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

2008/0153(COD) - 13/01/2009 - Text adopted by Parliament, 1st reading/single reading

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 to 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.