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**Subject: EU Clearing and Settlement
Legal Certainty Group
Compendium of definitions in Community law**

1. EXPLANATION OF THIS DOCUMENT

It was noted at the first meeting of the Legal Certainty Group that one early hurdle will be to settle upon a common vocabulary for the conduct of the work: even expressions (*in rem*, for example) that are used in most if not all EU legal regimes turn out on analysis to be used with different meanings. Indeed, the necessity of establishing a common usage of technical terminology was a constant theme of the meeting.

As a background to discussions aimed at establishing a common usage of technical terminology, this document sets out a compendium of definitions as they occur in existing Community law of primary relevance to EU financial markets and services.

The legislation aimed at financial markets from which the content of this compendium has been drawn has its centre of gravity in the measures adopted in furtherance of the Financial Services Action Plan. However, just as that programme of measures was based on identifying steps needed to complete a single market in financial services, so is it sensible to include some Community legislation that falls outside the FSAP, either by virtue of having been adopted earlier in time (the Banking Directive, for example), or by virtue of having been adopted contemporaneously but with a different policy impulse (the Insolvency Regulation of 29 May 2000, for example).

In this compendium, differences in legal status of measures are ignored. Thus, whilst most measures are directives, and most of those co-decision directives of the European Parliament and of the Council, also included are Level 2 directives and Regulations.

It is to be noted that this document collates definitions as they appear in only one of the equally authentic language versions of Community legislation. As the meaning of words used in Community law can be established only by reference to all language versions, it follows that a compendium of this nature cannot in isolation provoke any wholly sound conclusions. Nonetheless, there may yet be utility in analysing texts in the English language, accepting at all times that this is only a working tool, and not an end in itself.

2. SOURCES

(A) = Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities Official Journal L 184 , 06/07/2001 P. 0001 - 0066

(B) = Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions Official Journal L 126 , 26/05/2000 P. 0001 – 0059

(CAD) = COUNCIL DIRECTIVE 93/6/EEC of 15 March 1993 on the capital adequacy of investments firms and credit institutions (OJ L 141, 11.6.1993, p. 1) Amended by: Directive 98/31/EC of the European Parliament and of the Council of 22 June 1998 L 204 13 21.7.1998; Directive 98/33/EC of the European Parliament and of the Council of 22 June 1998 L 204 29 21.7.1998; Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 L 35 1 11.2.2003; Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 L 145 1 30.4.2004; Corrected by Corrigendum, OJ L 248, 8.9.1998, p. 20 (98/31/EC)

(DM) = Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC Official Journal L 271 , 09/10/2002 P. 0016 – 0024

(E) = Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') Official Journal L 178 , 17/07/2000 P. 0001 – 0016

(EM) = Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions Official Journal L 275 , 27/10/2000 P. 0039 - 0043

(F) = Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council Official Journal L 035 , 11/02/2003 P. 0001 - 0027

(FCD) = Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements Official Journal L 168 , 27/06/2002 P. 0043 – 0050

(IR) = Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings Official Journal L 160 , 30/06/2000 P. 0001 – 0018

(M) = Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council

and repealing Council Directive 93/22/EEC Official Journal L 145 , 30/04/2004 P. 0001 – 0044

(MAD) = Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) Official Journal L 096 , 12/04/2003 P. 0016 – 0025

(MAD2.1) = Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation Official Journal L 339 , 24/12/2003 P. 0070 – 0072

(MAD2.2) = Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest Official Journal L 339 , 24/12/2003 P. 0073 - 0077

(MAD2.3) = Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments Official Journal L 336 , 23/12/2003 P. 0033 - 0038

(MAD2.4) = Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions Official Journal L 162 30/04/2004 P. 0070 - 0075

(P) = Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (Text with EEA relevance) Official Journal L 345 , 31/12/2003 P. 0064 - 0089

(P2.1) = Commission Regulation (CE) 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements 30.4.2004 Official Journal of the European Union L 149/1 EN

(SFD) = Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems Official Journal L 166 , 11/06/1998 P. 0045 – 0050

(T) = Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC 31.12.2004 L 390/38 Official Journal of the European Union

(TB) = Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids Official Journal L 142 , 30/04/2004 P. 0012 - 0023

(TSI) = Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments Official Journal L 157 , 26/06/2003 P. 0038 – 0048

(U) = COUNCIL DIRECTIVE of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (85/611/EEC) (OJ L 375, 31.12.1985, p. 3) Amended by Council Directive 88/220/EEC of 22 March 1988 L 100 31 19.4.1988; European Parliament and Council Directive 95/26/EC of 29 June 1995 L 168 7 18.7.1995; Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 L 290 27 17.11.2000; Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 L 41 20 13.2.2002; Directive 2001/108/EC of the European Parliament and of the Council of 21 January 2002 L 41 35 13.2.2002; Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 L 145 1 30.4.2004

(WUCI) = Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions Official Journal L 125 , 05/05/2001 P. 0015 – 0023

(WUI) = Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings Official Journal L 110 , 20/04/2001 P. 0028 – 0039

3. COMPENDIUM OF DEFINITIONS IN COMMUNITY LAW

“accepted market practices” shall mean practices that are reasonably expected in one or more financial markets and are accepted by the competent authority in accordance with guidelines adopted by the Commission in accordance with the procedure laid down in Article 17(2). (MAD)

“adequate public disclosure” means disclosure made in accordance with the procedure laid down in Articles 102(1) and 103 of Directive 2001/34/EC of the European Parliament and of the Council(6); (MAD2.3)

"administrative or judicial authorities" shall mean such administrative or judicial authorities of the Member States as are competent for the purposes of reorganisation measures or winding-up proceedings; (WUCI)

"administrator" shall mean any person or body appointed by the administrative or judicial authorities whose task is to administer reorganisation measures; (WUCI)

"administrator" means any person or body appointed by the competent authorities for the purpose of administering reorganisation measures; (WUI)

"advertisement" means announcements: (a) relating to an specific offer to the public of securities or to an admission to trading on a regulated market; and (b) aiming to specifically promote the potential subscription or acquisition of securities. (P2.1)

"**allotment**" means the process or processes by which the number of relevant securities to be received by investors who have previously subscribed or applied for them is determined; (MAD2.3)

"**ancillary banking services undertaking**" shall mean an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more credit institutions; (B)

"**ancillary service**" means any of the services listed in Section B of Annex I; (M)

"**ancillary stabilisation**" means the exercise of an overallotment facility or of a greenshoe option by investment firms or credit institutions, in the context of a significant distribution of relevant securities, exclusively for facilitating stabilisation activity; (MAD2.3)

"**annual accounts**" shall comprise the balance sheet, the profit and loss account and the notes on the accounts. These documents shall constitute a composite whole. (A)

"**appropriate regulation**" shall mean any regulation, including self-regulation, in place in Member States as referred to by Directive 2003/6/EC. (MAD2.2)

"**approval**" means the positive act at the outcome of the scrutiny of the completeness of the prospectus by the home Member State's competent authority including the consistency of the information given and its comprehensibility; (P)

"**asset backed securities**" means securities which: (a) represent an interest in assets, including any rights intended to assure servicing, or the receipt or timeliness of receipts by holders of assets of amounts payable there under; or (b) are secured by assets and the terms of which provide for payments which relate to payments or reasonable projections of payments calculated by reference to identified or identifiable assets; (P2.1)

"**asset management company**" shall mean a management company within the meaning of Article 1a(2) of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)(14), as well as an undertaking the registered office of which is outside the Community and which would require authorisation in accordance with Article 5(1) of that Directive if it had its registered office within the Community; (F)

"**associated instruments**" means the following financial instruments (including those which are not admitted to trading on a regulated market, or for which a request for admission to trading on such a market has not been made, provided that the relevant competent authorities have agreed to standards of transparency for transactions in such financial instruments): (a) contracts or rights to subscribe for, acquire or dispose of relevant securities; (b) financial derivatives on relevant securities; (c) where the relevant securities are convertible or exchangeable debt instruments, the securities into which such convertible or exchangeable debt instruments may be converted or exchanged; (d) instruments which are issued or guaranteed by the issuer or guarantor of the relevant securities and whose market price is likely to materially influence the price of the relevant securities, or vice versa; (e) where the relevant securities are securities

equivalent to shares, the shares represented by those securities (and any other securities equivalent to those shares). (MAD2.3)

"authorisation" shall mean an instrument issued in any form by the authorities by which the right to carry on the business of a credit institution is granted; (B)

"base prospectus" means a prospectus containing all relevant information as specified in Articles 5, 7 and 16 in case there is a supplement, concerning the issuer and the securities to be offered to the public or admitted to trading, and, at the choice of the issuer, the final terms of the offering. (P)

"beneficial owner" means any individual who receives an interest payment or any individual for whom an interest payment is secured, unless he provides evidence that it was not received or secured for his own benefit, that is to say that: (a) he acts as a paying agent within the meaning of Article 4(1); or (b) he acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 85/611/EEC or an entity referred to in Article 4(2) of this Directive and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its Member State of establishment, or (c) he acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3(2). (TSI)

"book entry securities collateral" means financial collateral provided under a financial collateral arrangement which consists of financial instruments, title to which is evidenced by entries in a register or account maintained by or on behalf of an intermediary; (FCD)

"Branch" means a place of business other than the head office which is a part of an investment firm, which has no legal personality and which provides investment services and/or activities and which may also perform ancillary services for which the investment firm has been authorised; all the places of business set up in the same Member State by an investment firm with headquarters in another Member State shall be regarded as a single branch; (M)

'branch' shall mean a place of business which is a part of the management company, which has no legal personality and which provides the services for which the management company has been authorised; all the places of business set up in the same Member State by a management company with headquarters in another Member State shall be regarded as a single branch; (U)

"branch" shall mean a place of business which forms a legally dependent part of a credit institution and which carries out directly all or some of the transactions inherent in the business of credit institutions; any number of places of business set up in the same Member State by a credit institution with headquarters in another Member State shall be regarded as a single branch; (B)

"branch" shall mean a branch within the meaning of Article 1, point (3) of Directive 2000/12/EC; (WUCI)

"branch" means any permanent presence of an insurance undertaking in the territory of a Member State other than the home Member State which carries out insurance business; (WUI)

"Building block" means a list of additional information requirements, not included in one of the schedules, to be added to one or more schedules, as the case may be, depending on the type of instrument and/or transaction for which a prospectus or base prospectus is drawn up; (P2.1)

"Buy-back programmes" means trading in own shares in accordance with Articles 19 to 24 of Council Directive 77/91/EEC; (MAD2.3)

"Capital" shall mean own funds; (CAD)

"Cash" means money credited to an account in any currency, or similar claims for the repayment of money, such as money market deposits; (FCD)

"Central counterparty" shall mean an entity which is interposed between the institutions in a system and which acts as the exclusive counterparty of these institutions with regard to their transfer orders; (SFD)

central government items shall mean long and short positions in the assets referred to in Article 6 (1) (a) of Directive 89/647/EEC and those assigned a weighting of 0 % in Article 7 of the same Directive; (CAD)

'clearing house' shall mean an entity responsible for the calculation of the net positions of institutions, a possible central counterparty and/or a possible settlement agent; (SFD)

clearing member shall mean a member of the exchange or the clearing house which has a direct contractual relationship with the central counterparty (market guarantor); non-clearing members must have their trades routed through a clearing member; (CAD)

"Client" means any natural or legal person to whom an investment firm provides investment and/or ancillary services; (M)

"Close links" means a situation in which two or more natural or legal persons are linked by: (a) participation which means the ownership, direct or by way of control, of 20% or more of the voting rights or capital of an undertaking, (b) control which means the relationship between a parent undertaking and a subsidiary, in all the cases referred to in Article 1(1) and (2) of Directive 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking, any subsidiary undertaking of a subsidiary undertaking also being considered a subsidiary of the parent undertaking which is at the head of those undertakings. A situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship shall also be regarded as constituting a close link between such persons. (M)

"close links" shall mean a situation in which two or more natural or legal persons are linked by: (a) participation, which shall mean the ownership, direct or by way of control, of 20 % or more of the voting rights or capital of an undertaking, or (b) control, which shall mean the relationship between a parent undertaking and a subsidiary, in all the cases referred to in Article 1(1) and (2) of Directive 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking; any subsidiary undertaking of a subsidiary undertaking shall also be considered a subsidiary of the parent undertaking which is at the head of those undertakings. A situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship shall also be regarded as constituting a close link between such persons. (B)

'close links' shall mean a situation as defined in Article 2(1) of Directive 95/26/EC (1); (U)

"close links" shall mean a situation in which two or more natural or legal persons are linked by: (a) "participation", which shall mean the ownership, direct or by way of control, of 20 % or more of the voting rights or capital of an undertaking; or (b) "control", which shall mean the relationship between a parent undertaking and a subsidiary, in all the cases referred to in Article 1(1) and (2) of Directive 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking; any subsidiary undertaking of a subsidiary undertaking shall also be considered a subsidiary of the parent undertaking which is at the head of those undertakings. A situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship shall also be regarded as constituting a close link between such persons; (F)

"close-out netting provision" means a provision of a financial collateral arrangement, or of an arrangement of which a financial collateral arrangement forms part, or, in the absence of any such provision, any statutory rule by which, on the occurrence of an enforcement event, whether through the operation of netting or set-off or otherwise: (i) the obligations of the parties are accelerated so as to be immediately due and expressed as an obligation to pay an amount representing their estimated current value, or are terminated and replaced by an obligation to pay such an amount; and/or (ii) an account is taken of what is due from each party to the other in respect of such obligations, and a net sum equal to the balance of the account is payable by the party from whom the larger amount is due to the other party. (FCD)

'collateral security' shall mean all realisable assets provided under a pledge (including money provided under a pledge), a repurchase or similar agreement, or otherwise, for the purpose of securing rights and obligations potentially arising in connection with a system, or provided to central banks of the Member States or to the future European central bank. (SFD)

'collective investment undertaking other than the closed end type' means unit trusts and investment companies: (i) the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading; and (ii) the units of which are, at the request of the holder of such units, repurchased or redeemed, directly or indirectly, out of the assets of those undertakings; (T)

"collective investment undertaking other than the closed-end type" means unit trusts and investment companies: (i) the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk-spreading; (ii) the units of which are, at the holder's request, repurchased or redeemed, directly or indirectly, out of the assets of these undertakings; (P)

"collective investment undertakings other than the closed-end type" shall mean unit trusts and investment companies: (i) the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading, and (ii) the units of which are, at the holders' request, repurchased or redeemed, directly or indirectly, out of the assets of these undertakings. Action taken by such undertakings to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption; (A)

"commercial communication": any form of communication designed to promote, directly or indirectly, the goods, services or image of a company, organisation or person pursuing a commercial, industrial or craft activity or exercising a regulated profession. The following do not in themselves constitute commercial communications: - information allowing direct access to the activity of the company, organisation or person, in particular a domain name or an electronic-mail address, - communications relating to the goods, services or image of the company, organisation or person compiled in an independent manner, particularly when this is without financial consideration; (E)

"Competent authority" means the authority, designated by each Member State in accordance with Article 48, unless otherwise specified in this Directive; (M)

"Competent authority" shall mean the competent authority designated in accordance with Article 11. (MAD)

'competent authorities' shall mean the authorities which each Member State designates under Article 49 of this Directive; (U)

"competent authorities" shall mean the national authorities of the Member States which are empowered by law or regulation to supervise credit institutions, and/or insurance undertakings and/or investment firms whether on an individual or a group-wide basis; (F)

"competent authorities" shall mean the national authorities which are empowered by law or regulation to supervise credit institutions; (B)

"Competent authority" shall mean the competent authority as defined in Article 1(7) of Directive 2003/6/EC. (MAD2.4)

"competent authority" means: (a) for Member States, any of the authorities notified by the Member States to the Commission; (b) for third countries, the competent authority for the purposes of bilateral or multilateral tax conventions or, failing that, such other authority as is competent to issue certificates of residence for tax purposes. (TSI)

"competent authorities" shall mean the competent authorities within the meaning of Article 1, point (4) of Directive 2000/12/EC; (WUCI)

"competent authorities" means the administrative or judicial authorities of the Member States which are competent for the purposes of the reorganisation measures or the winding-up proceedings; (WUI)

"consumer" means any natural person who, in distance contracts covered by this Directive, is acting for purposes which are outside his trade, business or profession; (DM)

"consumer": any natural person who is acting for purposes which are outside his or her trade, business or profession; (E)

"Control" means control as defined in Article 1 of Directive 83/349/EEC; (M)

"control" shall mean the relationship between a parent undertaking and a subsidiary, as defined in Article 1 of Directive 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking; (B)

'controlled undertaking' means any undertaking (i) in which a natural person or legal entity has a majority of the voting rights; or (ii) of which a natural person or legal entity has the right to appoint or remove a majority of the members of the administrative, management or supervisory body and is at the same time a shareholder in, or member of, the undertaking in question; or (iii) of which a natural person or legal entity is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights, respectively, pursuant to an agreement entered into with other shareholders or members of the undertaking in question; or (iv) over which a natural person or legal entity has the power to exercise, or actually exercises, dominant influence or control; (T)

convertible shall mean a security which, at the option of the holder, can be exchanged for another security, usually the equity of the issuer; (CAD)

"coordinated field": requirements laid down in Member States' legal systems applicable to information society service providers or information society services, regardless of whether they are of a general nature or specifically designed for them. (i) The coordinated field concerns requirements with which the service provider has to comply in respect of: - the taking up of the activity of an information society service, such as requirements concerning qualifications, authorisation or notification, - the pursuit of the activity of an information society service, such as requirements concerning the behaviour of the service provider, requirements regarding the quality or content of the service including those applicable to advertising and contracts, or requirements concerning the liability of the service provider; (ii) The coordinated field does not cover requirements such as: - requirements applicable to goods as such, - requirements applicable to the delivery of goods, - requirements applicable to services not provided by electronic means. (E)

"court" shall mean the judicial body or any other competent body of a Member State empowered to open insolvency proceedings or to take decisions in the course of such proceedings; (IR)

credit institutions shall mean all institutions that satisfy the definition in the first indent of Article 1 of the First Council Directive (77/780/EEC) of 12 December 1977 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (3) which are subject to the requirements imposed by Directive 89/647/EEC; (CAD)

"credit institution" shall mean an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account. For the purposes of applying the supervision on a consolidated basis, shall be considered as a credit institution, a credit institution according to the first paragraph and any private or public undertaking which corresponds to the definition in the first paragraph and which has been authorised in a third country. For the purposes of applying the supervision and control of large exposures, shall be considered as a credit institution, a credit institution according to the first paragraph, including branches of a credit institution in third countries and any private or public undertaking, including its branches, which corresponds to the definition in the first paragraph and which has been authorised in a third country; (B)

‘credit institution’ means an undertaking as defined in Article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (T)

"Credit institutions" means credit institutions as defined under Directive 2000/12/EC; (M)

"credit institution" means an undertaking as defined by Article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions(13); (P)

"Credit institution" shall mean any person as defined in Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council(5); (MAD2.4)

"credit institution" means a legal person as defined in Article 1(1) of Directive 2000/12/EC of the European Parliament and the Council(5); (MAD2.3)

"credit institution" means any person as defined in Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council(5); (MAD2.2)

“credit institution" shall mean a credit institution within the meaning of the second subparagraph of Article 1(1) of Directive 2000/12/EC; (F)

"credit institution" shall mean an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account; (A)

"Dealing on own account" means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments; (M)

‘debt securities’ means bonds or other forms of transferable securitised debts, with the exception of securities which are equivalent to shares in companies or which, if converted or if the rights conferred by them are exercised, give rise to a right to acquire shares or securities equivalent to shares; (T)

delta shall mean the expected change in an option price as a proportion of a small change in the price of the instrument underlying the option; (CAD)

‘depository’ shall mean any institution entrusted with the duties mentioned in Articles 7 and 14 and subject to the other provisions laid down in Sections IIIa and IVa; (U)

"distance contract" means any contract concerning financial services concluded between a supplier and a consumer under an organised distance sales or service-provision scheme run by the supplier, who, for the purpose of that contract, makes exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded; (DM)

"distribution channels" shall mean a channel through which information is, or is likely to become, publicly available. "Likely to become publicly available information" shall mean information to which a large number of persons have access; (MAD2.2)

"durable medium" means any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a

period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored; (DM)

'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means; (T)

"electronic money" shall mean monetary value as represented by a claim on the issuer which is: (i) stored on an electronic device; (ii) issued on receipt of funds of an amount not less in value than the monetary value issued; (iii) accepted as means of payment by undertakings other than the issuer. (EM)

"electronic money institution" shall mean an undertaking or any other legal person, other than a credit institution as defined in Article 1, point 1, first subparagraph (a) of Directive 2000/12/EC which issues means of payment in the form of electronic money; (EM)

"enforcement event" means an event of default or any similar event as agreed between the parties on the occurrence of which, under the terms of a financial collateral arrangement or by operation of law, the collateral taker is entitled to realise or appropriate financial collateral or a close-out netting provision comes into effect; (FCD)

"equity securities" means shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of the said issuer; (P)

"equivalent collateral": (i) in relation to cash, means a payment of the same amount and in the same currency; (ii) in relation to financial instruments, means financial instruments of the same issuer or debtor, forming part of the same issue or class and of the same nominal amount, currency and description or, where a financial collateral arrangement provides for the transfer of other assets following the occurrence of any event relating to or affecting any financial instruments provided as financial collateral, those other assets; (FCD)

"established service provider": a service provider who effectively pursues an economic activity using a fixed establishment for an indefinite period. The presence and use of the technical means and technologies required to provide the service do not, in themselves, constitute an establishment of the provider; (E)

"establishment" shall mean any place of operations where the debtor carries out a non-transitory economic activity with human means and goods. (IR)

"Execution of orders on behalf of clients" means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients; (M)

"exposures" for the purpose of applying Articles 48, 49 and 50 shall mean the assets and off-balance-sheet items referred to in Article 43 and in Annexes II and IV thereto, without application of the weightings or degrees of risk there provided for; the risks referred to in Annex IV must be calculated in accordance with one of the methods set out in Annex III, without application of the weightings for counterparty risk; all elements

entirely covered by own funds may, with the agreement of the competent authorities, be excluded from the definition of exposures provided that such own funds are not included in the calculation of the solvency ratio or of other monitoring ratios provided for in this Directive and in other Community acts; exposures shall not include: - in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the 48 hours following payment, or - in the case of transactions for the purchase or sale of securities, exposures incurred in the ordinary course of settlement during the five working days following payment or delivery of the securities, whichever is the earlier; (B)

"financial collateral arrangement" means a title transfer financial collateral arrangement or a security financial collateral arrangement whether or not these are covered by a master agreement or general terms and conditions; (FCD)

"financial conglomerate" shall mean a group which meets, subject to Article 3, the following conditions: (a) a regulated entity within the meaning of Article 1 is at the head of the group or at least one of the subsidiaries in the group is a regulated entity within the meaning of Article 1; (b) where there is a regulated entity within the meaning of Article 1 at the head of the group, it is either a parent undertaking of an entity in the financial sector, an entity which holds a participation in an entity in the financial sector, or an entity linked with an entity in the financial sector by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC; (c) where there is no regulated entity within the meaning of Article 1 at the head of the group, the group's activities mainly occur in the financial sector within the meaning of Article 3(1); (d) at least one of the entities in the group is within the insurance sector and at least one is within the banking or investment services sector; (e) the consolidated and/or aggregated activities of the entities in the group within the insurance sector and the consolidated and/or aggregated activities of the entities within the banking and investment services sector are both significant within the meaning of Article 3(2) or (3). Any subgroup of a group within the meaning of point 12 which meets the criteria in this point shall be considered as a financial conglomerate; (F)

"financial holding company" shall mean a financial institution, the subsidiary undertakings of which are either exclusively or mainly credit institutions or financial institutions, one at least of such subsidiaries being a credit institution; (B)

financial holding company shall mean a financial institution the subsidiary undertakings of which are either exclusively or mainly credit institutions, investment firms or other financial institutions, one of which at least is a credit institution or an investment firm; (CAD)

"financial institution" shall mean an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities listed in points 2 to 12 of Annex I; (B)

"Financial instrument" means those instruments specified in Section C of Annex I; (M)

"Financial instrument" shall mean: - transferable securities as defined in Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field(9), - units in collective investment undertakings, - money-market instruments, - financial-futures contracts, including equivalent cash-settled instruments, - forward interest-rate agreements, - interest-rate, currency and equity swaps, - options to acquire or dispose of

any instrument falling into these categories, including equivalent cash-settled instruments. This category includes in particular options on currency and on interest rates, - derivatives on commodities, - any other instrument admitted to trading on a regulated market in a Member State or for which a request for admission to trading on such a market has been made. (MAD)

"financial instruments" means shares in companies and other securities equivalent to shares in companies and bonds and other forms of debt instruments if these are negotiable on the capital market, and any other securities which are normally dealt in and which give the right to acquire any such shares, bonds or other securities by subscription, purchase or exchange or which give rise to a cash settlement (excluding instruments of payment), including units in collective investment undertakings, money market instruments and claims relating to or rights in or in respect of any of the foregoing; (FCD)

financial instruments shall mean the instruments listed in Section B of the Annex to Directive 93/22/EEC; (CAD)

"financial sector" shall mean a sector composed of one or more of the following entities: (a) a credit institution, a financial institution or an ancillary banking services undertaking within the meaning of Article 1(5) and (23) of Directive 2000/12/EC (the banking sector); (b) an insurance undertaking, a reinsurance undertaking or an insurance holding company within the meaning of Article 1(i) of Directive 98/78/EC (the insurance sector); (c) an investment firm or a financial institution within the meaning of Article 2(7) of Directive 93/6/EEC (the investment services sector); (d) a mixed financial holding company; (F)

"financial service" means any service of a banking, credit, insurance, personal pension, investment or payment nature; (DM)

"'full-risk', 'medium-risk', 'medium/low-risk' and 'low-risk' off-balance-sheet items" shall mean the items described in Article 43(2) and listed in Annex II; (B)

"greenshoe option" means an option granted by the offeror in favour of the investment firm(s) or credit institution(s) involved in the offer for the purpose of covering overallotments, under the terms of which such firm(s) or institution(s) may purchase up to a certain amount of relevant securities at the offer price for a certain period of time after the offer of the relevant securities. (MAD2.3)

"group" shall mean a group of undertakings, which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC; (F)

"group of connected clients" shall mean: - two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others or - two or more natural or legal persons between whom there is no relationship of control as defined in the first indent but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of the others would be likely to encounter repayment difficulties; (B)

“indirect participant” shall mean a credit institution as defined in the first indent of (b) with a contractual relationship with an institution participating in a system executing transfer orders as defined in the first indent of (i) which enables the abovementioned credit institution to pass transfer orders through the system; (SFD)

"information society services": services within the meaning of Article 1(2) of Directive 98/34/EC as amended by Directive 98/48/EC; (E)

initial capital shall mean items 1 and 2 of Article 2 (1) of Directive 89/299/EEC; (CAD)

"insolvency proceedings" shall mean the collective proceedings referred to in Article 1(1). These proceedings are listed in Annex A; (IR)

'institution` shall mean: - a credit institution as defined in the first indent of Article 1 of Directive 77/780/EEC (5) including the institutions set out in the list in Article 2(2) thereof, or - an investment firm as defined in point 2 of Article 1 of Directive 93/22/EEC (6) excluding the institutions set out in the list in Article 2(2)(a) to (k) thereof, or - public authorities and publicly guaranteed undertakings, or - any undertaking whose head office is outside the Community and whose functions correspond to those of the Community credit institutions or investment firms as defined in the first and second indent, which participates in a system and which is responsible for discharging the financial obligations arising from transfer orders within that system. If a system is supervised in accordance with national legislation and only executes transfer orders as defined in the second indent of (i), as well as payments resulting from such orders, a Member State may decide that undertakings which participate in such a system and which have responsibility for discharging the financial obligations arising from transfer orders within this system, can be considered institutions, provided that at least three participants of this system are covered by the categories referred to in the first subparagraph and that such a decision is warranted on grounds of systemic risk; (SFD)

“institutions” shall mean credit institutions and investment firms; (CAD)

"instruments" shall mean all the instruments referred to in Section B of the Annex to Directive 93/22/EEC. (WUCI)

"insurance claims" means any amount which is owed by an insurance undertaking to insured persons, policy holders, beneficiaries or to any injured party having direct right of action against the insurance undertaking and which arises from an insurance contract or from any operation provided for in Article 1(2) and (3), of Directive 79/267/EEC in direct insurance business, including amounts set aside for the aforementioned persons, when some elements of the debt are not yet known. The premiums owed by an insurance undertaking as a result of the non-conclusion or cancellation of these insurance contracts and operations in accordance with the law applicable to such contracts or operations before the opening of the winding-up proceedings shall also be considered insurance claims. (WUI)

"insurance undertaking" shall mean an insurance undertaking within the meaning of Article 6 of Directive 73/239/EEC, Article 6 of Directive 79/267/EEC or Article 1(b) of Directive 98/78/EC; (F)

"interest payment" means:(a) interest paid or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a

right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payments shall not be regarded as interest payments; (b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a); (c) income deriving from interest payments either directly or through an entity referred to in Article 4(2), distributed by: (i) an UCITS authorised in accordance with Directive 85/611/EEC, (ii) entities which qualify for the option under Article 4(3), (iii) undertakings for collective investment established outside the territory referred to in Article 7; (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40 % of their assets in debt claims as referred to in (a): (i) an UCITS authorised in accordance with Directive 85/611/EEC, (ii) entities which qualify for the option under Article 4(3), (iii) undertakings for collective investment established outside the territory referred to in Article 7. (TSI)

“Investment advice” means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments; (M)

“investment companies other than those of the closed-end type” shall mean investment companies: (i) the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading, and (ii) the shares of which are, at the holders' request, repurchased or redeemed, directly or indirectly, out of those companies' assets. Action taken by such companies to ensure that the stock exchange value of their shares does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption; (A)

“Investment firm” shall mean any person as defined in Article 1(2) of Council Directive 93/22/EEC(4); (MAD2.4)

“investment firm” means any person as defined in Article 1(2) of Council Directive 93/22/EEC(4); (MAD2.2)

“issuer” means the issuer of a financial instrument to which a recommendation relates, directly or indirectly; (MAD2.2)

‘home Member State’ means (i) in the case of an issuer of debt securities the denomination per unit of which is less than EUR 1 000 or an issuer of shares: — where the issuer is incorporated in the Community, the Member State in which it has its registered office; — where the issuer is incorporated in a third country, the Member State in which it is required to file the annual information with the competent authority in accordance with Article 10 of Directive 2003/71/EC. The definition of ‘home’ Member State shall be applicable to debt securities in a currency other than Euro, provided that the value of such denomination per unit is, at the date of the issue, less than EUR 1 000, unless it is nearly equivalent to EUR 1 000; (ii) for any issuer not covered by (i), the Member State chosen by the issuer from among the Member State in which the issuer has its registered office and those Member States which have admitted its securities to trading on a regulated market on their territory. The issuer may choose only one Member State as its home Member State. Its choice shall remain valid for at least three years

unless its securities are no longer admitted to trading on any regulated market in the Community; (T)

"Home Member State" means: (a) in the case of investment firms: (i) if the investment firm is a natural person, the Member State in which its head office is situated; (ii) if the investment firm is a legal person, the Member State in which its registered office is situated; (iii) if the investment firm has, under its national law, no registered office, the Member State in which its head office is situated; (b) in the case of a regulated market, the Member State in which the regulated market is registered or, if under the law of that Member State it has no registered office, the Member State in which the head office of the regulated market is situated; (M)

"home Member State" shall mean the Member State in which a credit institution has been authorised in accordance with Articles 4 to 11(B)

"home Member State" shall mean the Member State of origin within the meaning of Article 1, point (6) of Directive 2000/12/EC; (WUCI)

"home Member State" means the Member State in which an insurance undertaking has been authorised in accordance with Article 6 of Directive 73/239/EEC or Article 6 of Directive 79/267/EEC; (WUI)

"home Member State" means: (i) for all Community issuers of securities which are not mentioned in (ii), the Member State where the issuer has its registered office; (ii) for any issues of non-equity securities whose denomination per unit amounts to at least EUR 1000, and for any issues of non-equity securities giving the right to acquire any transferable securities or to receive a cash amount, as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or an entity belonging to the group of the latter issuer, the Member State where the issuer has its registered office, or where the securities were or are to be admitted to trading on a regulated market or where the securities are offered to the public, at the choice of the issuer, the offeror or the person asking for admission, as the case may be. The same regime shall be applicable to non-equity securities in a currency other than euro, provided that the value of such minimum denomination is nearly equivalent to EUR 1000; (iii) for all issuers of securities incorporated in a third country, which are not mentioned in (ii), the Member State where the securities are intended to be offered to the public for the first time after the date of entry into force of this Directive or where the first application for admission to trading on a regulated market is made, at the choice of the issuer, the offeror or the person asking for admission, as the case may be, subject to a subsequent election by issuers incorporated in a third country if the home Member State was not determined by their choice; (P)

'host Member State' means a Member State in which securities are admitted to trading on a regulated market, if different from the home Member State; (k) 'regulated information' means all information which the issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under this Directive, under Article 6 of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (1), or under the laws, regulations or administrative provisions of a Member State adopted under Article 3(1) of this Directive; (T)

"Host Member State" means the Member State, other than the home Member State, in which an investment firm has a branch or performs services and/or activities or the Member State in which a regulated market provides appropriate arrangements so as to facilitate access to trading on its system by remote members or participants established in that same Member State; (M)

"host Member State" shall mean the Member State in which a credit institution has a branch or in which it provides services; (B)

"host Member State" means the State where an offer to the public is made or admission to trading is sought, when different from the home Member State; (P)

"host Member State" shall mean the host Member State within the meaning of Article 1, point (7) of Directive 2000/12/EC; (WUCI)

"host Member State" means the Member State other than the home Member State in which an insurance undertaking has a branch; (WUI)

"information which, if it were made public, would be likely to have a significant effect on the prices of financial instruments or related derivative financial instruments" shall mean information a reasonable investor would be likely to use as part of the basis of his investment decisions. (MAD2.1)

'initial capital' shall mean capital as defined in items 1 and 2 of Article 34(2) of Directive 2000/12/EC (4); (U)

"initial capital" shall mean capital as defined in Article 34(2)(1) and (2); (B)

"Inside information" shall mean information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments. In relation to derivatives on commodities, "inside information" shall mean information of a precise nature which has not been made public, relating, directly or indirectly, to one or more such derivatives and which users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on those markets. For persons charged with the execution of orders concerning financial instruments, "inside information" shall also mean information conveyed by a client and related to the client's pending orders, which is of a precise nature, which relates directly or indirectly to one or more issuers of financial instruments or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments. (MAD)

'insolvency proceedings' shall mean any collective measure provided for in the law of a Member State, or a third country, either to wind up the participant or to reorganise it, where such measure involves the suspending of, or imposing limitations on, transfers or payments; (SFD)

"issuers" shall mean companies and other legal persons and any undertaking whose securities are the subject of an application for admission to official listing on a stock exchange; (A)

"insurance undertaking" means an undertaking which has received official authorisation in accordance with Article 6 of Directive 73/239/EEC or Article 6 of Directive 79/267/EEC; (WUI)

"intra-group transactions" shall mean all transactions by which regulated entities within a financial conglomerate rely either directly or indirectly upon other undertakings within the same group or upon any natural or legal person linked to the undertakings within that group by "close links", for the fulfilment of an obligation, whether or not contractual, and whether or not for payment; (F)

"Investment firm" means any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis; Member States may include in the definition of investment firms undertakings which are not legal persons, provided that: (a) their legal status ensures a level of protection for third parties' interests equivalent to that afforded by legal persons, and (b) they are subject to equivalent prudential supervision appropriate to their legal form. However, where a natural person provides services involving the holding of third parties' funds or transferable securities, he may be considered as an investment firm for the purposes of this Directive only if, without prejudice to the other requirements imposed in this Directive and in Directive 93/6/EEC, he complies with the following conditions: (a) the ownership rights of third parties in instruments and funds must be safeguarded, especially in the event of the insolvency of the firm or of its proprietors, seizure, set-off or any other action by creditors of the firm or of its proprietors; (b) the firm must be subject to rules designed to monitor the firm's solvency and that of its proprietors; (c) the firm's annual accounts must be audited by one or more persons empowered, under national law, to audit accounts; (d) where the firm has only one proprietor, he must make provision for the protection of investors in the event of the firm's cessation of business following his death, his incapacity or any other such event; (M)

"investment firm" shall mean an investment firm within the meaning of Article 1(2) of Directive 93/22/EEC, including the undertakings referred to in Article 2(4) of Directive 93/6/EEC; (F)

investment firms shall mean all institutions that satisfy the definition in Article 4(1) of Directive 2004/EC (1) of the European Parliament and of the Council of... on markets in financial instruments (*), which are subject to the requirements imposed by the same Directive, excluding: (a) credit institutions, (b) local firms as defined in 20, and (c) firms which are only authorised to provide the service of investment advice and/or receive and transmit orders from investors without in both cases holding money or securities belonging to their clients and which for that reason may not at any time place themselves in debit with their clients; (CAD)

"Investment services and activities" means any of the services and activities listed in Section A of Annex I relating to any of the instruments listed in Section C of Annex I; The Commission shall determine, acting in accordance with the procedure referred to in Article 64(2): - the derivative contracts mentioned in Section C 7 of Annex I that have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls - the derivative contracts mentioned in Section C 10 of Annex I that have the characteristics of other derivative financial instruments, having regard to

whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls; (M)

“**ISD**” shall mean Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (2); (U)

“**issuer**” means a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a regulated market, the issuer being, in the case of depository receipts representing securities, the issuer of the securities represented; (T)

“**issuer**” means a legal entity which issues or proposes to issue securities; (P)

“**judgment**” in relation to the opening of insolvency proceedings or the appointment of a liquidator shall include the decision of any court empowered to open such proceedings or to appoint a liquidator; (IR)

“**Limit order**” means an order to buy or sell a financial instrument at its specified price limit or better and for a specified size; (M)

“**liquidator**” shall mean any person or body appointed by the administrative or judicial authorities whose task is to administer winding-up proceedings; (WUCI)

“**liquidator**” means any person or body appointed by the competent authorities or by the governing bodies of an insurance undertaking, as appropriate, for the purpose of administering winding-up proceedings; (WUI)

“**liquidator**” shall mean any person or body whose function is to administer or liquidate assets of which the debtor has been divested or to supervise the administration of his affairs. Those persons and bodies are listed in Annex C; (IR)

“**local firm**” shall mean a firm dealing only for its own account on a financial-futures or options exchange or for the accounts of or making a price to other members of the same exchange and guaranteed by a clearing member of the same exchange. Responsibility for ensuring the performance of contracts entered into by such a firm must be assumed by a clearing member of the same exchange, and such contracts must be taken into account in the calculation of the clearing member's overall capital requirements so long as the local firm's positions are entirely separate from those of the clearing member; (CAD)

for the purposes of paragraph 4 of Annex I, “**long position**” shall mean a position in which an institution has fixed the interest rate it will receive at some time in the future, and “**short position**” shall mean a position in which it has fixed the interest rate it will pay at some time in the future; (CAD)

“**management company**” means a company as defined in Article 1a(2) of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (2);(T)

“**management company**” shall mean any company, the regular business of which is the management of UCITS in the form of unit trusts/common funds and/or of investment companies (collective portfolio management of UCITS); this includes the functions mentioned in Annex II; (U)

management company's home Member State' shall mean the Member State, in which the management company's registered office is situated; (U)

management company's host Member State' shall mean the Member State, other than the home Member State, within the territory of which a management company has a branch or provides services; (U)

'market maker' means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him; (T)

"Market maker" means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him; (M)

"Market manipulation" shall mean: (a) transactions or orders to trade: - which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, or - which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level, unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices on the regulated market concerned; (b) transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance; (c) dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading. In respect of journalists when they act in their professional capacity such dissemination of information is to be assessed, without prejudice to Article 11, taking into account the rules governing their profession, unless those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question. In particular, the following instances are derived from the core definition given in points (a), (b) and (c) above: - conduct by a person, or persons acting in collaboration, to secure a dominant position over the supply of or demand for a financial instrument which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions, - the buying or selling of financial instruments at the close of the market with the effect of misleading investors acting on the basis of closing prices, - taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion about a financial instrument (or indirectly about its issuer) while having previously taken positions on that financial instrument and profiting subsequently from the impact of the opinions voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way. The definitions of market manipulation shall be adapted so as to ensure that new patterns of activity that in practice constitute market manipulation can be included. (MAD)

"Market operator" means a person or persons who manages and/or operates the business of a regulated market. The market operator may be the regulated market itself; (M)

"means of distance communication" refers to any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the distance marketing of a service between those parties; (DM)

"the Member State in which assets are situated" shall mean, in the case of: - tangible property, the Member State within the territory of which the property is situated, - property and rights ownership of or entitlement to which must be entered in a public register, the Member State under the authority of which the register is kept, - claims, the Member State within the territory of which the third party required to meet them has the centre of his main interests, as determined in Article 3(1); (IR)

"mixed-activity holding company" shall mean a parent undertaking, other than a financial holding company or a credit institution the subsidiaries of which include at least one credit institution; (B)

"mixed financial holding company" shall mean a parent undertaking, other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity which has its head office in the Community, and other entities, constitutes a financial conglomerate; (F)

"modified duration" shall be calculated using the formula set out in paragraph 26 of Annex I. (CAD)

"Money-market instruments" means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment; (M)

'money market instruments' shall mean instruments normally dealt in on the money market which are liquid, and have a value which can be accurately determined at any time. (U)

"multilateral development banks" shall mean the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Council of Europe Resettlement Fund, the Nordic Investment Bank, the Caribbean Development Bank, the European Bank for Reconstruction and Development, the European Investment Fund and the Inter-American Investment Corporation; (B)

"Multilateral trading facility (MTF)" means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments - in the system and in accordance with non-discretionary rules - in a way that results in a contract in accordance with the provisions of Title II; (M)

"multiple-vote securities" shall mean securities included in a distinct and separate class and carrying more than one vote each. (TB)

"net turnover" shall comprise the amounts derived from the sale of products and the provision of services falling within the undertaking's ordinary activities, after deduction of sales rebates and of value added tax and other taxes directly linked to the turnover; (A)

'netting' shall mean the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants either issue to, or receive from, one or more other participants with the result that only a net claim can be demanded or a net obligation be owed; (SFD)

"non-bank sector" shall mean all borrowers other than credit institutions as defined in points 16 and 17, central governments and central banks, regional governments and local authorities, the European Communities, the European Investment Bank (EIB) and multilateral development banks as defined in point 19; (B)

"non-equity securities" means all securities that are not equity securities; (P)

"offer of securities to the public" means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe to these securities. This definition shall also be applicable to the placing of securities through financial intermediaries; (P)

"offeree company" shall mean a company, the securities of which are the subject of a bid; (TB)

"offering programme" means a plan which would permit the issuance of non-equity securities, including warrants in any form, having a similar type and/or class, in a continuous or repeated manner during a specified issuing period; (P)

"offeror" means the prior holders of, or the entity issuing, the relevant securities; (MAD2.3)

"offeror" shall mean any natural or legal person governed by public or private law making a bid; (TB)

"operator or supplier of a means of distance communication" means any public or private, natural or legal person whose trade, business or profession involves making one or more means of distance communication available to suppliers. (DM)

"original own funds" shall mean the sum of items 1, 2 and 4, less the sum of items 9, 10 and 11 of Article 2 (1) of Directive 89/299/EEC; (CAD)

"overallotment facility" means a clause in the underwriting agreement or lead management agreement which permits acceptance of subscriptions or offers to purchase a greater number of relevant securities than originally offered; (MAD2.3)

over-the-counter (OTC) derivative instruments shall mean the offbalance-sheet items to which according to the first subparagraph of Article 6(3) of Directive 89/647/EEC the methods set out in Annex II to the said Directive shall be applied; (CAD)

"own funds" shall mean own funds as defined in Title V, Chapter 2, Section 1 of Directive 2000/12/EC; this definition may, however, be amended in the circumstances described in Annex V of Directive 93/6/EEC (U)

"own funds" shall mean own funds as defined in Directive 89/299/EEC. This definition may, however, be amended in the circumstances described in Annex V; (CAD)

"parent undertaking" shall mean a parent undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC. It shall, for the purposes of supervision on a consolidated basis

and control of large exposures, mean a parent undertaking within the meaning of Article 1(1) of Directive 83/349/EEC and any undertaking which, in the opinion of the competent authorities, effectively exercises a dominant influence over another undertaking; (B)

"Parent undertaking" means a parent undertaking as defined in Articles 1 and 2 of Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts(19); (M)

"parent undertaking" shall mean a parent undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC (3); (U)

"parent undertaking" shall mean a parent undertaking within the meaning of Article 1 of Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts(15) and any undertaking which, in the opinion of the competent authorities, effectively exercises a dominant influence over another undertaking; (F)

"parent undertaking", **"subsidiary undertaking"** and **"financial institution"** shall be defined in accordance with Article 1 of Directive 92/30/ EEC; (CAD)

"participant" shall mean an institution, a central counterparty, a settlement agent or a clearing house. According to the rules of the system, the same participant may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of these tasks. A Member State may decide that for the purposes of this Directive an indirect participant may be considered a participant if it is warranted on the grounds of systemic risk and on condition that the indirect participant is known to the system; (SFD)

"participating interest" shall mean rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds these rights; (A)

participation for the purposes of supervision on a consolidated basis shall mean the ownership, direct or indirect, of 20 % or more of the voting rights or capital of an undertaking; (B)

"participation" shall mean a participation within the meaning of the first sentence of Article 17 of Fourth Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies(16), or the direct or indirect ownership of 20 % or more of the voting rights or capital of an undertaking;

"parties to the bid" shall mean the offeror, the members of the offeror's board if the offeror is a company, the offeree company, holders of securities of the offeree company and the members of the board of the offeree company, and persons acting in concert with such parties; (TB)

"paying agent" means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest. (TSI)

"Person" shall mean any natural or legal person. (MAD)

'Person closely associated with a person discharging managerial responsibilities within an issuer of financial instruments' shall mean: (a) the spouse of the person discharging managerial responsibilities, or any partner of that person considered by national law as equivalent to the spouse; (b) according to national law, dependent children of the person discharging managerial responsibilities; (c) other relatives of the person discharging managerial responsibilities, who have shared the same household as that person for at least one year on the date of the transaction concerned; (d) any legal person, trust or partnership, whose managerial responsibilities are discharged by a person referred to in point 1 of this Article or in letters (a), (b) and (c) of this point, or which is directly or indirectly controlled by such a person, or that is set up for the benefit of such a person, or whose economic interests are substantially equivalent to those of such person. (MAD2.4)

"Person discharging managerial responsibilities within an issuer" shall mean a person who is (a) a member of the administrative, management or supervisory bodies of the issuer; (b) a senior executive, who is not a member of the bodies as referred to in point (a), having regular access to inside information relating, directly or indirectly, to the issuer, and the power to make managerial decisions affecting the future developments and business prospects of this issuer. (MAD2.4)

"person making an offer" (or "offeror") means a legal entity or individual which offers securities to the public; (P)

"Person professionally arranging transactions" shall mean at least an investment firm or a credit institution. (MAD2.4)

"persons acting in concert" shall mean natural or legal persons who cooperate with the offeror or the offeree company on the basis of an agreement, either express or tacit, either oral or written, aimed either at acquiring control of the offeree company or at frustrating the successful outcome of a bid; (TB)

"Portfolio management" means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments; (M)

"Professional client" means a client meeting the criteria laid down in Annex II; (M)

"Profit estimate" means a profit forecast for a financial period which has expired and for which results have not yet been published. (P2.1)

"Profit forecast" means a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word "profit" is not used. (P2.1)

"Property collective investment undertaking" means a collective investment undertaking whose investment objective is the participation in the holding of property in the long term; (P2.1)

"Provided" references in this Directive to financial collateral being "provided", or to the "provision" of financial collateral, are to the financial collateral being delivered,

transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral taker or of a person acting on the collateral taker's behalf. Any right of substitution or to withdraw excess financial collateral in favour of the collateral provider shall not prejudice the financial collateral having been provided to the collateral taker as mentioned in this Directive. (FCD)

"Public international body" means a legal entity of public nature established by an international treaty between sovereign States and of which one or more Member States are members; (P2.1)

"qualified investors" means: (i) legal entities which are authorised or regulated to operate in the financial markets, including: credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, collective investment schemes and their management companies, pension funds and their management companies, commodity dealers, as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities; (ii) national and regional governments, central banks, international and supranational institutions such as the International Monetary Fund, the European Central Bank, the European Investment Bank and other similar international organisations; (iii) other legal entities which do not meet two of the three criteria set out in paragraph (f); (iv) certain natural persons: subject to mutual recognition, a Member State may choose to authorise natural persons who are resident in the Member State and who expressly ask to be considered as qualified investors if these persons meet at least two of the criteria set out in paragraph 2; (v) certain SMEs: subject to mutual recognition, a Member State may choose to authorise SMEs which have their registered office in that Member State and who expressly ask to be considered as qualified investors; (P)

"Qualifying holding" means any direct or indirect holding in an investment firm which represents 10% or more of the capital or of the voting rights, as set out in Article 92 of Directive 2001/34/EC, or which makes it possible to exercise a significant influence over the management of the investment firm in which that holding subsists; (M)

"qualifying holdings" shall mean any direct or indirect holding in a management company which represents 10 % or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of the management company in which that holding subsists. For the purpose of this definition, the voting rights referred to in Article 7 of Directive 88/627/EEC (1) shall be taken into account; (U)

"qualifying holding" shall mean a direct or indirect holding in an undertaking which represents 10 % or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of the undertaking in which a holding subsists. (B)

qualifying items shall mean long and short positions in the assets referred to in Article 6 (1) (b) of Directive 89/647/EEC and in debt instruments issued by investment firms or by recognized third-country investment firms. It shall also mean long and short positions in debt instruments provided that such instruments meet the following conditions: such instruments must firstly be listed on at least one regulated market in a Member State or on a stock exchange in a third country provided that that exchange is recognized by the competent authorities of the relevant Member State; and secondly both be considered by the institution concerned to be sufficiently liquid and, because of the solvency of the

issuer, be subject to a degree of default risk which is comparable to or lower than that of the assets referred to in Article 6 (1) (b) of Directive 89/647/EEC; the manner in which the instruments are assessed shall be subject to scrutiny by the competent authorities, which shall overturn the judgment of the institution if they consider that the instruments concerned are subject to too high a degree of default risk to be qualifying items. Notwithstanding the foregoing and pending further coordination, the competent authorities shall have the discretion to recognize as qualifying items instruments which are sufficiently liquid and which, because of the solvency of the issuer, are subject to a degree of default risk which is comparable to or lower than that of the assets referred to in Article 6 (1) (b) of Directive 89/647/EEC. The default risk associated with such instruments must have been evaluated at such a level by at least two credit-rating agencies recognized by the competent authorities or by only one such credit-rating agency so long as they are not rated below such a level by any other credit-rating agency recognized by the competent authorities. The competent authorities may, however, waive the condition imposed in the preceding sentence if they judge it inappropriate in the light of, for example, the characteristics of the market, the issuer, the issue, or some combination of those characteristics. Furthermore, the competent authorities shall require the institutions to apply the maximum weighting shown in Table 1 in paragraph 14 of Annex I to instruments which show a particular risk because of the insufficient solvency of the issuer or liquidity. The competent authorities of each Member State shall regularly provide the Council and the Commission with information concerning the methods used to evaluate the qualifying items, in particular the methods used to assess the degree of liquidity of the issue and the solvency of the issuer; (CAD)

"recipient of the service": any natural or legal person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible; (E)

"recognised exchanges" shall mean exchanges recognised by the competent authorities which: (i) function regularly, (ii) have rules, issued or approved by the appropriate authorities of the home country of the exchange, which define the conditions for the operation of the exchange, the conditions of access to the exchange as well as the conditions that must be satisfied by a contract before it can effectively be dealt on the exchange, (iii) have a clearing mechanism that provides for contracts listed in Annex IV to be subject to daily margin requirements providing an appropriate protection in the opinion of the competent authorities. (B)

recognized third-country investment firms shall mean firms which, if they were established within the Community, would be covered by the definition of investment firm in 2, which are authorized in a third country and which are subject to and comply with prudential rules considered by the competent authorities as at least as stringent as those laid down in this Directive; (CAD)

"recommendation" means research or other information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers of financial instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public; (MAD2.2)

"regulated entity" shall mean a credit institution, an insurance undertaking or an investment firm; (F)

“Regulated information” means all information which the issuer, or any person who has applied for the admission of securities to trading on a regulated market without the issuer’s consent, is required to disclose under Directive 2001/34/EC or under Article 6 of Directive 2003/6/EC. (P2.1)

‘regulated market’ means a market as defined in Article 4(1), point 14, of Directive 2004/39/EC; (T)

"regulated market" means a market as defined by Article 1(13) of Directive 93/22/EEC; (P)

"Regulated market" means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments - in the system and in accordance with its non-discretionary rules - in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III; (M)

"Regulated market" shall mean a market as defined by Article 1(13) of Directive 93/22/EEC. (MAD)

regulated market shall mean a market that satisfies the definition given in Article 1 (13) of Directive 93/22/EEC; (CAD)

"regulated market" shall mean a regulated market within the meaning of Article 1, point (13) of Directive 93/22/EEC; (WUCI)

"regulated profession": any profession within the meaning of either Article 1(d) of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three-years' duration(26) or of Article 1(f) of Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC(27); (E)

"reinsurance undertaking" shall mean a reinsurance undertaking within the meaning of Article 1(c) of Directive 98/78/EC; (F)

"relevant account" means in relation to book entry securities collateral which is subject to a financial collateral arrangement, the register or account - which may be maintained by the collateral taker - in which the entries are made by which that book entry securities collateral is provided to the collateral taker; (FCD)

"relevant competent authorities" shall mean: (a) Member States' competent authorities responsible for the sectoral group-wide supervision of any of the regulated entities in a financial conglomerate; (b) the coordinator appointed in accordance with Article 10 if different from the authorities referred to in (a); (c) other competent authorities concerned, where relevant, in the opinion of the authorities referred to in (a) and (b); this opinion shall especially take into account the market share of the regulated entities of the conglomerate in other Member States, in particular if it exceeds 5 %, and the importance in the conglomerate of any regulated entity established in another Member State; (F)

"relevant financial obligations" means the obligations which are secured by a financial collateral arrangement and which give a right to cash settlement and/or delivery of financial instruments. Relevant financial obligations may consist of or include: (i) present or future, actual or contingent or prospective obligations (including such obligations arising under a master agreement or similar arrangement); (ii) obligations owed to the collateral taker by a person other than the collateral provider; or (iii) obligations of a specified class or kind arising from time to time; (FCD)

"relevant person" means a natural or legal person producing or disseminating recommendations in the exercise of his profession or the conduct of his business; (MAD2.2)

"relevant securities" means transferable securities as defined in Directive 93/22/EEC, which are admitted to trading on a regulated market or for which a request for admission to trading on such a market has been made, and which are the subject of a significant distribution; (MAD2.3)

"reorganisation measures" means measures which involve any intervention by administrative or judicial authorities which are intended to preserve or restore the financial situation and which affect pre-existing rights of third parties, including but not limited to measures involving a suspension of payments, suspension of enforcement measures or reduction of claims; (FCD)

"reorganisation measures" shall mean measures which are intended to preserve or restore the financial situation of a credit institution and which could affect third parties' pre-existing rights, including measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims; (WUCI)

"reorganisation measures" means measures involving any intervention by administrative bodies or judicial authorities which are intended to preserve or restore the financial situation of an insurance undertaking and which affect pre-existing rights of parties other than the insurance undertaking itself, including but not limited to measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims; (WUI)

'repurchase agreement' and **'reverse repurchase agreement'** shall mean any agreement in which an institution or its counter-party transfers securities or commodities or guaranteed rights relating to title to securities or commodities where that guarantee is issued by a recognised exchange which holds the rights to the securities or commodities and the agreement does not allow an institution to transfer or pledge a particular security or commodity to more than one counter-party at one time, subject to a commitment to repurchase them (or substituted securities or commodities of the same description) at a specified price on a future date specified, or to be specified, by the transferor, being a repurchase agreement for the institution selling the securities or commodities and a reverse repurchase agreement for the institution buying them. A reverse repurchase agreement shall be considered an interprofessional transaction when the counter-party is subject to prudential coordination at Community level or is a Zone A credit institution as defined in Directive 89/647/EEC or is a recognized third country investment firm or when the agreement is concluded with a recognized clearing house or exchange; (CAD)

"research or other information recommending or suggesting investment strategy" means: (a) information produced by an independent analyst, an investment firm, a credit

institution, any other person whose main business is to produce recommendations or a natural person working for them under a contract of employment or otherwise, that, directly or indirectly, expresses a particular investment recommendation in respect of a financial instrument or an issuer of financial instruments; (b) information produced by persons other than the persons referred to in (a) which directly recommends a particular investment decision in respect of a financial instrument; (MAD2.2)

"Retail client" means a client who is not a professional client; (M)

"right of use" means the right of the collateral taker to use and dispose of financial collateral provided under a security financial collateral arrangement as the owner of it in accordance with the terms of the security financial collateral arrangement; (FCD)

"risk concentration" shall mean all exposures with a loss potential borne by entities within a financial conglomerate, which are large enough to threaten the solvency or the financial position in general of the regulated entities in the financial conglomerate; such exposures may be caused by counterparty risk/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks. (F)

"risk factors" means a list of risks which are specific to the situation of the issuer and/or the securities and which are material for taking investment decisions; (P2.1)

"risk weightings" shall mean the degrees of credit risk applicable to the relevant counter-parties under Directive 89/647/EEC. However, assets constituting claims on and other exposures to investment firms or recognized third-country investment firms and exposures incurred to recognized clearing houses and exchanges shall be assigned the same weighting as that assigned where the relevant counterparty is a credit institution; (CAD)

"schedule" means a list of minimum information requirements adapted to the particular nature of the different types of issuers and/or the different securities involved; (P2.1)

"sectoral rules" shall mean the Community legislation relating to the prudential supervision of regulated entities, in particular laid down in Directives 73/239/EEC, 79/267/EEC, 98/78/EC, 93/6/EEC, 93/22/EEC and 2000/12/EC; (F)

'securities' means transferable securities as defined in Article 4(1), point 18, of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (1) with the exception of money-market instruments, as defined in Article 4(1), point 19, of that Directive having a maturity of less than 12 months, for which national legislation may be applicable; (T)

"securities" means transferable securities as defined by Article 1(4) of Directive 93/22/EEC with the exception of money market instruments as defined by Article 1(5) of Directive 93/22/EEC, having a maturity of less than 12 months. For these instruments national legislation may be applicable; (P)

'securities' shall mean all instruments referred to in section B of the Annex to Directive 93/22/EEC; (SFD)

"securities" shall mean transferable securities carrying voting rights in a company; (TB)

“securities or commodities lending” and **“securities or commodities borrowing”** shall mean any transaction in which an institution or its counter-party transfers securities or commodities against appropriate collateral subject to a commitment that the borrower will return equivalent securities or commodities at some future date or when requested to do so by the transferor, that transaction being securities or commodities lending for the institution transferring the securities or commodities and being securities or commodities borrowing for the institution to which they are transferred. Securities or commodities borrowing shall be considered an interprofessional transaction when the counter-party is subject to prudential coordination at Community level or is a Zone A credit institution as defined in Directive 89/647/EEC or is a recognised third-country investment firm or when the transaction is concluded with a recognised clearing house or exchange; (CAD)

‘securities issued in a continuous or repeated manner’ means debt securities of the same issuer on tap or at least two separate issues of securities of a similar type and/or class. (T)

"securities issued in a continuous or repeated manner" means issues on tap or at least two separate issues of securities of a similar type and/or class over a period of 12 months; (P)

"security financial collateral arrangement" means an arrangement under which a collateral provider provides financial collateral by way of security in favour of, or to, a collateral taker, and where the full ownership of the financial collateral remains with the collateral provider when the security right is established; (FCD)

"service provider": any natural or legal person providing an information society service; (E)

'settlement account` shall mean an account at a central bank, a settlement agent or a central counterparty used to hold funds and securities and to settle transactions between participants in a system; (SFD)

“settlement agent` shall mean an entity providing to institutions and/or a central counterparty participating in systems, settlement accounts through which transfer orders within such systems are settled and, as the case may be, extending credit to those institutions and/or central counterparties for settlement purposes; (SFD)

‘shareholder’ means any natural person or legal entity governed by private or public law, who holds, directly or indirectly: (i) shares of the issuer in its own name and on its own account; (ii) shares of the issuer in its own name, but on behalf of another natural person or legal entity; (iii) depository receipts, in which case the holder of the depository receipt shall be considered as the shareholder of the underlying shares represented by the depository receipts; (T)

"significant distribution" means an initial or secondary offer of relevant securities, publicly announced and distinct from ordinary trading both in terms of the amount in value of the securities offered and the selling methods employed; (MAD2.3)

"small and medium-sized enterprises" means companies, which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding EUR 43000000 and an annual net turnover not exceeding EUR 50000000; (P)

"**special purpose vehicle**" means an issuer whose objects and purposes are primarily the issue of securities; (P2.1)

"**stabilisation**" means any purchase or offer to purchase relevant securities, or any transaction in associated instruments equivalent thereto, by investment firms or credit institutions, which is undertaken in the context of a significant distribution of such relevant securities exclusively for supporting the market price of these relevant securities for a predetermined period of time, due to a selling pressure in such securities; (MAD2.3)

'**stock financing**' shall mean positions where physical stock has been sold forward and the cost of funding has been locked in until the date of the forward sale; (CAD)

"**Subsidiary**" means a subsidiary undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC, including any subsidiary of a subsidiary undertaking of an ultimate parent undertaking; (M)

'**subsidiary**' shall mean a subsidiary undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC; any subsidiary of a subsidiary undertaking shall also be regarded as a subsidiary of the parent undertaking which is the ultimate parent of those undertakings; (U)

"**subsidiary**" shall mean a subsidiary undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC. It shall, for the purposes of supervision on a consolidated basis and control of large exposures, mean a subsidiary undertaking within the meaning of Article 1(1) of Directive 83/349/EEC and any undertaking over which, in the opinion of the competent authorities, a parent undertaking effectively exercises a dominant influence. All subsidiaries of subsidiary undertakings shall also be considered subsidiaries of the undertaking that is their original parent; (B)

"**subsidiary undertaking**" shall mean a subsidiary undertaking within the meaning of Article 1 of Directive 83/349/EEC and any undertaking over which, in the opinion of the competent authorities, a parent undertaking effectively exercises a dominant influence; all subsidiary undertakings of subsidiary undertakings shall also be considered as subsidiary undertakings of the parent undertaking; (F)

"**supervisory authorities**" means the competent authorities within the meaning of Article 1(k) of Directive 92/49/EEC and of Article 1(1) of Directive 92/96/EEC; (WUI)

"**supplier**" means any natural or legal person, public or private, who, acting in his commercial or professional capacity, is the contractual provider of services subject to distance contracts; (DM)

"**system**" shall mean a formal arrangement: - between three or more participants, without counting a possible settlement agent, a possible central counterparty, a possible clearing house or a possible indirect participant, with common rules and standardised arrangements for the execution of transfer orders between the participants, - governed by the law of a Member State chosen by the participants; the participants may, however, only choose the law of a Member State in which at least one of them has its head office, and - designated, without prejudice to other more stringent conditions of general application laid down by national law, as a system and notified to the Commission by the Member State whose law is applicable, after that Member State is satisfied as to the adequacy of the rules of the system. Subject to the conditions in the first subparagraph, a Member State may designate as a system such a formal arrangement whose business

consists of the execution of transfer orders as defined in the second indent of (i) and which to a limited extent executes orders relating to other financial instruments, when that Member State considers that such a designation is warranted on grounds of systemic risk. A Member State may also on a case-by-case basis designate as a system such a formal arrangement between two participants, without counting a possible settlement agent, a possible central counterparty, a possible clearing house or a possible indirect participant, when that Member State considers that such a designation is warranted on grounds of systemic risk; (SFD)

“systematic internaliser” means an investment firm which, on an organised, frequent and systematic basis, deals on own account by executing client orders outside a regulated market or an MTF; (M)

“takeover bid” or **“bid”** shall mean a public offer (other than by the offeree company itself) made to the holders of the securities of a company to acquire all or some of those securities, whether mandatory or voluntary, which follows or has as its objective the acquisition of control of the offeree company in accordance with national law; (TB)

“Tied agent” means a natural or legal person who, under the full and unconditional responsibility of only one investment firm on whose behalf it acts, promotes investment and/or ancillary services to clients or prospective clients, receives and transmits instructions or orders from the client in respect of investment services or financial instruments, places financial instruments and/or provides advice to clients or prospective clients in respect of those financial instruments or services; (M)

“time of the opening of proceedings” shall mean the time at which the judgment opening proceedings becomes effective, whether it is a final judgment or not; (IR)

“time-scheduled 'buy-back' programme” means a "buy-back" programme where the dates and quantities of securities to be traded during the time period of the programme are set out at the time of the public disclosure of the "buy-back" programme; (MAD2.3)

“title transfer financial collateral arrangement” means an arrangement, including repurchase agreements, under which a collateral provider transfers full ownership of financial collateral to a collateral taker for the purpose of securing or otherwise covering the performance of relevant financial obligations; (FCD)

“trading book” of an institution shall consist of: (a) its proprietary positions in financial instruments, commodities and commodity derivatives which are held for resale and/or which are taken on by the institution with the intention of benefiting in the short term from actual and/or expected differences between their buying and selling prices, or from other price or interest-rate variations, and positions in financial instruments, commodities and commodity derivatives, arising from matched principal broking, or positions taken in order to hedge other elements of the trading book; (b) the exposures due to the unsettled transactions, free deliveries and over-the-counter (OTC) derivative instruments referred to in paragraphs 1, 2, 3 and 5 of Annex II, the exposures due to repurchase agreements and securities and commodities lending which are based on securities or commodities included in the trading book as defined in (a) referred to in paragraph 4 of Annex II, those exposures due to reverse repurchase agreements and securities-borrowing and commodities-borrowing transactions described in the same paragraph, provided the competent authorities so approve, which meet either conditions (i), (ii), (iii) and (v) or conditions (iv) and (v) as follows: (i) the exposures are marked to market daily following

the procedures laid down in Annex II; (ii) the collateral is adjusted in order to take account of material changes in the value of the securities or commodities involved in the agreement or transaction in question, according to a rule acceptable to the competent authorities; (iii) the agreement or transaction provides for the claims of the institution to be automatically and immediately offset against the claims of its counter-party in the event of the latter's defaulting; (iv) the agreement or transaction in question is an interprofessional one; (v) such agreements and transactions are confined to their accepted and appropriate use and artificial transactions, especially those not of a short-term nature, are excluded; and (c) those exposures in the form of fees, commission, interest, dividends and margin on exchange-traded derivatives which are directly related to the items included in the trading book referred to in paragraph 6 of Annex II. Particular items shall be included in or excluded from the trading book in accordance with objective procedures including, where appropriate, accounting standards in the institution concerned, such procedures and their consistent implementation being subject to review by the competent authorities; (CAD)

'transfer order' shall mean: - any instruction by a participant to place at the disposal of a recipient an amount of money by means of a book entry on the accounts of a credit institution, a central bank or a settlement agent, or any instruction which results in the assumption or discharge of a payment obligation as defined by the rules of the system, or - an instruction by a participant to transfer the title to, or interest in, a security or securities by means of a book entry on a register, or otherwise; (SFD)

"Transferable securities" means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as: (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares; (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities; (c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures; (M)

'transferable securities' shall mean: — shares in companies and other securities equivalent to shares in companies ('shares'), — bonds and other forms of securitised debt ('debt securities'), — any other negotiable securities which carry the right to acquire any such transferable securities by subscription or exchange, excluding the techniques and instruments referred to in Article 21. (U)

"UCITS" shall be undertakings: — the sole object of which is the collective investment in transferable securities and/or in other liquid financial assets referred to in Article 19(1) of capital raised from the public and which operates on the principle of risk-spreading and — the units of which are, at the request of holders, re-purchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a UCITS to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such re-purchase or redemption. (U)

'UCITS home Member State' shall mean: (a) with regard to a UCITS constituted as unit trust/common fund, the Member State in which the management company's registered office is situated, (b) with regard to a UCITS constituted as investment company, the Member State in which the investment company's registered office is situated; a **'UCITS host Member State'** shall mean the Member State, other than the UCITS home Member State, in which the units of the common fund/unit trust or of the investment company are marketed; (U)

"UCITS management company" means a management company as defined in Council Directive 85/611/EEC of 20 December 1985, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)(18); (M)

"Umbrella collective investment undertaking" means a collective investment undertaking invested in one or more collective investment undertakings, the asset of which is composed of separate class(es) or designation(s) of securities; (P2.1)

'units of a collective investment undertaking' means securities issued by a collective investment undertaking and representing rights of the participants in such an undertaking over its assets; (T)

"units of a collective investment undertaking" mean securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets; (P)

"units of a collective investment undertaking" shall mean securities issued by a collective investment undertaking as representing the rights of participants in the assets of such an undertaking; (A)

'warrant' shall mean a security which gives the holder the right to purchase an underlying at a stipulated price until or at the warrant's expiry date. It may be settled by the delivery of the underlying itself or by cash settlement; (CAD)

"winding-up proceedings" shall mean insolvency proceedings within the meaning of point (a) involving realising the assets of the debtor, including where the proceedings have been closed by a composition or other measure terminating the insolvency, or closed by reason of the insufficiency of the assets. Those proceedings are listed in Annex B; (IR)

"winding-up proceedings" means collective proceedings involving realisation of the assets and distribution of the proceeds among the creditors, shareholders or members as appropriate, which involve any intervention by administrative or judicial authorities, including where the collective proceedings are terminated by a composition or other analogous measure, whether or not they are founded on insolvency or are voluntary or compulsory; (FCD)

"winding-up proceedings" shall mean collective proceedings opened and monitored by the administrative or judicial authorities of a Member State with the aim of realising assets under the supervision of those authorities, including where the proceedings are terminated by a composition or other, similar measure; (WUCI)

"winding-up proceedings" means collective proceedings involving realising the assets of an insurance undertaking and distributing the proceeds among the creditors, shareholders or members as appropriate, which necessarily involve any intervention by the administrative or the judicial authorities of a Member State, including where the collective proceedings are terminated by a composition or other analogous measure, whether or not they are founded on insolvency or are voluntary or compulsory; (WUI)

"Writing": References in this Directive to "writing" include recording by electronic means and any other durable medium (FCD)

"**Zone A**" shall comprise all the Member States and all other countries which are full members of the Organisation for Economic Cooperation and Development (OECD) and those countries which have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the Fund's general arrangements to borrow (GAB). Any country which reschedules its external sovereign debt is, however, precluded from Zone A for a period of five years (B)

"**Zone A credit institutions**" shall mean all credit institutions authorised in the Member States, in accordance with Article 4, including their branches in third countries, and all private and public undertakings covered by the definitions in point 1, first subparagraph and authorised in other Zone A countries, including their branches (B)

"**Zone B**" shall comprise all countries not in Zone A (B)

"**Zone B credit institutions**" shall mean all private and public undertakings authorised outside Zone A covered by the definition in point 1, first subparagraph, including their branches within the Community (B)

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