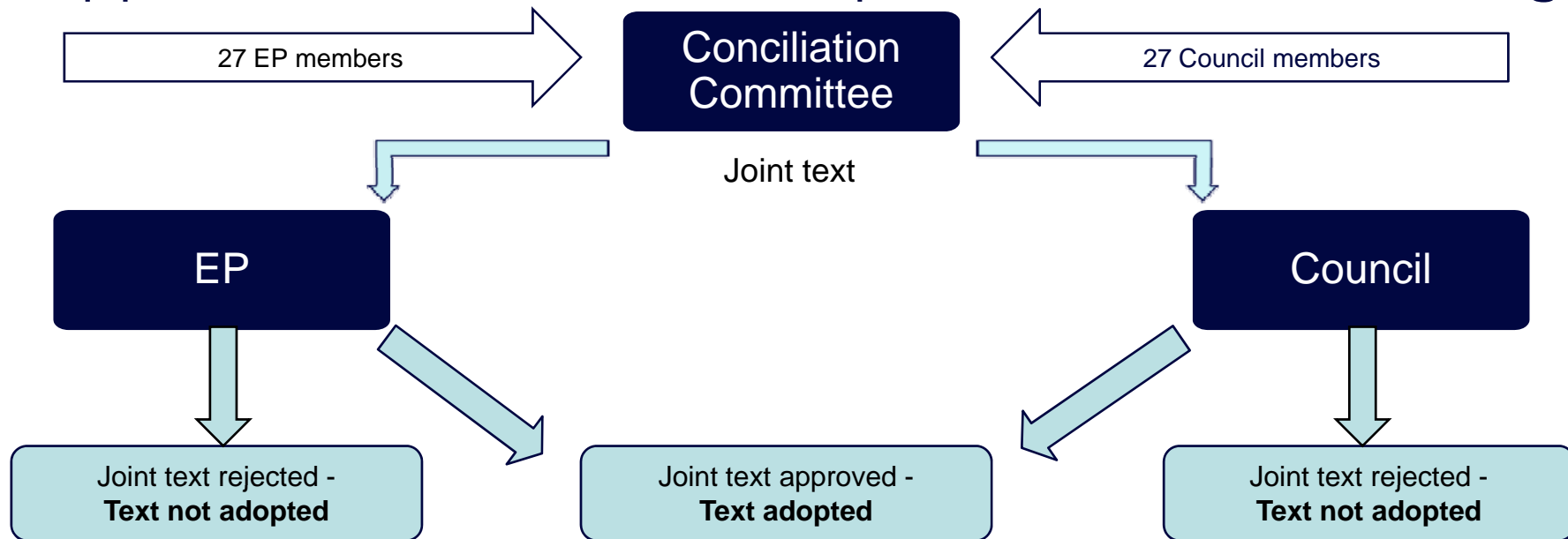
- Commission presents its legislative proposal to EP and Council
- EP standing committee is appointed as lead committee responsible for reviewing, amending and reporting on the proposal
- Lead committee appoints Rapporteur responsible for determining and leading negotiations on the EP's position regarding the proposal
- EP approve report
- Report is submitted to the Council for review
- If Council approves report then proposal is adopted. If not approved by Council, a second reading occurs

## Appendix: The codecision procedure – 2<sup>nd</sup> reading



- Council prepares a common position and submits this to EP for review
- If EP approve common position or takes no decision, legislative text is adopted in form of common position
- If EP rejects common position by a majority, legislative text is not adopted
- If EP make amendments to common position, such amendments are submitted to Council for review
- If Council approves EP amendments, legislative text is adopted in form of amended common position
- If Council rejects EP amendments, a third reading occurs

## Appendix: The codecision procedure – 3<sup>rd</sup> reading



- Conciliation committee of 54 members (27 from each of the EP and Council) convened to reconcile EP and Council view
- Conciliation committee aims to agree joint text based on the Council's common position
- If joint text is agreed by EP and Council, legislative text is adopted based on joint text
- If no joint text is agreed or not approved by EP and Council, no legislative text is adopted



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