

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 XIV

DEROGATIONS, TRANSITIONAL AND FINAL PROVISIONS

SECTION 1

Derogations

Article 113

1 Solely for the purpose of Danish UCITS, *pantebreve* issued in Denmark shall be treated as equivalent to the transferable securities referred to in Article 50(1)(b).

2 By way of derogation from Articles 22(1) and 32(1), the competent authorities may authorise those UCITS which, on 20 December 1985, had two or more depositaries in accordance with their national law to maintain that number of depositaries if those authorities have guarantees that the functions to be performed under Article 22(3) and Article 32(3) will be performed in practice.

3 By way of derogation from Article 16, the Member States may authorise management companies to issue bearer certificates representing the registered securities of other companies.

Article 114

1 Investment firms, as defined in Article 4(1)(1) of Directive 2004/39/EC, authorised to carry out only the services provided for in Section A(4) and (5) of the Annex to that Directive, may obtain authorisation under this Directive to manage UCITS as management companies. In that case, such investment firms shall give up the authorisation obtained under Directive 2004/39/EC.

2 Management companies already authorised before 13 February 2004 in their home Member State under Directive 85/611/EEC to manage UCITS shall be deemed to be authorised for the purposes of this Article if the laws of that Member State provide that to take up such activity they must comply with conditions equivalent to those imposed in Articles 7 and 8.

SECTION 2

Transitional and final provisions

Article 115

By 1 July 2013, the Commission shall submit to the European Parliament and to the Council a report on the application of this Directive.

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Article 116

1 Member States shall adopt and publish by 30 June 2011, the laws, regulations and administrative provisions necessary to comply with the second subparagraph of Article 1(2), Article 1(3)(b), points (e), (m), (p), (q) and (r) of Article 2(1), Article 2(5), Article 4, Article 5(1) to (4), (6) and (7), Article 6(1), Article 12(1), the introductory phase of Article 13(1), Article 13(1)(a) and (i), Article 15, Article 16(1), Article 16(3), Article 17(1), Article 17(2)(b), the first and third subparagraphs of Article 17(3), Article 17(4) to (7), the second subparagraph of Article 17(9), the introductory part of Article 18(1), Article 18(1)(b), the third and fourth subparagraphs of Article 18(2), Article 18(3) and (4), Articles 19 and 20, Article 21(2) to (6), (8) and (9), Article 22(1), points (a), (d) and (e) of Article 22(3), Article 23(1), (2), (4), and (5), the third paragraph of Article 27, Article 29(2), Article 33(2), (4), and (5), Articles 37 to 42, Article 43(1) to (5), Articles 44 to 49, the introductory phrase of Article 50(1), Article 50(3), the third subparagraph of Article 51(1), Article 54(3), Article 56(1), the introductory phrase of the first subparagraph of Article 56(2), Articles 58 and 59, Article 60(1) to (5), Article 61(1) and (2), Article 62(1), (2) and (3), Article 63, Article 64(1), (2) and (3), Articles 65, 66 and 67, the introductory phrase and Article 68(1)(a), Article 69(1) and (2), Article 70(2) and (3), Articles 71, 72 and 74, Article 75(1), (2) and (3), Articles 77 to 82, Article 83(1)(b), the second indent of Article 83(2)(a), Article 86, Article 88(1)(b), Article 89(b), Articles 90 to 94, Articles 96 to 100, Article 101(1) to (8), the second subparagraph of Article 102(2), Article 102(5), Articles 107 and 108, Article 109(2), (3) and (4), Article 110 and Annex I. They shall forthwith inform the Commission thereof.

They shall apply those measures from 1 July 2011.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to Directive 85/611/EEC shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 117

Directive 85/611/EEC, as amended by the Directives listed in Annex III, Part A, is repealed with effect from 1 July 2011, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex III, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

References to the simplified prospectus shall be construed as references to the key investor information referred to in Article 78.

Article 118

1 This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 1(1), the first subparagraph of Article 1(2), Article 1(3)(a), Article 1(4) to (7), points (a) to (d), (f) to (l), (n) and (o) of Article 2(1), Article 2(2), (3) and (4), Article 2(6) and (7), Article 3, Article 5(5), Article 6(2), (3) and (4), Articles 7 to 11, Article

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12(2), Article 13(1)(b) to (h), Article 13(2), Article 14(1), Article 16(2), points (a), (c) and (d) of Article 17(2), the second subparagraph of Article 17(3), Article 17(8), the first subparagraph of Article 17(9), Article 18(1) except the introductory phrase and point (a), the first and second subparagraphs of Article 18(2), Article 21(1) and (7), Article 22(2), Article 22(3)(b) and (c), Article 23(3), Article 24, Articles 25 and 26, the first and second paragraphs of Article 27, Article 28, Article 29(1), (3), and (4), Articles 30, 31 and 32, Article 33(1) and (3), Articles 34, 35 and 36, Article 50(1)(a) to (h), Article 50(2), the first and second subparagraphs of Article 51(1), Article 51(2) and (3), Articles 52 and 53, Article 54(1) and (2), Article 55, the first subparagraph of Article 56(2), the second subparagraph of Article 56(2), Article 56(3), Article 57, Article 68(2), Article 69(3) and (4), Article 70(1) and (4), Articles 73 and 76, Article 83(1) except point (b), Article 83(2)(a) except the second indent, Articles 84, 85 and 87, Article 88(1) except point (b), Article 88(2), Article 89 except point (b), Article 102(1), the first subparagraph of Article 102(2), Article 102(3) and (4), Articles 103 to 106, Article 109(1), Articles 111, 112, 113, and 117 and Annexes II, III and IV shall apply from 1 July 2011.

2 Member States shall ensure that UCITS replace their simplified prospectus drawn up in accordance with the provisions of Directive 85/611/EEC with key investor information drawn up in accordance with Article 78 as soon as possible and in any event no later than 12 months after the deadline for implementing, in national law, all the implementing measures referred to in Article 78(7) has expired. During that period, the competent authorities of the UCITS host Member States shall continue to accept the simplified prospectus for UCITS marketed on the territory of those Member States.

Article 119

This Directive is addressed to the Member States.