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## Information and Notices

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## I

*(Information)*

## COMMISSION

Ecu <sup>(1)</sup>

8 September 1998

(98/C 280/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,5190	Finnish markka	5,97646
Danish krone	7,48213	Swedish krona	9,08994
German mark	1,96432	Pound sterling	0,685720
Greek drachma	336,490	United States dollar	1,13610
Spanish peseta	166,780	Canadian dollar	1,73153
French franc	6,58632	Japanese yen	150,283
Irish pound	0,784004	Swiss franc	1,60588
Italian lira	1939,31	Norwegian krone	8,81103
Dutch guilder	2,21699	Icelandic krona	80,2087
Austrian schilling	13,8218	Australian dollar	1,91812
Portuguese escudo	201,294	New Zealand dollar	2,22155
		South African rand	7,11199

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day. Users of the service should do as follows:

- call telex number Brussels 23789,
- give their own telex code,
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu,
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic fax answering service (No 296 10 97/296 60 11) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

<sup>(1)</sup> Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ L 379, 30.12.1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ L 189, 4.7.1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ L 349, 23.12.1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ L 349, 23.12.1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ L 345, 20.12.1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ L 345, 20.12.1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ L 311, 30.10.1981, p. 1).

### Information procedure — technical regulations

(98/C 280/02)

(Text with EEA relevance)

- Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 109, 26.4.1983, p. 8).
- Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC (OJ L 81, 26.3.1988, p. 75).
- Directive 94/10/EC of the European Parliament and the Council of 23 March 1994 materially amending for the second time Directive 83/189/EEC (OJ L 100, 19.4.1994, p. 30).

Notifications of draft national technical regulations received by the Commission.

Reference (*)	Title	Echeance (‡)
98/347/B	Bill on product standards in order to promote sustainable production and consumption patterns and to protect the living environment and public health	19.10.1998
98/353/D	First Order amending the Order on plant (German designation: 1. ÄndVO-VAwS)	3.11.1998
98/354/E	Draft Ministerial Order amending supplementary technical specifications MI-IF002, MI-IF004 and MI-IF009 of the Safety Regulation governing refrigeration plants and installations	3.11.1998
98/360/A	Order of the Carinthian Provincial Government amending the Order on the construction, operation, maintenance and inspection of low pressure gas appliances supplied with certain gases (Order on low pressure gas (appliances))	12.11.1998
98/361/I	Technical standards pursuant to Directive 94/53/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations	5.11.1998
98/362/FIN	RAMO Track Technology Regulations and Guidelines, Section 19, continuous welded rails and CWR switches	3.11.1998
98/346/F	Draft Order and decision on different obligations relating to the construction and use of composite gas pressure vessels	16.10.1998
98/355/E	Supplementary technical specifications on measuring points for the consumption and transport of electrical energy	3.11.1998
98/356/S	Civil Aviation Provisions, Operational Provisions, (Swedish designation) BCL-D 1.21 Area navigation	6.11.1998
98/357/A	Act amending the Act concerning the regulation of events (Viennese Events Act) (1998 amendment to the Events Act)	9.11.1998
98/359/GR	Terms and conditions of acceptance of floating barriers in Greek seas to fight pollution of the sea from petroleum products	23.10.1998
98/363/NL	Amendment II to Vvr Decree on GMP standards within the animal feed sector 1997	11.11.1998

(\*) Year — registration number — Member State of origin.

(‡) Period during which the draft may not be adopted.

(§) No standstill period since the Commission accepts the grounds of urgent adoption invoked by the notifying Member State.

(¶) No standstill period since the measure concerns technical specifications or other requirements linked to fiscal or financial measures, pursuant to the third indent of the second paragraph of Article 1(9) of Directive 93/189/EEC.

(§) Information procedure closed.

The Commission draws attention to the judgment given on 30 April 1996 in the 'CIA Security' case (C-194/94), in which the Court of Justice ruled that Articles 8 and 9 of Directive 83/189/EEC are to be interpreted as meaning that individuals may rely on them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the Directive.

This judgment confirms the Commission's communication of 1 October 1986 (OJ C 245, 1.10.1986, p. 4).

Accordingly, breach of the obligation to notify renders the technical regulations concerned inapplicable, so that they are unenforceable against individuals.

Information on these notifications can be obtained from the national administrations, a list of which was published in *Official Journal of the European Communities* C 324 of 30 October 1996.

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**Non-opposition to a notified concentration**  
**(Case No IV/M.1163 — Borealis/IPIC/OMV/PCD)**

(98/C 280/03)

(Text with EEA relevance)

On 24 July 1998, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document number 398M1163. CELEX is the computerised documentation system of European Community law; for more information concerning subscriptions please contact:

EUR-OP,  
Information, Marketing and Public Relations (OP/4B),  
2, rue Mercier,  
L-2985 Luxembourg.  
Tel. (352) 29 29-42455, fax (352) 29 29-42763.

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**Non-opposition to a notified concentration****(Case No IV/M.1243 — Alliance Unichem plc/Safa Galenica SA)**

(98/C 280/04)

(Text with EEA relevance)

On 27 July 1998, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
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L-2985 Luxembourg.  
Tel. (352) 29 29-42455, fax (352) 29 29-42763.

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**Non-opposition to a notified concentration****(Case No IV/M.1224 — TPM/Wood Group)**

(98/C 280/05)

(Text with EEA relevance)

On 20 July 1998, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document number 398M1224. CELEX is the computerised documentation system of European Community law; for more information concerning subscriptions please contact:

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Tel. (352) 29 29-42455, fax (352) 29 29-42763.

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**Non-opposition to a notified concentration**  
**(Case No IV/M.1150 — Schweizer Rück/NCM)**

(98/C 280/06)

(Text with EEA relevance)

On 26 June 1998, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in German and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CDE' version of the CELEX database, under document number 398M1150. CELEX is the computerised documentation system of European Community law; for more information concerning subscriptions please contact:

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2, rue Mercier,  
L-2985 Luxembourg.  
Tel. (352) 29 29-42455, fax (352) 29 29-42763.

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**Non-opposition to a notified concentration**  
**(Case No IV/M.1060 — Vendex/Bijenkorf)**

(98/C 280/07)

(Text with EEA relevance)

On 26 May 1998, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document number 398M1060. CELEX is the computerised documentation system of European Community law; for more information concerning subscriptions please contact:

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Information, Marketing and Public Relations (OP/4B),  
2, rue Mercier,  
L-2985 Luxembourg.  
Tel. (352) 29 29-42455, fax (352) 29 29-42763.

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## II

(Preparatory Acts)

## COMMISSION

**Proposal for a European Parliament and Council Directive amending Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)**

(98/C 280/08)

(Text with EEA relevance)

COM(1998) 449 final — 98/0243(COD)

(Submitted by the Commission on 17 July 1998)

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 57(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 189b of the Treaty,

- (1) Whereas the scope of Council Directive 85/611/EEC<sup>(1)</sup>, as last amended by Directive 88/220/EEC<sup>(2)</sup>, was confined initially to collective investment undertakings of the open-ended type which promote the sale of their units to the public in the Community and the sole object of which is investment in transferable securities (UCITS); whereas it was envisaged in the preamble to Directive 85/611/EEC that undertakings falling outside its scope would be the subject of coordination at a later stage;
- (2) Whereas, taking into account market developments, it is desirable that the investment objective of UCITS is widened in order to permit them to invest in financial assets, other than transferable securities, which are sufficiently liquid;

- (3) Whereas the definitions of transferable securities and money market instruments included in this Directive are valid only for this Directive and consequently in no way affect the various definitions of financial instruments used in national legislation for other purposes such as taxation; whereas, furthermore, the definition of transferable securities covers negotiable instruments only, normally dealt in on the capital market; whereas, consequently, shares and other securities equivalent to shares issued by bodies, such as building societies and industrial and provident societies, the ownership of which cannot in practice be transferred except by the issuing body buying them back, are not covered by this definition;

- (4) Whereas money market instruments cover those classes of transferable instruments which are normally dealt in on the money market, for example treasury and local authority bills, certificates of deposit, commercial paper and bankers' acceptances; whereas Member States should have the option of choosing the list of eligible money market instruments on the basis of objective criteria to take account of the existing structural differences in the money markets of different countries;

- (5) Whereas it is desirable to permit a UCITS to invest its assets in units of other collective investment undertakings of the open-ended type which also invest in transferable securities and which operate on the principle of risk spreading; whereas the requirement of risk spreading for UCITS investing in other collective investment undertakings is indirectly respected since such UCITS can only invest in units issued by collective investment undertakings complying with the risk-spreading criteria of Directive 85/611/EEC; whereas, it is

<sup>(1)</sup> OJ L 375, 31.12.1985.

<sup>(2)</sup> OJ L 100, 19.4.1988.

important that such UCITS adequately disclose to investors the fact that they invest in units of other collective investment undertakings;

- (6) Whereas to take market developments into account and in consideration of the completion of the EMU it is desirable to permit UCITS to invest in bank deposits;
- (7) Whereas, in addition to the case in which a UCITS invests in bank deposits according to its fund rules or instruments of incorporation, it may be necessary to allow all UCITS to hold ancillary liquid assets, such as bank deposits at sight and/or cash; whereas the holding of such ancillary liquid assets may be justified, for example, in the following cases: in order to cover current or unexpected payments; in the case of sales, for the time necessary to reinvest in transferable securities and/or in other financial assets provided for by this Directive; for a period of time strictly necessary when, because of unfavourable market conditions, the investment in transferable securities and in other financial assets needs to be suspended;
- (8) Whereas, for prudential reasons, UCITS should avoid assuming an excessive concentration in deposits with a single credit institution;
- (9) Whereas UCITS should be permitted to invest their assets in standardised options and futures contracts dealt in on regulated derivatives markets; whereas, in order to ensure that the risks involved are adequately covered, it is necessary that such UCITS hold at any time assets of sufficient value and of the right kind (i.e. securities, if the exposure is in terms of securities; cash or securities which are, or, on being turned into money in the right currency, if the exposure is in terms of money); whereas, such UCITS too have to operate on the principle of risk spreading; whereas, considering that the value of the portfolio of such UCITS may fluctuate widely, such UCITS should address only experienced investors or investors whose financial situation allows them to bear the risks involved in the investment in units of such UCITS; whereas the risks involved should be adequately disclosed to the investing public in the UCITS' prospectuses and in any promotional literature;
- (10) Whereas new portfolio management techniques for collective investment undertakings investing primarily in shares are based on the replication of stock-indices; whereas it is desirable to permit UCITS to replicate well-known and recognised stock-indices; whereas therefore it is necessary to introduce more flexible risk-spreading rules for UCITS investing in shares; whereas in order to ensure transparency of the stock-indices which the Member States consider to be replicable by harmonised UCITS and a wide acceptance of such indices, it is desirable to provide for adequate publication of the list of replicable stock-indices;
- (11) Whereas the employment of techniques and instruments for the purpose of efficient portfolio management may never be permitted if they do not comply with the principles enshrined in the Directive and if they hinder the competent authorities from exercising effectively their supervisory functions;
- (12) Whereas, considering the new portfolio management techniques which have been developed in recent years, it is desirable to permit UCITS to make use of all sorts of derivative instruments for an efficient portfolio management; whereas, in order to ensure investor protection, it is necessary to provide for a harmonised framework for the utilisation of financial derivatives and for an adequate cover for exposure deriving from such transactions; whereas, transactions on financial derivatives, not dealt in on specialised derivatives markets (over-the-counter derivatives) involve counter-party risks; whereas therefore the counterparties for such transactions shall be chosen only among qualified institutions approved by the UCITS' competent authorities;
- (13) Whereas, notwithstanding Article 41 of Directive 85/611/EEC, it is desirable to permit UCITS to enter into securities lending transactions for the purposes of efficient portfolio management; whereas, in order to limit the risks involved in such transactions, it is necessary to regulate the conditions under which a UCITS may be permitted to act as a lender in securities lending transactions;
- (14) Whereas collective investment undertakings falling within the scope of this Directive shall not be used for purposes other than the collective investment of the money raised from the public according to the rules laid down in this Directive; whereas, in the cases identified by this Directive, a UCITS may hold subsidiaries only when necessary to carry out effectively on behalf of that UCITS certain activities, also identified by this Directive; whereas it is necessary to ensure an effective supervision of UCITS; whereas therefore the establishment of a UCITS' subsidiary in third countries should be permitted only in the cases and under the conditions identified in the Directive; whereas the general obligation to act solely in the interest of unit-holders and, in particular, the objective to increase cost efficiencies, never justify a UCITS undertaking measures which may hinder the competent authorities from exercising effectively their supervisory functions;



- (15) Whereas the depositary of the assets of a UCITS carries out crucial controlling functions over the compliance of a UCITS with the law and its fund rules or instruments of incorporation; whereas therefore it is important to ensure an effective independence between the management company and the depositary; whereas when both the management company and the depositary belong to the same economic group or when the depositary has a qualifying holding in the management company's capital, or vice versa, or in all other cases in which the depositary may exercise a significant influence over the management company, or vice versa, it is necessary to undertake all measures assuring the independence between the two entities; whereas, when a management company, acting on behalf of the common funds or investment companies it manages, is permitted to enter into transactions with the depositary, arrangements have to be made preventing conflicts of interests and ensuring the compliance of the transaction with the law and the UCITS' fund rules or instruments or incorporation;
- (16) Whereas, considering the depositary's liabilities towards the management company and the unit-holders and the complexity of its controlling functions, only institutions which have adequate financial resources and an adequate organisational structure and which are subject to prudential supervision should fall within the categories of institutions eligible to be depositaries;
- (17) Whereas, considering the need to ensure the free cross-border marketing of the units of a wider range of collective investment undertakings, while providing a uniform minimum level of investor protection; whereas, therefore, only a binding Community Directive laying down agreed minimum standards can achieve the desired objectives; whereas this Directive effects only the minimum harmonisation required,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 85/611/EEC is amended as follows:

1. In Article 1(2), the first indent shall be replaced by the following:
  - the sole object of which is the collective investment in transferable securities and/or in other liquid financial assets mentioned in Article 19 of this Directive of capital raised from the public and which operates on the principle of risk-spreading.;

2. In Article 1 the following paragraph shall be added:

‘8. For the purpose of this Directive

- (a) transferable securities shall mean:
  - shares in companies and other securities equivalent to shares in companies,
  - bonds and other forms of securitised debt,
  - any other negotiable securities which carry the right to acquire any such transferable securities by subscription or exchange,

excluding the techniques and instruments referred to in Article 21;

- (b) money market instruments, which, for the purposes of this Directive shall be regarded as transferable securities, shall mean those classes of transferable instruments normally dealt in on the money market which Member States consider to:
  - be liquid, and
  - have a value which can be accurately determined at any time or at least with the frequency stipulated in Article 34, excluding the techniques and instruments referred to in Article 21.;

3. In Article 19 the following shall be added to paragraph 1:

‘(e) units of other collective investment undertakings within the meaning of the first and second indent of Article 1(2); and/or

(f) deposits with credit institutions; and/or

(g) standardised financial-futures contracts, including equivalent cash-settled instruments, dealt in on a regulated market mentioned in the previous subparagraphs (b) and (c); and/or

(h) standardised options to acquire or dispose of any instruments falling within this Article, including equivalent cash-settled instruments, dealt in on a regulated market mentioned in the previous subparagraphs (b) and (c). This category includes, in particular, options on currency and on interest rates; and/or

(i) money market instruments which are not dealt in on a regulated market, unless the issue of such instruments is itself regulated for the purpose of protecting investors and savings, and provided that they are:

- issued by a central, regional or local authority, a central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank, a non-Member State or, in the case of a Federal State, by one of the members making up the federation, or by a public international body to which one or more Member States belong, or
- issued by an undertaking any securities of which are admitted to official listing on a stock exchange or are dealt in on other regulated markets which operate regularly, are recognised and are open to the public, or
- issued or guaranteed by an establishment subject to prudential supervision, in accordance with criteria defined by Community law or by an establishment which are subject to and comply with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law.’;

4. Article 19(2)(b) and (3) shall be deleted;

5. Article 20 shall be deleted;

6. In Article 21, the following paragraphs shall be added:

‘3. In this context, a UCITS may carry out transactions in financial derivative instruments, also other than those mentioned in Article 24b, provided that the exposure relating to such instruments is covered according to the rules laid down in Article 24b.

If the UCITS carries out transactions in financial derivative instruments which are not dealt in on a regulated market (over-the-counter derivatives), the counter-parties to such transactions must be qualified institutions belonging to the categories approved by the UCITS’ competent authorities.

4. Further, in the context of efficient portfolio management, a UCITS may enter into securities lending transactions in which it acts as a lender, provided that the following conditions are fulfilled:

(a) securities lending transactions may be concluded only with a recognised securities clearing house or exchange, or with a counter-party which is an authorised person specialised in that type of transaction and subject to prudential supervision at Community level; or is a Zone A credit insti-

tution as defined in Directive 89/647/EEC or an investment firm as defined in Directive 93/22/EEC; or is a recognised third country investment firm which is subject to and complies with prudential rules considered by the UCITS’ competent authorities to be at least as stringent as those laid down in Directive 93/6/EEC;

(b) in relation to each securities lending transaction appropriate collateral shall be given covering the risk of default of the borrower. The value of collateral must be, during the entire period of the contract, at least equal to the total value of the financial instruments lent.

When a UCITS is permitted to conclude securities lending transactions with the depositary which performs for that UCITS the duties mentioned in Articles 7 and 14 of this Directive, the competent authorities shall ensure that the collateral is entrusted, during the entire period of the contract, with a third party custodian and that measures are undertaken preventing the depositary from using it.’;

7. The following Article 22a shall be inserted:

*Article 22a*

1. Without prejudice to the limits laid down in Article 25, the Member States may raise the limits laid down in Article 22 to a maximum of 35 % for investment in shares issued by the same body when, according to the fund rules or instruments of incorporation, the aim of the UCITS’ investment policy is to replicate the composition of a certain stock-index.

2. Replicable stock indices shall be indices which Member States consider to:

- have a composition which is sufficiently diversified,
- be easy to replicate,
- represent an adequate benchmark for the equity market to which they refer,
- be published in an appropriate manner.

3. Each Member State shall send to the Commission the list of stock-indices which they consider replicable by UCITS, together with details of the characteristics of such stock-indices. A similar communication shall be effected in respect of each change to the aforementioned list. The Commission shall publish the complete list of replicable stock-indices and updates thereto in the *Official Journal of the European Communities* at least once a year. This list may be subject to exchanges of views within the

Contact Committee in accordance with the procedure laid down in Article 53(4).

4. The UCITS fund rules or instruments of incorporation, its prospectuses and any promotional literature shall describe the characteristics of the replicated stock-index.

These documents shall also contain a prominent statement drawing attention to the fact that the aim of the UCITS' investment policy is to replicate a certain stock-index and that therefore it may invest a relevant part of its assets in shares issued by the same issuer.;

8. Article 24 shall be replaced by the following:

*'Article 24*

1. A UCITS may acquire the units of other collective investment undertakings within the meaning of the first and second indent of Article 1(2), provided that it invests no more than 10 % of its own assets in units of a single UCITS.

2. The Member States may raise the limit laid down in paragraph 1 to a maximum of 35 %. However, in that case the UCITS must invest in at least five different collective investment undertakings mentioned in paragraph 1.

3. A UCITS may not invest in units of a collective investment undertaking within the meaning of the first and second indent of Article 1(2), which invests more than 10 % of its own assets in units of other collective investment undertakings.

4. Investment in the units of a unit trust managed by the same management company or by any other company with which the management company is linked by common management or control, or by a substantial direct or indirect holding, shall be permitted only in the case of a unit trust which, in accordance with its rules, has specialised in investment in a specific geographical area or economic sector, and provided that such investment is authorised by the competent authorities. Authorisation shall be granted only if the unit trust has announced its intention of making use of that option and if that option has been expressly stated in its rules.

A management company may not charge any fees or costs on account of transactions relating to a unit trust's units where some of a unit trust's assets are invested in the units of another unit trust managed

by the same management company or by any other company with which the management company is linked by common management or control or by a substantial direct or indirect holding.

5. Paragraph 4 shall also apply where an investment company acquires units in another investment company to which it is linked within the meaning of the previous subparagraph.

Paragraph 4 shall also apply where an investment company acquires units of a unit trust to which it is linked or where a unit trust acquires units of an investment company to which it is linked.

6. The UCITS' fund rules or instruments of incorporation, its prospectuses and any promotional literature shall describe the characteristics of the other collective investment undertakings in the units of which the UCITS is authorised to invest.

These documents shall also contain a prominent statement drawing attention to the fact that the UCITS invests a part of or all its assets in units of other collective investment undertakings.;

9. The following Articles 24a and 24b shall be inserted:

*'Article 24a*

1. Notwithstanding the provision laid down in Article 19(4), a UCITS may invest its assets in deposits with credit institutions furnishing sufficient financial and professional guarantees, provided that the UCITS places no more than 10 % of its assets in deposits with the same credit institution or with credit institutions within the same group.

2. Member States may raise the limit laid down in paragraph 1 to a maximum of 35 %. However, in that case a UCITS must invest in deposits with at least five different credit institutions. For the purpose of this rule, credit institutions belonging to the same group are considered to be one single institution.

3. The UCITS' fund rules or instruments of incorporation, its prospectuses and any promotional literature must include a prominent statement drawing attention to the fact that the UCITS invests all or a part of its assets in deposits with credit institutions.

4. Member States shall not permit UCITS to invest in deposits with a credit institution which performs for that UCITS the duties of a depositary mentioned in Articles 7 and 14.

*Article 24b*

1. Notwithstanding the provisions laid down in Article 21, a UCITS may invest, as a part of its general investment policy, in financial-futures contracts and options mentioned in Article 19(1)(g) and (h), provided that the maximum potential exposure relating to the conclusion of each such derivative transaction is covered, during the entire period of the contract, by assets belonging to the UCITS of the right kind and sufficient in value.

2. The UCITS' fund rules or instruments of incorporation, its prospectuses and any promotional literature must include a prominent statement drawing attention to the fact that the UCITS invests, as a part of its general investment policy, in the financial-futures contracts and options.

These documents shall also contain a warning that the investment in the units of such a UCITS is only suitable for experienced investors and for investors whose financial situation allows them to bear the risks involved in the investment in units of such UCITS.';

10. In Article 25(2), the following indent shall be added:

‘— 10 % of the money market instruments of any single issuing body.’;

11. In Article 25(2), the second sentence shall be replaced by the following:

‘The limits laid down in the second and fourth indents may be disregarded at the time of acquisition if at that time the gross amount of the debt securities or of the money market instruments, or the net amount of the securities in issue cannot be calculated.’;

12. Article 25(3)(e) shall be replaced by the following:

‘(e) shares held by an investment company in the capital of subsidiary companies incorporated in a Member State carrying on the business of management, advice or marketing exclusively on its behalf.’;

13. Article 26(1), second sentence shall be replaced by the following:

‘While ensuring observance of the principle of risk spreading, the Member States may allow recently authorised UCITS to derogate from Articles 22, 22a, 23, 24, 24a and 24b for six months following the date of their authorisation.’;

14. Article 41(2), shall be replaced by the following:

‘2. Paragraph 1 shall not prevent such undertakings from acquiring transferable securities or other financial instruments mentioned in Article 19(1)(e), (g), (h) and (i) which are not fully paid.’;

15. Article 42 shall be replaced by the following:

*‘Article 42*

Neither:

— an investment company, nor

— a management company or depositary acting on behalf of a unit trust

may carry out uncovered sales of transferable securities or of other financial instruments mentioned in Article 19(1)(e), (g), (h) and (i).’;

16. After Article 53 the following Article 53a is inserted:

*‘Article 53a*

The technical modifications to be made to this Directive in the following areas shall be adopted in accordance with the procedure to be regulated at a later stage by a Directive amending this Directive:

— clarification of the definitions in order to ensure uniform application of this Directive throughout the Community,

— adaptation of the ceilings referred to in Section V and in Article 36(2) in order to take account of developments on financial markets, where such adaptations will not lead to stricter requirements for the UCITS,

— alignment of terminology on and the framing of definitions in accordance with subsequent acts on UCITS and related matters.’

*Article 2*

No later than 30 June 2002 Member States shall adopt the laws, regulations and administrative provisions necessary for them to comply with this Directive.

These provisions shall enter into force no later than 31 December 2002. The Member States shall forthwith inform the Commission thereof.

When Member States adopt these provisions they shall include a reference to this Directive or accompany them

with such a reference on the occasion of their official publication. The manner in which such references are to be made shall be laid down by the Member States.

*Article 3*

This Directive shall enter into force 20 days after the date of its publication in the *Official Journal of the European Communities*.

*Article 4*

This Directive is addressed to the Member States.

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