

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**

f¹ Article 99d

1 Member States shall establish effective and reliable mechanisms to encourage the reporting of potential or actual infringements of national provisions transposing this Directive to competent authorities, including secure communication channels for reporting such infringements.

2 The mechanisms referred to in paragraph 1 shall include at least:

- a specific procedures for the receipt of reports on infringements and their follow-up;
- b appropriate protection for employees of investment companies, management companies and depositaries, who report infringements committed within those entities, at least against retaliation, discrimination and other types of unfair treatment;
- c protection of personal data concerning both the person who reports the infringements and the natural person who is allegedly responsible for an infringement, in accordance with Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾;
- d clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports an infringement, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

3 ESMA shall provide one or more secure communication channels for reporting infringements of the national provisions transposing this Directive. ESMA shall ensure that those communication channels comply with points (a) to (d) of paragraph 2.

4 Member States shall ensure that the reporting by employees of investment companies, management companies and depositaries referred to in paragraphs 1 and 3 shall not be considered to be an infringement of any restriction on disclosure of information imposed by contract or by any law, regulation or administrative provision, and shall not subject the person reporting to liability of any kind relating to such reporting.

5 Member States shall require management companies, investment companies and depositaries to have in place appropriate procedures for their employees to report infringements internally through a specific, independent and autonomous channel.]

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 \(Text with EEA relevance\).](#)

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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- (1) [^{F1}Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).]

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