

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 99a

Member States shall ensure that their laws, regulations or administrative provisions transposing this Directive provide for penalties, in particular when:

- (a) the activities of UCITS are pursued without obtaining authorisation, thus infringing Article 5;
- (b) the business of a management company is carried out without obtaining prior authorisation, thus infringing Article 6;
- (c) the business of an investment company is carried out without obtaining prior authorisation, thus infringing Article 27;
- (d) a qualifying holding in a management company is acquired, directly or indirectly, or such a qualifying holding in a management company is further increased so that the proportion of the voting rights or of the capital held would reach or exceed 20 %, 30 % or 50 % or so that the management company would become its subsidiary ('the proposed acquisition'), without notifying in writing the competent authorities of the management company in which the acquirer is seeking to acquire or increase a qualifying holding, thus infringing Article 11(1);
- (e) a qualifying holding in a management company is disposed of, directly or indirectly, or reduced so that the proportion of the voting rights or of the capital held would fall below 20 %, 30 % or 50 % or so that the management company would cease to be a subsidiary, without notifying in writing the competent authorities, thus infringing Article 11(1);
- (f) a management company has obtained an authorisation through false statements or any other irregular means, thus infringing point (b) of Article 7(5);
- (g) an investment company has obtained an authorisation through false statements or any other irregular means, thus infringing point (b) of Article 29(4);
- (h) a management company, on becoming aware of any acquisition or disposal of holdings in their capital that cause holdings to exceed or fall below one of the thresholds referred to in Article 11(1) of Directive 2014/65/EU fails to inform the competent authorities of those acquisitions or disposals, thus infringing Article 11(1) of this Directive;
- (i) a management company fails to inform the competent authority, at least once a year, of the names of shareholders and members possessing qualifying holdings and the sizes of such holdings, thus infringing Article 11(1);

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- (j) a management company fails to comply with procedures and arrangements imposed in accordance with the national provisions transposing point (a) of Article 12(1);
- (k) a management company fails to comply with structural and organisational requirements imposed in accordance with the national provisions transposing point (b) of Article 12(1);
- (l) an investment company fails to comply with procedures and arrangements imposed in accordance with the national provisions transposing Article 31;
- (m) a management company or an investment company fails to comply with requirements related to delegation of its functions to third parties imposed in accordance with the national provisions transposing Articles 13 and 30;
- (n) a management company or an investment company fails to comply with rules of conduct imposed in accordance with the national provisions transposing Articles 14 and 30;
- (o) a depositary fails to perform its tasks in accordance with national provisions transposing Article 22(3) to (7);
- (p) an investment company or, for each of the common funds that it manages, a management company, repeatedly fails to comply with obligations concerning the investment policies of UCITS laid down in national provisions transposing Chapter VII;
- (q) a management company or an investment company fails to employ a risk-management process or a process for accurate and independent assessment of the value of OTC derivatives as laid down in national provisions transposing Article 51(1);
- (r) an investment company or, for each of the common funds that it manages, a management company, repeatedly fails to comply with obligations concerning information to be provided to investors imposed in accordance with the national provisions transposing Articles 68 to 82;
- (s) a management company or an investment company marketing units of UCITS that it manages in a Member State other than the UCITS home Member State fails to comply with the notification requirement laid down in Article 93(1).]

Textual Amendments

- F1** Inserted by [Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities \(UCITS\) as regards depositary functions, remuneration policies and sanctions \(Text with EEA relevance\).](#)