

▼B**DIRECTIVE 2013/14/EU OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL****of 21 May 2013****amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings****(Text with EEA relevance)****▼M1****▼B***Article 2***Amendments to Directive 2009/65/EC**

Article 51 of Directive 2009/65/EC is amended as follows:

(1) in paragraph 1, the first subparagraph is replaced by the following:

‘1. A management or investment company shall employ a risk-management process which enables it to monitor and measure at any time the risk of the positions and their contribution to the overall risk profile of the portfolio of a UCITS. In particular, it shall not solely or mechanistically rely on credit ratings issued by credit rating agencies as defined in Article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (*), for assessing the creditworthiness of the UCITS’ assets.

(*) OJ L 302, 17.11.2009, p. 1.’;

(2) the following paragraph is inserted:

‘3a. Taking into account the nature, scale and complexity of the UCITS’ activities, the competent authorities shall’ monitor the adequacy of the credit assessment processes of the management or investment companies, assess the use of references to credit ratings, as referred to in the first subparagraph of paragraph 1, in the UCITS’ investment policies and, where appropriate, encourage mitigation of the impact of such references, with a view to reducing sole and mechanistic reliance on such credit ratings.’;

(3) paragraph 4 is amended as follows:

(a) point (a) is replaced by the following:

‘(a) criteria for assessing the adequacy of the risk-management process employed by the management or investment company in accordance with the first subparagraph of paragraph 1.’;

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(b) the following subparagraph is added:

‘The criteria referred to in point (a) of the first subparagraph shall ensure that the management or investment company is prevented from relying solely or mechanistically on credit ratings, as referred to in the first subparagraph of paragraph 1, for assessing the creditworthiness of the UCITS’ assets.’.

*Article 3***Amendments to Directive 2011/61/EU**

Article 15 of Directive 2011/61/EU is amended as follows:

(1) in paragraph 2, the first subparagraph is replaced by the following:

‘2. AIFMs shall implement adequate risk-management systems in order to identify, measure, manage and monitor appropriately all risks relevant to each AIF investment strategy and to which each AIF is or may be exposed. In particular, AIFMs shall not solely or mechanistically rely on credit ratings issued by credit rating agencies as defined in Article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (*), for assessing the creditworthiness of the AIFs’ assets.

(*) OJ L 302, 17.11.2009, p. 1.’;

(2) the following paragraph is inserted:

‘3a. Taking into account the nature, scale and complexity of the AIFs’ activities, the competent authorities shall monitor the adequacy of the credit assessment processes of AIFMs, assess the use of references to credit ratings, as referred to in the first subparagraph of paragraph 2, in the AIFs’ investment policies and, where appropriate, encourage mitigation of the impact of such references, with a view to reducing sole and mechanistic reliance on such credit ratings.’;

(3) in paragraph 5, the following subparagraph is added:

‘The measures specifying the risk-management systems referred to in point (a) of the first subparagraph shall ensure that the AIFMs are prevented from relying solely or mechanistically on credit ratings, as referred to in the first subparagraph of paragraph 2, for assessing the creditworthiness of the AIFs’ assets.’.

*Article 4***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 December 2014. They shall immediately inform the Commission thereof.

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When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6

Addressees

This Directive is addressed to the Member States.