

SI 737 of 2003

European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 4) Regulations 2003

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Council Directive No. 85/611/EEC of 20 December 1985¹, as amended by Council Directive No. 88/220/EEC of 22 March 1988², Directive No. 95/26/EC of 29 June 1995 of the European Parliament and of the Council³, Directive No. 2001/108/EC of 21 January 2002 of the European Parliament and of the Council⁴ and Directive No. 2001/107/EC of 21 January 2002 of the European Parliament and of the Council⁵, hereby make the following regulations—

Citation.

1. These Regulations may be cited as the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 4) Regulations 2003.

Interpretation.

2. In these Regulations—

'Principal Regulations' means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 (S.I. No. 211 of 2003) (amended by the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2003 (S.I. No. 212 of 2003) and the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 2) Regulations 2003 (S.I. No. 497 of 2003)).

'Management Regulations' means the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 2) Regulations 2003 (S.I. No. 497 of 2003) (amended by the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 3) Regulations 2003 (S.I. No. 623 of 2003)).

¹ O.J. No. L375/3 of 31/12/1985

² O.J. No. L100/31 of 19/4/1988

³ O.J. No. L168/7 of 18/7/1995

⁴ O.J. No. L41/35 of 13/2/2002

⁵ O.J. No. L41/20 of 13/2/2002

Amendment of Regulation 31 of the Management Regulations.

3. The Management Regulations are amended by substituting the following Regulation for Regulation 31:
- “31. The transitional provisions and time limits applicable are as follows—
- (1) Management companies authorised before 13 February 2004 under Council Directive 85/611/EEC shall be deemed to be authorised for the purposes of these provisions provided that to take up such activity they must comply with conditions equivalent to those imposed in Regulation 15A of the Principal Regulations;
 - (2) Management companies authorised before 13 February 2004, which are not included among those referred to in paragraph (1) may continue such activity provided that, no later than 13 February 2007 and pursuant to the applicable requirements, they obtain the appropriate authorisation to continue such activity in accordance with the provisions adopted herein;
 - (3)
 - (a)
 - (i) Investment companies authorised by the Bank prior to the commencement of these Regulations which have not appointed a management company may continue in operation notwithstanding the provisions of Regulation 13 of these Regulations,
 - (ii) Investment companies which have not appointed a management company, and which are authorised after the commencement of these Regulations but prior to 13 February 2004, are not required to comply with the provisions of Regulation 13 of these Regulations;
 - (b) Investment companies authorised by the Bank from 13 February 2004 which have not appointed a management company shall be required to comply with the provisions of Regulation 13 of these Regulations;
 - (4)
 - (a) UCITS authorised by the Bank before 13 February 2004, shall not be subject to Regulations 15 to 17 of these Regulations (which amend Regulations 74 (1), 74 (2), 75 and 76 of the Principal Regulations) and Regulations 20 to 24 hereof (which amend Regulations 82, 83, 87, 88 (2) and 93 of the Principal Regulations) until 13 February 2004. Such UCITS shall be subject to Regulations 74 (1), 74 (2), 75, 76, 82, 83, 87, 88 (2) and 93 of the Principal Regulations as if unamended by these Regulations until 12 February, 2004;

- (b) Notwithstanding the provisions of sub-paragraph (a), UCITS authorised by the Bank before 13 February 2004 may opt, by notice in writing to the Bank before 13 February, 2004, to be subject to Regulations 15 to 17 and 20 to 24 of these Regulations.”.

- 4. The European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment No. 3) Regulations 2003 (S.I. No. 623 of 2003) are revoked.

GIVEN under my Official Seal, this 22nd day of December, 2003.

LS.

MARY HARNEY

Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This is not part of the instrument and does not purport to be a legal interpretation.)

The purpose of this Statutory Instrument is to give further legal effect to Directive No. 2001/107/EC of 21 January 2002 of the European Parliament and of the Council. This is known as the “Management Directive”.

The Management Directive amended Council Directive No. 85/611/EEC of 20 December 1985, as amended by Council Directive No. 88/220/EEC of 22 March 1988, Directive No. 95/26/EC of 29 June 1995 of the European Parliament and of the Council and Directive No. 2001/108/EC of 21 January 2002 of the European Parliament and of the Council (the Product Directive), regarding the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

The Directives up to and including that of 1995 are given effect by the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations (S. I. No. 211 of 29 May 2003) which amended and consolidated all previous Statutory Instruments governing UCITS.

Statutory Instrument No. 211 was then amended by S.I. 212, also of 29 May 2003, and S.I. 497 of 21 October 2003 in order to give effect to the Product Directive and the Management Directive respectively. S.I. 623 of 2003 modified the transitional arrangements applicable to self-managed investment companies and the rules governing simplified prospectuses set out in S.I. 497 of 2003.

This S.I., No. 737 of 2003, in revoking and replacing S.I. 623 of 2003, amends the Management Regulations by defining the transitional arrangements applicable to self-managed investment companies and sets out the circumstances in which self managed investment companies have to comply with certain provisions of S.I. 497. The simplified prospectus provisions are not affected.

This Statutory Instrument comes into operation on 22 December 2003.

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