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Additional Information

Level 1 Regulation
Undertakings for Collective Investment in Transferable Securities Directive (UCITS) Directive 2009/65/EC

Topic
UCITS eligible assets and investment restrictions

Subject Matter
Derogation for newly authorized UCITS

Question
Pursuant to Article 57(1) of the UCITS Directive, Member States may allow recently authorised UCITS to derogate from Articles 52 to 55 for six months following the date of authorisation of the UCITS. For a UCITS that is authorised by the relevant regulatory authority and subsequently launches at a later point, can it be inferred that the six-month derogation runs from the moment of launch (i.e. initial investent) rather than from the date of authorisation of the UCITS?

ESMA Answer

18-06-2024

Original language

Answer provided by the European Commission

No, under Article 57(1) of the UCITS Directive the six-month derogation period runs from the date of authorisation of the UCITS, regardless of whether the UCITS launches immediately after authorisation or at a latter stage.

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.