EUROPEAN COMMISSION

STATEMENT

Brussels, 25 February 2014

European Parliament and Council back Commission proposal for strengthened European rules on UCITS

The European Parliament and the Council today backed the European Commission's proposal to strengthen the rules for Undertakings for Collective Investment in Transferable Securities (UCITS). These new rules will significantly increase the level of protection enjoyed by UCITS investors. They are a key step towards restoring investor confidence in the wake of the financial crisis.

Internal Market and Services Commissioner Michel Barnier said: "*This agreement on the so-called UCITS V will bring significant improvements to the protection of UCITS investors when it comes to the safe-keeping of UCITS assets by the depositary. It will ensure that the abuses seen at the time of the Madoff scandal cannot be repeated. We must always remember that the UCITS framework is widely viewed as a gold standard for fund regulation globally, and it is important to maintain this. I would like to congratulate all parties who have worked tirelessly on this important consumer protection file. I would like to thank in particular the European Parliament – especially the rapporteur, Sven Giegold, and the shadow rapporteurs; and the Greek Presidency as well as the preceding Lithuanian and Cypriot presidencies for their hard work and commitment. This is an important achievement and will benefit consumers throughout Europe.*"

With these new rules, if the depositary becomes insolvent, UCITS assets will be protected through clear segregation rules and safeguards provided by the insolvency law of the Member States. Depositaries in the EU will be liable for any loss of UCITS assets held in custody. If something goes wrong with these UCITS assets, investors will be in a much better position to have the situation remedied. Importantly, UCITS investors will always have the right of redress directly against the depositary and will not have to rely on the management company's ability to accomplish this task.

In addition to this, a new harmonised framework of remuneration policies for all risk-takers involved in managing UCITS funds has been introduced so that remuneration practices do not encourage excessive risk-taking and instead promote sound and effective risk management.

Today's agreement also strengthens the existing rules on sanctions to ensure effective cooperation between authorities and harmonises administrative sanctions in order to detect and deter breaches of UCITS provisions. Throughout the EU, UCITS managers and depositaries must be well supervised and, where necessary, properly sanctioned.

Background

In July 2012 the Commission adopted a proposal for a directive amending the UCITS Directive (2009/65/EC) in the areas of depositary functions, remuneration policies and sanctions with the aim of strengthening the protection of investors (see IP/12/736).

Key elements of the agreement reached today by the co-legislators:

(1) UCITS V strengthens the rules on **eligible entities** that can act as a depositary. Only national central banks, credit institutions and regulated firms with sufficient capital and adequate infrastructure will be eligible as UCITS depositaries and will hold for safe-keeping all UCITS assets.

(2) UCITS assets will be **protected in the event of insolvency** of the depositary through clear segregation rules and safeguards provided by the insolvency law of the Member States.

(3) The **depositary's liability** has been strengthened. The depositary will be liable for any loss of UCITS assets held in custody. The UCITS investors will always have the **right of redress** directly against the depositary and will not have to rely on the management company's ability to accomplish this task.

(4) **Remuneration policies** for all risk takers involved in managing UCITS funds have been introduced so that remuneration practices do not encourage excessive risk-taking and instead promote sound and effective risk management. The transparency of the remuneration practices will be enhanced. The remuneration policies are in line with those in the Alternative Investment Fund Managers Directive (2011/61/EC).

(5) The agreement strengthens the existing regime to ensure effective and harmonised **administrative sanctions**. The use of criminal sanctions is framed so as to ensure the cooperation between authorities and the transparency of sanctions. A harmonised system of strengthened cooperation will improve the effective detection of breaches of UCITS rules.

More information:

http://ec.europa.eu/internal_market/investment/ucits-directive/index_en.htm

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