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Additional Information

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

Topic
Depositaries

Subject Matter
Performance of depositary functions where there are branches in other Member States

Question
Where the depositary of a UCITS is a branch and the head office is established in a Member State other than the home Member State of the UCITS, to which extent may the branch allocate its depositary functions (e.g. custody) to its head office in compliance with the establishment requirement set out in Article 23(1) of the UCITS Directive?

ESMA Answer

01-06-2019

Original language

[ESMA 34-43-392 UCITS Q&A, section 10, Q&A 4]

The internal allocation of functions between the head office and the branches of a depositary shall not lead to situations that may represent a circumvention of the establishment requirement under Article 23(1) of the UCITS Directive. Therefore, the operational infrastructure and internal governance system of such branches must be adequate to carry out depositary functions autonomously from its head office and ensure compliance with national rules implementing the UCITS Directive.