



**COUNCIL OF
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Investment funds: Council sets out its position on UCITS

The Permanent Representatives Committee agreed today, on behalf of the Council, its position on a draft directive aimed at amending EU rules on investment funds as concerns depositary functions, remuneration policies and sanctions ([17094/13](#) + [17095/13](#)).

The agreement enables negotiations with the European Parliament to start, with the aim of adopting the directive at first reading.

The amendments concern directive 2009/65/EC on undertakings for collective investment in transferable securities (UCITS), although rules on depositaries have in substance remained unchanged since the original UCITS directive was adopted in 1985.

Under the current rules, all assets of a UCITS fund must be entrusted to a depositary. The depositary is liable for losses suffered as a result of a failure to perform its duties, though the precise contours of those duties is defined by the laws of the member states. As a result, different approaches have developed across the EU, the consequences of which came to the fore following the Lehman bankruptcy and the Madoff fraud case.

The draft directive introduces specific provisions on the depositary's safekeeping and oversight duties, and defines the conditions in which safekeeping duties can be delegated to a sub-custodian. It sets out a list of entities that are eligible to act as UCITS depositaries, and clarifies the depositary's liability in the event of the loss of a financial instrument held in custody. It also includes provisions on redress.

P R E S S

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As concerns remuneration, the draft directive introduces a requirement for the UCITS management company to implement policy that is consistent with sound risk management and complies with minimum principles.

On sanctions, it lists the main breaches to directive 2009/65/EC and lays down the administrative sanctions and measures that the authorities should be empowered to apply.

Under the Council's general approach, the member states would have two years to transpose the directive into national law.
