

**RESOLUTION (72) 50**

**RELATING TO FOREIGN INSTITUTIONS FOR COLLECTIVE INVESTMENT**

*(Adopted by the Committee of Ministers on 12 December 1972  
at the 216th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Considering that the aim of the Council of Europe is to achieve greater unity between its Members;

Having regard to Resolution (72) 28 relating to investment funds;

Considering that it is desirable to complement the aforementioned resolution by guidelines in the field of foreign institutions for collective investment, aimed at improving the legal protection of savers,

Recommends the governments of member States, when dealing with foreign investment institutions, to be guided by the principles appended to the present resolution;

Invites the governments of member States to inform the Secretary General of the Council of Europe in due course of the action taken on the recommendation contained in this resolution.

## APPENDIX TO RESOLUTION (72) 50

### Definition

For the purpose of this resolution, "foreign institutions for collective investment" shall mean :

(a) investment funds as defined in Article 1 of the Rules appended to Resolution (72) 28 which are managed by a management company established or having its head office abroad; and

(b) similar investment institutions in the form of companies established abroad or having their head office abroad, the participants of which have the right to demand redemption in cash of their holdings.

### Principles

#### I

An appeal to the public by a foreign investment institution shall be subject to an authorisation by the supervisory or other competent authority. This authorisation will not be granted unless at least the requirements mentioned hereinafter are met.

#### II

1. The foreign investment institution shall appoint and maintain a representative who shall be a bank or other person acceptable to the supervisory authority and established in the country where the appeal to the public is made.

2. All acts concerning a foreign investment institution in the country where the appeal to the public is made may be effected through the intermediary of the representative in that country. The power of representation shall not be restricted.

3. Actions against the foreign investment institution may be brought against the representative in his representative character. The court of the place where the representative is established is competent for actions against the foreign investment institution. This provision shall not be derogated from.

#### III

1. The foreign investment institution shall draw up a document which must indicate, in addition to the items mentioned in Articles 4 (1), 5 (2) and 6 (3) of the Rules appended to Resolution (72) 28, the legal form and the registered office of the investment institution and of the companies which have entered into undertakings vis-à-vis the participants.

2. The investment policy of the foreign investment institution shall conform with the provisions contained in the Rules appended to Resolution (72) 28.

#### IV

The foreign investment institution shall furnish all information and documents which are requested by the supervisory authority, through the intermediary of its representative, if required. The supervisory authority may in particular demand that a detailed report by the auditor of the foreign investment institution be submitted to it.

#### V

The securities and liquid assets of a foreign investment institution shall be kept in a way equivalent to the requirements mentioned in Articles 13 and 14 of the Rules appended to Resolution (72) 28.

## VI

1. The foreign investment institution shall provide at least for the forms of publication mentioned in Articles 8 and 9 of the Rules appended to Resolution (72) 28.
2. The foreign investment institution may use the forms of advertising and sales promotion permitted for national investment funds by the law or by the supervisory authority. When advertising, it must indicate the law under which it is established and its head office, as well as the name of its representative and the place where he is established.
3. The publicity referred to in paragraphs 1 and 2 and the document mentioned in principle III above must be in the official language or languages of the country where the appeal to the public is made. The text in this language or in these languages is authentic.

## VII

The supervisory authorities of the member States of the Council of Europe will co-operate closely in exchanging information on the manner in which these principles are complied with by foreign institutions for collective investment.