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Amended UCITS Directive: current status of application measures

The European Commission recently adopted a delegated regulation detailing the implementation measures for the amended UCITS Directive. The measures address the diligence required of fund depositaries.

The delegated regulation sets out the requirements of the directive

The UCITS V Directive was adopted in April 2014 and aims to harmonise three topics at European level to ensure better protection for investors: clarification of the duties and liability of depositaries, supervision of the remuneration of managers and administrative sanctions. It will take effect on 18 March 2016.

On 17 December, the European Commission adopted its regulation, which specifies the requirements of the Directive. It presents a definition of the diligence that the depositary must carry out when a UCITS invests outside the European Union. The regulation also clarifies the notion of independence between the management company and the depositary, but does not prohibit group links between the management company and its depositary.

The regulation must now be approved by the European Parliament and the EU Council within a period of three months. It will then be published in the Official Journal of the European Union, which will set the timetable. The regulation will enter into force on the twentieth day following publication in the Official Journal of the EU, and the measures will take effect six months thereafter.

Work underway

The European Securities and Markets Authority (ESMA) is preparing guidelines on manager remuneration to help players implement their new remuneration policies. The UCITS V Directive lays down a new framework in this area to prevent remuneration that encourages excessive risk-taking. These guidelines will likely be published in Q1 2016.

Read more

Delegated regulation project supplementing Directive 2009/65/EC of the European Parliament and of the Council with regard to obligations of depositaries

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