

MEMO# 14082

October 24, 2001

EUROPEAN PARLIAMENT GIVES ITS FINAL APPROVAL TO UCITS AMENDMENTS

[14082] October 24, 2001 TO: INTERNATIONAL COMMITTEE No. 57-01 RE: EUROPEAN PARLIAMENT GIVES ITS FINAL APPROVAL TO UCITS AMENDMENTS On October 23, 2001, the European Parliament voted in plenary session to conclude its second reading of the proposals to amend the UCITS Directive. The Parliament generally accepted the Common Position adopted by the Council of Ministers.¹ Parliament proposed only two amendments to the Council's Common Position in large part to avoid disturbing the sensitive political compromise achieved by the Council. Parliament's amendments are attached. The most significant amendment proposed by the Parliament in its second reading was to require the Commission to conduct a substance review of the UCITS Directive no later than three years after the Directive enters into force. The Parliament's amendment prescribes some elements of the review and requires specifically an examination of certain aspects of the UCITS Directive that remain controversial. The amendment would require, among other things, the Commission to (1) analyze the functioning of the passport for management companies and simplified prospectus and the possibility of improved collaboration among supervisory authorities for common interpretation and application of the Directive; (2) review the scope of the Directive as it applies to different types of funds, including master-feeder funds, and the investment rules for UCITS, including the use of derivatives and the regulation of fund of funds; (3) evaluate the delegation rules and the practices and relationship between the fund manager and depository; and (4) examine the competitive situation between funds managed by management companies and "self-managed" investment companies.² The Parliament's amendment also would permit member states to allow UCITS existing on the date of entry into force of the amended Directive to comply with the new national legislation adopted pursuant to the amended UCITS Directive within 60 months. ¹ See Memorandum to International Members No. 7-01 (June 7, 2001). ² Management companies that manage UCITS funds must comply with both the initial and ongoing capital requirements while investment company UCITS funds that have not designated a management company only would be required to have initial capital of EUR 300,000. See Memorandum to International Committee No. 19-01 (March 13, 2001). ² Finally, the Parliament proposed an amendment to require the Commission to present a report to the Parliament and the Council on the application of the capital requirements 36 months (rather than 60 months) after the amended Directive enters into force. This amendment would align the review period for the capital requirement with the general review of the Directive. The Parliament's amendments will now be forwarded to the Council for agreement. The Commission is then expected to publish the final Directive in the Official Journal of the European Communities. The Directive will enter into force formally on the

date of the Directive's publication, which is expected by the end of the year or early next year. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

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