

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 X

GENERAL OBLIGATIONS OF UCITS

Article 83

1 The following shall not borrow:

- a an investment company;
- b a management company or depositary acting on behalf of a common fund.

A UCITS may, however, acquire foreign currency by means of a ‘back-to-back’ loan.

2 By way of derogation from paragraph 1, a Member State may authorise a UCITS to borrow provided that such borrowing is:

- a on a temporary basis and represents:
 - in the case of an investment company, no more than 10 % of its assets, or
 - in the case of a common fund, no more than 10 % of the value of the fund; or
- b to enable the acquisition of immovable property essential for the direct pursuit of its business and represents, in the case of an investment company, no more than 10 % of its assets.

Where a UCITS is authorised to borrow under points (a) and (b), such borrowing shall not exceed 15 % of its assets in total.

[^{F13} In order to ensure consistent harmonisation of this Article, ESMA may develop draft regulatory technical standards to specify the requirements of this Article relating to borrowing.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.]

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 \(European Securities and Markets Authority\) \(Text with EEA relevance\).](#)