

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 VII

**OBLIGATIONS CONCERNING THE INVESTMENT POLICIES OF UCITS**

*Article 50*

- 1 The investments of a UCITS shall comprise only one or more of the following:
  - a transferable securities and money market instruments admitted to or dealt in on a regulated market as defined in Article 4(1)(14) of Directive 2004/39/EC;
  - b transferable securities and money market instruments dealt in on another regulated market in a Member State, which operates regularly and is recognised and open to the public;
  - c transferable securities and money market instruments admitted to official listing on a stock exchange in a third country or dealt in on another regulated market in a third country which operates regularly and is recognised and open to the public provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the instruments of incorporation of the investment company;
  - d recently issued transferable securities, provided that:
    - (i) the terms of issue include an undertaking that an application will be made for admission to official listing on a stock exchange or to another regulated market which operates regularly and is recognised and open to the public, provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the instruments of incorporation of the investment company; and
    - (ii) the admission referred to in point (i) is secured within a year of issue;
  - e units of UCITS authorised according to this Directive or other collective investment undertakings within the meaning of Article 1(2)(a) and (b), whether or not established in a Member State, provided that:
    - (i) such other collective investment undertakings are authorised under laws which provide that they are subject to supervision considered by the competent authorities of the UCITS home Member State to be equivalent to that laid down in Community law, and that cooperation between authorities is sufficiently ensured;
    - (ii) the level of protection for unit-holders in the other collective investment undertakings is equivalent to that provided for unit-holders in a UCITS, and in particular that the rules on asset segregation, borrowing, lending, and uncovered sales of transferable securities and money market instruments are equivalent to the requirements of this Directive;
    - (iii) the business of the other collective investment undertakings is reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period; and

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- (iv) no more than 10 % of the assets of the UCITS or of the other collective investment undertakings, whose acquisition is contemplated, can, according to their fund rules or instruments of incorporation, be invested in aggregate in units of other UCITS or other collective investment undertakings;
- f deposits with credit institutions which are repayable on demand or have the right to be withdrawn, and maturing in no more than 12 months, provided that the credit institution has its registered office in a Member State or, if the credit institution has its registered office in a third country, provided that it is subject to prudential rules considered by the competent authorities of the UCITS home Member State as equivalent to those laid down in Community law;
- g financial derivative instruments, including equivalent cash-settled instruments, dealt in on a regulated market referred to in points (a), (b) and (c) or financial derivative instruments dealt in over-the-counter (OTC) derivatives, provided that:
  - (i) the underlying of the derivative consists of instruments covered by this paragraph, financial indices, interest rates, foreign exchange rates or currencies, in which the UCITS may invest according to its investment objectives as stated in its fund rules or instruments of incorporation;
  - (ii) the counterparties to OTC derivative transactions are institutions subject to prudential supervision, and belonging to the categories approved by the competent authorities of the UCITS home Member State; and
  - (iii) the OTC derivatives are subject to reliable and verifiable valuation on a daily basis and can be sold, liquidated or closed by an offsetting transaction at any time at their fair value at the UCITS' initiative; or
- h money market instruments other than those dealt in on a regulated market, which fall under Article 2(1)(o), if the issuer or issuer of such instruments is itself regulated for the purpose of protecting investors and savings, provided that they are:
  - (i) issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Community or the European Investment Bank, a third country or, in the case of a Federal State, by one of the members making up the federation, or by a public international body to which one or more Member States belong;
  - (ii) issued by an undertaking any securities of which are dealt in on regulated markets referred to in points (a), (b) or (c);
  - (iii) issued or guaranteed by an establishment subject to prudential supervision, in accordance with criteria defined by Community law, or by an establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law; or
  - (iv) issued by other bodies belonging to the categories approved by the competent authorities of the UCITS home Member State provided that investments in such instruments are subject to investor protection equivalent to that laid down in points (i), (ii) or (iii) and provided that the issuer is a company whose capital and reserves amount to at least EUR 10 000 000 and which presents and publishes its annual accounts in accordance with Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies<sup>(1)</sup>, is an entity which, within a group of companies which includes one or several listed companies, is

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dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.

- 2 A UCITS shall not, however:
- a invest more than 10 % of its assets in transferable securities or money market instruments other than those referred to in paragraph 1; or
  - b acquire either precious metals or certificates representing them.

UCITS may hold ancillary liquid assets.

- 3 An investment company may acquire movable or immovable property which is essential for the direct pursuit of its business.

[<sup>F14</sup> In order to ensure consistent harmonisation of this Article ESMA may develop draft regulatory technical standards to specify the provisions concerning the categories of assets in which UCITS can invest in accordance with this Article and with delegated acts adopted by the Commission which relate to such provisions.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.]

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#### **Textual Amendments**

- F1** Inserted by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (Text with EEA relevance).

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- (1) [OJ L 222, 14.8.1978, p. 11.](#)