

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 XII

**PROVISIONS CONCERNING THE AUTHORITIES
RESPONSIBLE FOR AUTHORISATION AND SUPERVISION**

Article 103

1 Notwithstanding Article 102(1) to (4), Member States may authorise exchanges of information between a competent authority and:

- a authorities responsible for overseeing bodies involved in the liquidation and bankruptcy of UCITS or undertakings contributing towards their business activity, or bodies involved in similar procedures;
- b authorities responsible for overseeing persons responsible for carrying out statutory audits of the accounts of insurance undertakings, credit institutions, investment firms or other financial institutions.

2 Member States which have recourse to the derogation provided for in paragraph 1 shall require that at least the following conditions are met:

- a the information is used for the purpose of performing the task of overseeing referred to in paragraph 1;
- b the information received is subject to the conditions of professional secrecy imposed in Article 102(1); and
- c where the information originates in another Member State, it is not disclosed without the express consent of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their consent.

[^{F13} Member States shall communicate to ESMA, to the Commission and to the other Member States the names of the authorities which may receive information pursuant to paragraph 1.]

4 Notwithstanding Article 102(1) to (4), Member States may, with the aim of strengthening the stability, including the integrity, of the financial system, authorise the exchange of information between the competent authorities and the authorities or bodies responsible under the law for the detection and investigation of breaches of company law.

5 Member States which have recourse to the derogation provided for in paragraph 4 shall require that at least the following conditions are met:

- a the information is used for the purpose of performing the task referred to in paragraph 4;
- b the information received is subject to the conditions of professional secrecy provided for in Article 102(1); and
- c where the information originates in another Member State, it is not disclosed without the express consent of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their consent.

For the purposes of point (c), the authorities or bodies referred to in paragraph 4 shall communicate to the competent authorities which have disclosed the information the names and precise responsibilities of the persons to whom it is to be sent.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

6 Where, in a Member State, the authorities or bodies referred to in paragraph 4 perform their task of detection or investigation with the aid, in view of their specific competence, of persons appointed for that purpose and not employed in the public sector the possibility of exchanging information provided for in that paragraph may be extended to such persons under the conditions stipulated in paragraph 5.

[^{F17} Member States shall communicate to ESMA, to the Commission and to the other Member States the names of the authorities or bodies which may receive information pursuant to paragraph 4.]

Textual Amendments

- F1** Substituted 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).