

Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (Text with EEA relevance)

CHAPTER III

**OBLIGATIONS REGARDING MANAGEMENT COMPANIES**

SECTION 4

**Freedom of establishment and freedom to provide services**

*Article 17*

1 In addition to meeting the conditions imposed in Articles 6 and 7, a management company wishing to establish a branch within the territory of another Member State to pursue the activities for which it has been authorised shall notify the competent authorities of its home Member State accordingly.

2 Member States shall require every management company wishing to establish a branch within the territory of another Member State to provide the following information and documents, when effecting the notification provided for in paragraph 1:

- a the Member State within the territory of which the management company plans to establish a branch;
- b a programme of operations setting out the activities and services according to Article 6(2) and (3) envisaged and the organisational structure of the branch, which shall include a description of the risk management process put in place by the management company. It shall also include a description of the procedures and arrangements taken in accordance with Article 15;
- c the address in the management company's host Member State from which documents may be obtained; and
- d the names of those responsible for the management of the branch.

3 Unless the competent authorities of the management company's home Member State have reason to doubt the adequacy of the administrative structure or the financial situation of a management company, taking into account the activities envisaged, they shall, within two months of receiving all the information referred to in paragraph 2, communicate that information to the competent authorities of the management company's host Member State and shall inform the management company accordingly. They shall also communicate details of any compensation scheme intended to protect investors.

Where the competent authorities of the management company's home Member State refuse to communicate the information referred to in paragraph 2 to the competent authorities of the management company's host Member State, they shall give reasons for such refusal to the management company concerned within two months of receiving all the information. The refusal or any failure to reply shall be subject to the right to apply to the courts in the management company's home Member State.

Where a management company wishes to pursue the activity of collective portfolio management referred to in Annex II, the competent authorities of the management company's home Member State shall enclose with the documentation sent to the competent authorities of the management company's host Member State an attestation that the management company has been authorised pursuant to the provisions of this Directive, a description of the scope of the management company's authorisation and details of any restriction on the types of UCITS that the management company is authorised to manage.

4 A management company which pursues activities by a branch within the territory of the host Member State shall comply with the rules drawn up by the management company's host Member State pursuant to Article 14.

5 The competent authorities of the management company's host Member State shall be responsible for supervising compliance with paragraph 4.

6 Before the branch of a management company starts business, the competent authorities of the management company's host Member State shall, within two months of receiving the information referred to in paragraph 2, prepare for supervising the compliance of the management company with the rules under their responsibility.

7 On receipt of a communication from the competent authorities of the management company's host Member State or on the expiry of the period provided for in paragraph 6 without receipt of any communication from those authorities, the branch may be established and start business.

8 In the event of change of any particulars communicated in accordance with paragraph 2(b), (c) or (d), a management company shall give written notice of that change to the competent authorities of the management company's home Member State and of the management company's host Member State at least one month before implementing the change so that the competent authorities of the management company's home Member State may take a decision on the change under paragraph 3 and the competent authorities of the management company's host Member State may do so under paragraph 6.

9 In the event of a change in the particulars communicated in accordance with the first subparagraph of paragraph 3, the competent authorities of the management company's home Member State shall inform the competent authorities of the management company's host Member State accordingly.

The competent authorities of the management company's home Member State shall update the information contained in the attestation referred to in the third subparagraph of paragraph 3 and inform the competent authorities of the management company's host Member State whenever there is a change in the scope of the management company's authorisation or in the details of any restriction on the types of UCITS that the management company is authorised to manage.