

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 III

**OBLIGATIONS REGARDING MANAGEMENT COMPANIES**

SECTION 1

**Conditions for taking up business**

*Article 6*

1 Access to the business of management companies shall be subject to prior authorisation to be granted by the competent authorities of the management company's home Member State. Authorisation granted under this Directive to a management company shall be valid for all Member States.

[<sup>F1</sup>ESMA shall be notified of every authorisation granted and shall publish and keep up-to-date a list of authorised management companies on its website.]

2 No management company shall engage in activities other than the management of UCITS authorised under this Directive, with the exception of the additional management of other collective investment undertakings which are not covered by this Directive and for which the management company is subject to prudential supervision but the units of which cannot be marketed in other Member States under this Directive.

The activity of management of UCITS shall include, for the purpose of this Directive, the functions referred to in Annex II.

3 By way of derogation from paragraph 2, Member States may authorise management companies to provide, in addition to the management of UCITS, the following services:

- a management of portfolios of investments, including those owned by pension funds, in accordance with mandates given by investors on a discretionary, client-by-client basis, where such portfolios include one or more of the instruments listed in Annex I, Section C to Directive 2004/39/EC; and
- b as non-core services:
  - (i) investment advice concerning one or more of the instruments listed in Annex I, Section C to Directive 2004/39/EC;
  - (ii) safekeeping and administration in relation to units of collective investment undertakings.

Management companies shall not be authorised under this Directive to provide only the services referred to in this paragraph, or to provide non-core services without being authorised for the services referred to in point (a) of the first subparagraph.

4 Article 2(2) and Articles 12, 13 and 19 of Directive 2004/39/EC shall apply to the provision of the services referred to in paragraph 3 of this Article by management companies.

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**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.

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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).