

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 XI

SPECIAL PROVISIONS APPLICABLE TO UCITS WHICH MARKET THEIR UNITS IN MEMBER STATES OTHER THAN THOSE IN WHICH THEY ARE ESTABLISHED

Article 93

1 If a UCITS proposes to market its units in a Member State other than its home Member State, it shall first submit a notification letter to the competent authorities of its home Member State.

The notification letter shall include information on arrangements made for marketing units of the UCITS in the host Member State, including, where relevant, in respect of share classes. In the context of Article 16(1), it shall include an indication that the UCITS is marketed by the management company that manages the UCITS.

2 A UCITS shall enclose with the notification letter, as referred to in paragraph 1, the latest version of the following:

- a its fund rules or its instruments of incorporation, its prospectus and, where appropriate, its latest annual report and any subsequent half-yearly report translated in accordance with the provisions of Article 94(1)(c) and (d); and
- b its key investor information referred to in Article 78, translated in accordance with Article 94(1)(b) and (d).

3 The competent authorities of the UCITS home Member State shall verify whether the documentation submitted by the UCITS in accordance with paragraphs 1 and 2 is complete.

The competent authorities of the UCITS home Member State shall transmit the complete documentation referred to in paragraphs 1 and 2 to the competent authorities of the Member State in which the UCITS proposes to market its units, no later than 10 working days of the date of receipt of the notification letter accompanied by the complete documentation provided for in paragraph 2. They shall enclose with the documentation an attestation that the UCITS fulfils the conditions imposed by this Directive.

Upon the transmission of the documentation, the competent authorities of the UCITS home Member State shall immediately notify the UCITS about the transmission. The UCITS may access the market of the UCITS host Member State as from the date of that notification.

4 Member States shall ensure that the notification letter referred to in paragraph 1 and the attestation referred to in paragraph 3 are provided in a language customary in the sphere of international finance, unless the UCITS home and host Member States agree to that notification letter and that attestation being provided in an official language of both Member States.

5 Member States shall ensure that the electronic transmission and filing of the documents referred to in paragraph 3 is accepted by their competent authorities.

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6 For the purpose of the notification procedure set out in this Article, the competent authorities of the Member State in which a UCITS proposes to market its units shall not request any additional documents, certificates or information other than those provided for in this Article.

7 The UCITS home Member State shall ensure that the competent authorities of the UCITS host Member State have access, by electronic means, to the documents referred to in paragraph 2 and, if applicable, to any translations thereof. It shall ensure that the UCITS keeps those documents and translations up to date. The UCITS shall notify any amendments to the documents referred to in paragraph 2 to the competent authorities of the UCITS host Member State and shall indicate where those documents can be obtained electronically.

8 In the event of a change in the information regarding the arrangements made for marketing communicated in the notification letter in accordance with paragraph 1, or a change regarding share classes to be marketed, the UCITS shall give written notice thereof to the competent authorities of the host Member State before implementing the change.