

UCITS DIRECTIVE (UCITS I to UCITS IV)

Reference document: Directive 2009/65/EC of 13 July 2009 (UCITS IV Directive).

Lienk:<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:302:0032:0096:en:PDF>

UCITS IV implementation date (transposition by Member States): 1 July 2011

Introduction

The UCITS (Undertakings for Collective Investments in Transferable Securities) Directive, of which the first version – UCITS I – dates back to 1985, generally aims to increase the efficiency of the single market by facilitating the free movement of UCITS within the EU, provided they conform with a set of common coordination rules concerning aspects such as investor access, eligible financial instruments and risk spreading. The UCITS which comply with the rules of this Directive are said to be coordinated and may market their units in any EU Member State, simply by notifying the particular state, without the need to request a new authorisation in each country where the funds are marketed. The latest published version of this Directive is the UCITS IV Directive which officially came into effect on 01/07/2011. The main measures enforced by the UCITS IV Directive aimed to:

- improve or correct existing UCITS III measures: such is the case for the simplification of the cross-border notification procedure, the replacement of the non EU-standardised simplified prospectus by a standardised document (the Key Investor Information Document – KIID), and the set-up of a real passport for asset management companies,
- increase the competitiveness of European asset management by striving to increase the average size of funds in order to promote economies of scale: this concerns cross-boarder master-feeder structures and the measures allowing the cross-boarder merger of funds.

It is also to be noted that UCITS IV calls for much stronger coordination and communication between the Member States' supervisory authorities. This coordination has been facilitated by the creation of a new European supervisory body – ESMA – at the beginning of 2011. The cross-border notification period applicable to coordinated UCITS has thus been reduced from a maximum of 2 months under UCITS III to 10 business day under UCITS IV.

Current situation: The UCITS IV Directive came into effect on 1st July 2011 in the Member States but in many cases its transposition was slightly offset (only 5 countries managed to meet the transposition deadline).

Upcoming stages: The European Commission is set to adopt a proposal for a UCITS V Directive aimed at reviewing specific aspects of Directive 2009/65/EC (UCITS IV) by introducing harmonised provisions on the functions of depositaries (planned alignment with the AIFM Directive except concerning the possible contractual transfer of the depositary's responsibility to a sub-custodian, which is not provided for in the future UCITS V text), the manager compensation policies and the penalties applicable to managers (see UCITS V project brief)

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