

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p> <p>2008/0153(COD)</p> <p>Procedure completed</p>	
<p>Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast</p> <p>Repealing Directive 2001/107/EC 1998/0242(COD) Repealing Directive 2001/108/EC 1998/0243(COD) Repealing Directive 2008/18/EC 2006/0293(COD) Amended by 2009/0064(COD) Amended by 2009/0161(COD) Amended by 2011/0360(COD) Amended by 2012/0168(COD) Amended by 2015/0226(COD) Amended by 2018/0041(COD) Amended by 2018/0043(COD) Amended by 2020/0268(COD) Amended by 2021/0219(COD) Amended by 2021/0376(COD)</p> <p>Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.10 Financial supervision</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		22/04/2008
		ALDE KLINZ Wolf	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs		22/09/2008
		PPE-DE GAUZÈS Jean-Paul	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2952	22/06/2009
	Economic and Financial Affairs ECOFIN	2919	20/01/2009
	Economic and Financial Affairs ECOFIN	2911	02/12/2008
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie	

Key events			
16/07/2008	Legislative proposal published	COM(2008)0458	Summary
	Committee referral announced in		

02/09/2008	Parliament, 1st reading		
02/12/2008	Debate in Council	2911	
02/12/2008	Vote in committee, 1st reading		Summary
10/12/2008	Committee report tabled for plenary, 1st reading	A6-0497/2008	
13/01/2009	Results of vote in Parliament		
13/01/2009	Debate in Parliament		
13/01/2009	Decision by Parliament, 1st reading	T6-0012/2009	Summary
20/01/2009	Debate in Council	2919	Summary
22/06/2009	Act adopted by Council after Parliament's 1st reading		
09/07/2009	End of procedure in Parliament		
13/07/2009	Final act signed		
17/11/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0153(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
	Repealing Directive 2001/107/EC 1998/0242(COD) Repealing Directive 2001/108/EC 1998/0243(COD) Repealing Directive 2008/18/EC 2006/0293(COD) Amended by 2009/0064(COD) Amended by 2009/0161(COD) Amended by 2011/0360(COD) Amended by 2012/0168(COD) Amended by 2015/0226(COD) Amended by 2018/0041(COD) Amended by 2018/0043(COD) Amended by 2020/0268(COD) Amended by 2021/0219(COD) Amended by 2021/0376(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 053-p1
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/66063

Documentation gateway

Legislative proposal		COM(2008)0458	16/07/2008	EC	Summary
Document attached to the procedure		SEC(2008)2263	16/07/2008	EC	

Document attached to the procedure		SEC(2008)2264	16/07/2008	EC	
Committee draft report		PE412.228	19/09/2008	EP	
Amendments tabled in committee		PE415.213	12/11/2008	EP	
Amendments tabled in committee		PE415.264	13/11/2008	EP	
Committee opinion	JURI	PE414.023	19/11/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0497/2008	10/12/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0012/2009	13/01/2009	EP	Summary
Commission response to text adopted in plenary		SP(2009)693	11/02/2009	EC	
Draft final act		03605/2009/LEX	13/07/2009	CSL	
Follow-up document		COM(2015)0384	03/08/2015	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Directive 2009/65](#)
[OJ L 302 17.11.2009, p. 0032](#) Summary

Final legislative act with provisions for delegated acts

Delegated acts

2015/3041(DEA)	Examination of delegated act
2018/2806(DEA)	Examination of delegated act
2021/2648(DEA)	Examination of delegated act

Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast

PURPOSE: to codify the successive changes introduced to the UCITS Directive since 1985 and to incorporate measures announced in the 2006 White Paper.

PROPOSED ACT: Directive of the European Parliament and of the Council

CONTENT: Council Directive 85/611/EEC (the UCITS Directive) aimed to offer greater business and investment opportunities for both industry and investors by integrating the EU market for investments funds. The Directive has been key to the development of European investment funds. In June 2007, UCITS assets under management amounted to EUR 6trillion. UCITS represent about 75% of the EU investment fund market. Strong in-built investor protection safeguards have also achieved UCITS broad recognition beyond EU borders.

Despite this positive evolution, it became evident over the years that the Directive was excessively constraining and prevented fund managers from fully exploiting their development possibilities. Amendments in 2001 enlarged the investment powers available to

UCITS but did not tackle bottlenecks to industry efficiency. Estimated potential annual savings amount to several billion euros. In 2005, the Commission Green Paper on investment funds launched a public debate on the need for EU level action (and its scope), and the [White Paper](#) in 2006 announced a set of targeted modifications to the UCITS Directive.

Concretely, the proposal has two objectives:

- 1) the introduction of new freedoms in order to improve the efficiency and integration of the UCITS Internal Market;

- 2) to streamline the working of current provisions regarding the cross-border marketing of UCITS and disclosure obligations.

The new provisions will increase the efficiency of the current legislative framework in a number of key areas :

- they will allow UCITS managers to develop their cross-border activities and generate savings consolidation and economies of scale. Currently EU funds are on average 5 times smaller than US funds and the cost of managing them are twice as high as in the US;
- investors will benefit from a greater choice of investment funds operating at lower costs;
- the proposal also seeks to improve investor protection by making sure that retail investors receive clear, easily understandable and relevant information when investing in UCITS. These improvements will help reinforcing the competitiveness of UCITS on global markets. Currently 40 % of UCITS originating in the EU are sold in third countries, mainly Asia, the Gulf region and Latin America. As part of the Commission's Better Regulation Strategy and its firm commitment to simplify the regulatory environment, the new Directive will replace 10 existing directives with a single text.

The proposed changes to the UCITS Directive will:

- remove administrative barriers to the cross-border distribution of UCITS funds: current notification procedures can take several months before completed. Administrative costs are estimated at EUR 45 million. The new notification procedure will be reduced to a simple, electronic, regulator-to-regulator communication. The distribution of units of funds will start immediately after such communication;
- create a framework for mergers between UCITS funds and allow the use of master-feeder structures: fund mergers will be allowed, on both a domestic and a cross-border basis, and their authorisation procedure will be harmonised, as will the required level of information to be provided to investors. Subject to approval and the appropriate information of investors, a UCITS fund (feeder) will be allowed to fully invest its assets into another fund (master). It is estimated that these new management opportunities will allow UCITS to make up to EUR 6 billion in savings and economies of scale. These could in turn be shared with investors in the form of lower investment costs;
- replace the Simplified Prospectus by a new concept of Key Investor Information (KII): KII will be contained in a short document conveying key facts to retail investors in a clear and understandable manner so as to assist them in taking an informed investment decision;
- improve cooperation mechanisms between national supervisors: as regards the "management company passport" (i.e. the possibility for funds authorised in one Member State to be managed remotely by a management company established in another Member State), the most recent consultation process has revealed that there are a series of potential supervisory and investor protection concerns. These need to be tackled if the MCP is not to lessen the protection of retail investors or endanger the UCITS brand - traditionally considered to be a European "gold standard" for investor protection. The Commission has therefore decided to consult the Committee of European Securities Regulators (CESR) on these issues. CESR will be invited to provide advice that will help the Commission to develop provisions permitting the introduction of a management company passport under conditions that are consistent with high level of investor protection. In that regard CESR will be invited to advise the Commission on the structure and principles which could guide potential future amendments to the UCITS directive which may be needed to give effect to the UCITS management company passport.

Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast

The Committee on Economic and Monetary Affairs adopted a report drafted by Wolf KLINZ (ALDE, DE) and amended the proposal for a directive of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast).

The main amendments ? made in 1st reading of codecision procedure ? are as follows :

Management company passport: the Management Company Passport (MCP) is aimed at giving management companies the right to passport their collective portfolio management services across the EU according to the principle of freedom to provide services as set out in the Treaty. Whilst this was not in the original Commission proposal, the committee introduced provisions for a management company passport at Level 1 provisions in order to allow for a passporting of collective portfolio management services. It stated that discrimination on grounds of the nationality of a management company should not be allowed, nor should possible protectionist delays in the approval be possible. It was certain that the MCP would contribute to the establishment of a true common market for the fund industry and lead to substantial economic benefits while allowing for the same high level of investor protection.

Mergers: by 31 December 2010 (i.e before this Directive is implemented) and in order to provide a binding framework of tax neutrality, the Commission should propose a directive for taxation of fund mergers following the principle of tax neutrality laid down in Council Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office, of an SE or SCE, between Member States and Directive 2005/56/EC on cross-border mergers of limited liability companies. A Commission Communication and bilateral agreements between Member States should address the existing difficulties in the meantime. The committee felt that clear rules are needed to ensure that the benefits of the proposed merger framework can be exploited leading to market consolidation, improved efficiency and lower costs to the investor.

Notification: Members felt that a one month time period given to the UCITS home supervisor for checking completeness of files and attesting compliance with the Directive is unjustifiably long and not in line with provisions on notification for other products. Accordingly, they inserted a provision stating that the competent authorities of the UCITS home Member State shall transmit complete documentation to the competent authorities of the Member State in which the UCITS proposes to market its units, no later than 5 working days after the date of receipt of the notification letter and the complete documentation provided for in the text.

Key investor information: the key investor information (KII) is to replace the existing simplified prospectus. The committee proposed that key investor information should be provided as a specific document to investors free of charge, in good time before the subscription of the UCITS.

The competent authorities of each Member State may make available to the public, in a dedicated section of their website, key investor information concerning all UCITS constituted and authorised in that Member State. The committee further stated that the European Commission must adopt implementing measures. It introduced amendments to ensure that the information requirements are in line with the wording and provisions in MiFID. Supplementary documents should be prohibited from being attached to the KII.

Master/Feeder: the Commission has introduced new provisions on the pooling of funds. Via master/feeder structures a UCITS fund may invest 85% or more into a master UCITS (which is not itself a feeder UCITS) allowing for cost savings due to combined management of the fund's assets. The committee has simplified some of the provisions, and introduced further streamlining of the regulatory exchange of information and documents. It also inserted provisions that strengthen investor protection in the case of liquidation. In addition, the master UCITS and the feeder UCITS must take appropriate measures to coordinate the timing of their net asset value calculation and publication, or employ other recognised techniques in order to avoid market timing in their fund units and prevent arbitrage.

Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast

The European Parliament adopted by 589 votes to 28 with 38 abstentions, a legislative resolution amending the proposal for a directive of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast).

The report had been tabled for consideration in plenary by Wolf KLINZ (ALDE, DE) on behalf of the Committee on Economic and Monetary Affairs.

The amendments were the result of a compromise between Parliament and Council. The main amendments - adopted under 1st reading of the codecision procedure - were as follows:

Management company passport: the Management Company Passport (MCP) allows for cross-border management of investments funds whilst centralising administrative and management functions. It is aimed at giving management companies the right to passport their collective portfolio management services across the EU according to the principle of freedom to provide services as set out in the Treaty. This widening of the passport approach was not included in the Commission's original proposal pending a further consultation by the Committee of European Securities Regulators, in the light of concerns about possible risks to the "gold standard" of investor protection which the UCITS brand represents. This consultation has since been completed and MEPs, are satisfied that it will be possible to open up the single market in investment products while at the same time maintaining the level of protection for retail investors. In agreement with the Council, therefore, they adopted amendments inserting the arrangements for the MPC into the directive at Level 1 provisions in order to allow for a passporting of collective portfolio management services. Parliament felt that the MCP would contribute to the establishment of a true common market for the fund industry and lead to substantial economic benefits while allowing for the same high level of investor protection.

Mergers: Parliament did not insert the clause on requiring the Commission to propose a directive for taxation of fund mergers following the principle of tax neutrality, as recommended by its competent committee. However, it did adopt amendments that improved and clarified the rules on mergers between different UCITS. A transition period was inserted which allows the receiving UCITS to derogate from certain diversification provisions for a transition period of six months after entry into effect of the merger

Notification: the compromise text provides that the competent authorities of the UCITS home Member State shall transmit the complete documentation to the competent authorities of the Member State in which the UCITS proposes to market its units, no later than 10 working days after the date of receipt of the notification letter accompanied by the complete documentation. **Key investor information:** the key investor information (KII) is to replace the existing simplified prospectus. Parliament provided that key investor information should be provided free of charge. The essential elements of the KII which are prescribed in the text shall be understandable by the investor without any reference to other documents. A paper copy shall be delivered free of charge to the investor, upon request. In addition, an up-to-date version of the key investor information shall be made available on the website of the investment company or management company.

Master/Feeder: the Commission has introduced new provisions on the pooling of funds. Via master/feeder structures a UCITS fund may invest 85% or more into a master UCITS (which is not itself a feeder UCITS) allowing for cost savings due to combined management of the fund's assets. Parliament has simplified some of the provisions, and introduced further streamlining of the regulatory exchange of information and documents. In addition, the master UCITS and the feeder UCITS must take appropriate measures to coordinate the timing of their net asset value calculation and publication, in order to avoid market timing in their fund units, preventing arbitrage opportunities.

By 1 July 2013, the Commission shall submit to the European Parliament and the Council a report on the application of the Directive.

Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast

At the request of the French delegation, the Council discussed EU provisions on the liability of fund depositaries, and in particular implementation with this regard of directive 85/611/EEC on undertakings for collective investment in transferable securities (UCITS).

The Council requested the Commission to examine the issue.

Undertakings for collective investment in transferable securities (UCITS): coordination of laws, regulations and administrative provisions. Recast

PURPOSE: to update the regulatory framework applicable to European investment funds ? undertakings for collective investment in transferable securities (UCITS).

LEGISLATIVE ACT: Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast).

CONTENT: following an agreement with the Parliament under the second reading of the codecision procedure, the Council adopted a directive on undertakings for collective investment in transferable securities (UCITS).

This directive seeks to update the regulatory framework applicable to European investment funds ? undertakings for collective investment in transferable securities (UCITS) ? which represent a market of around EUR 5 000 billion.

The aim of the directive is to modernise the regulatory framework applicable to these financial products in order to:

- offer investors a greater choice of product at lower cost through better integration of the internal market;
- provide investors with suitable protection through high-quality information and more efficient supervision;
- maintain the competitiveness of European industry by adjusting the regulatory framework to developments in the market.

Against this background, the text is aimed at fulfilling the following objectives:

- improve investor information by creating a standardised summary information document: "key information for investors". This is an innovative approach aimed at making it easier for the consumer to understand the product: thus a fine balance has to be struck between the document's readability and the amount of information required (too often consumers are deluged with information); the document will be tried out with consumers before it is finalised;

- create a genuine European passport for UCITS management companies ? this is the last piece missing from the internal market as regards UCITS management: a management company located in a Member State will be able to manage funds in other Member States in accordance with the principle of freedom to provide services in the Treaty. Thus, a management company located in one Member State can manage funds in other Member States. In accordance with the principle of supervision by the country of origin, only the competent authorities in the Member State of origin of the management company are considered to be entitled to supervise the organisation of the management company, which has to be governed by the law of its Member State of origin.

This measure should result in substantial economies of scale and improved transparency for consumers as to the location of the management company. It should make for greater diversity in the products offered to consumers , which is essential in view of increasing requirements concerning retirement saving.

Without prejudice to other conditions of general application laid down by national law, the competent authorities shall not grant authorisation to a management company unless the following conditions are met:

- the management company has an initial capital of at least EUR 125 000, taking into account certain provisions laid down in the directive;
- the persons who effectively conduct the business of a management company are of sufficiently good repute and are sufficiently experienced also in relation to the type of UCITS managed by the management company, the names of those persons and of every person succeeding them in office being communicated forthwith to the competent authorities and the conduct of the business of a management company being decided by at least two persons meeting such conditions;
- the application for authorisation is accompanied by a programme of activity setting out, at least, the organisational structure of the management company; and
- the head office and the registered office of the management company are located in the same Member State.

- facilitate crossborder marketing of UCITS by simplifying administrative procedures: there will be immediate market access once the authorisation has been granted by the country of origin of the UCITS; the host country will be able to monitor the commercial documents but not to block access to the market;

- facilitate crossborder mergers of UCITS, which will make it possible to increase the average size of European funds; the information given to investors about the merger will be monitored by the supervisor, who will not authorise the merger unless it is satisfactory; authorisation will be assigned to a single supervisor, in conjunction with the other supervisor concerned, so as to make the procedures more efficient.

The Directive concerns those merger techniques which are most commonly used in Member States. It does not require all Member States to introduce all three techniques into their national law, but each Member State should recognise a transfer of assets resulting from those merger techniques. This Directive does not prevent UCITS from using other techniques on a purely national basis, in situations where none of the UCITS concerned by the merger has been notified for cross-border marketing of its units. Those mergers will remain subject to the relevant provisions of national law. National rules on quorum should neither discriminate between national and cross-border mergers, nor be more stringent than those laid down for mergers of corporate entities.

- facilitate asset pooling by creating a framework for the system of "master-feeder" arrangements whereby a fund invests more than 85% of its assets in another fund. Member States shall require that the master UCITS provide the feeder UCITS with all documents and information necessary for the latter to meet the requirements laid down in this Directive. For this purpose, the feeder UCITS shall enter into an agreement with the master UCITS. The master and the feeder UCITS shall take appropriate measures to coordinate the timing of their net asset value calculation and publication in order to avoid market timing in their units, preventing arbitrage opportunities.

- strengthen the supervision of UCITS and of the companies that manage them, by means of enhanced cooperation between supervisors: the Directive encourages the exchange of information between supervisors, harmonises the powers of supervisors, and allows for the possibility of on-the-spot investigation, consultation mechanisms and mutual-aid mechanisms for the imposition of penalties, in particular.

By 1 July 2013, the Commission shall submit to the European Parliament and to the Council a report on the application of this Directive.

ENTRY INTO FORCE: 07/12/2009.

APPLICATION: from 01/07/2011 for most of the provisions.

Member States shall ensure that UCITS replace their simplified prospectus drawn up in accordance with the provisions of Directive 85/611/EEC with key investor information as soon as possible and in any event no later than 12 months after the deadline for implementing in national law of all the implementing measures. During that period, the competent authorities of the UCITS host Member States shall continue to accept the simplified prospectus for UCITS marketed on the territory of those Member States.

