



European Securities and
Markets Authority

Report

**Marketing requirements and marketing communications under the
Regulation on cross-border distribution of funds**

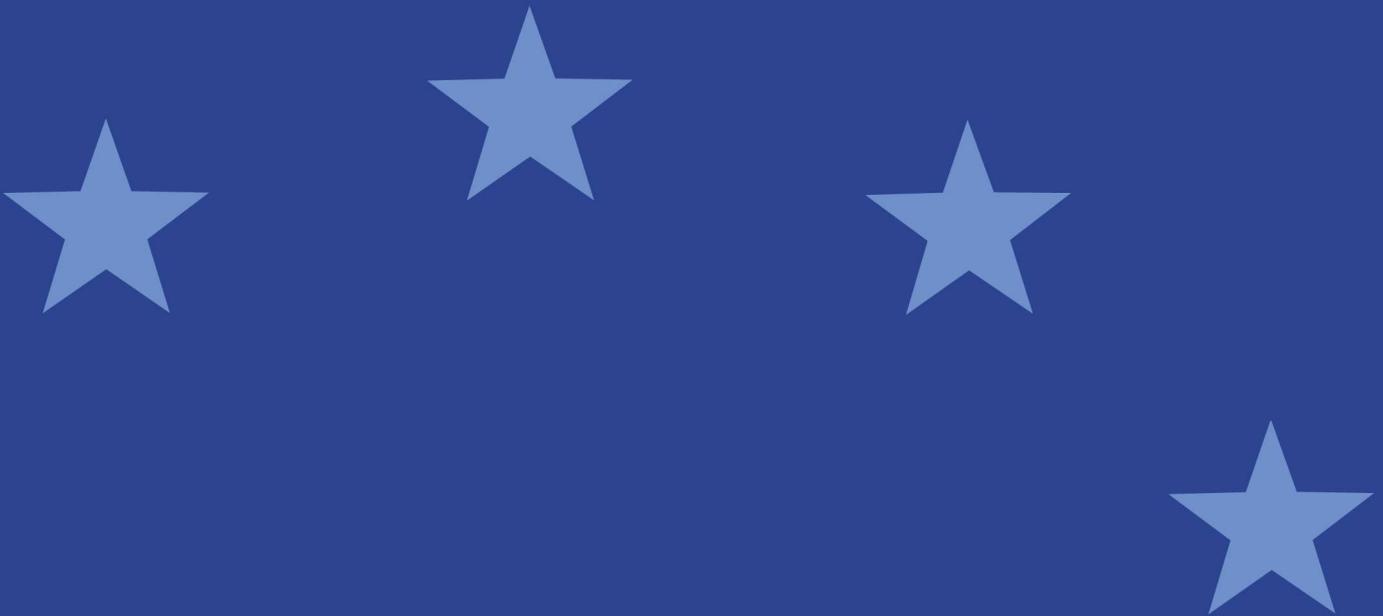


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1 Executive Summary

Reasons for publication

Article 8(2) of Regulation (EU) 2019/1156 of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings (the “Regulation”) provides that, by 30 June 2021, and every second year thereafter, ESMA shall submit a report to the European Parliament, the Council and the Commission which presents an overview of marketing requirements referred to in Article 5(1) of the Regulation in all Member States and contains an analysis of the effects of national laws, regulations and administrative provisions governing marketing communications based also on the information received from national competent authorities in accordance with Article 8(1)¹ of the Regulation.

Contents

Section 2 explains the methodology followed by ESMA to develop this report.

Section 3 contains the overview of marketing requirements applicable in all Member States.

Section 4 contains the analysis of the effects of national laws, regulations and administrative provisions governing marketing communications based also on the information received from national competent authorities (“NCAs”) pursuant to Article 8(1) of the Regulation.

Annex I contains the legislative mandate to develop the report. Annex II contains the questionnaire ESMA sent to NCAs on the national laws, regulations and administrative provisions governing marketing communications in their jurisdiction. Annex III contains the questionnaire ESMA sent to NCAs on the number of requests for amendments of marketing communications made on the basis of ex-ante and ex-post verifications. Finally, Annex IV sets out the full version of the responses submitted by NCAs in respect of the questionnaire set out in Annex II².

Next Steps

The next iteration of this report will be submitted to the European Parliament, the Council and the Commission in two years.

¹ According to Article 8(1) of the Regulation, by 31 March 2021 and every second year thereafter, competent authorities shall report the following information to ESMA:

- (a) the number of requests for amendments of marketing communications made on the basis of ex-ante verification, where applicable;
- (b) the number of requests for amendments and decisions taken on the basis of ex-post verifications, clearly distinguishing the most frequent breaches, including a description and the nature of those breaches;
- (c) a description of the most frequent breaches of the requirements referred to in Article 4; and
- (d) one example of each of the breaches referred to in points (b) and (c).

² NCAs’ responses to the questionnaire set out in Annex III were not included in this document since all the data they contained is reflected in Section 4.

2 Methodology

1. In order to prepare this report, ESMA asked NCAs of all EU and EEA Member States to provide a summary of their national laws, regulations and administrative provisions governing the marketing requirements of UCITS and AIFs in their jurisdiction. To this end, ESMA sent a questionnaire to NCAs, which contained tables in which NCAs were asked to provide a summary of maximum 500 words, covering certain categories of marketing requirements (e.g. the format and content of marketing material, passporting rules, de-notification rules) for UCITS and AIFs³. These categories of marketing requirements were the same categories as those that NCAs will have to publish on their websites pursuant to Annex 1 of the implementing technical standard adopted under Article 10(3) of the Regulation⁴.
2. The summaries of the laws, regulations and administrative provisions applicable in each jurisdiction were provided by NCAs as a response to the common questionnaire prepared by ESMA. As a result, some national rules that have similar purpose may be described in a different manner as their description is based on the individual responses of NCAs.
3. In addition, ESMA submitted a questionnaire to NCAs to collect the information referred to in Article 8(1) of the Regulation. In particular, this questionnaire aimed at gathering quantitative information on the number of requests for amendments of marketing communications.
4. ESMA would like to draw readers' attention to the fact that the deadline for transposing Directive 2019/1160 (the "Directive") is 2 August 2021. Therefore, the state of national legislations on which this report is based does not yet reflect the expected further harmonisation to be brought by this Directive. However, it can be expected that a greater level of convergence will be achieved in national legislations governing these requirements after the transposition of the Directive.

3 Overview of national laws, regulations and administrative provisions governing marketing requirements

5. The purpose of this section is to provide an overview of national laws, regulations and administrative provisions governing marketing requirements for UCITS and AIFs in all Member States.
6. Based on the information provided by NCAs in their responses to the questionnaire circulated by ESMA referred to in paragraph 1 above, some general observations can be made.
7. First, it appears that the national laws, regulations and administrative provisions governing marketing requirements are usually based on the provisions of Directive 2009/65/EC (the

³ See Annex II of the present report.

⁴ [Commission Implementing Regulation \(EU\) 2021/955](#)

“UCITS Directive”) and Directive 2011/61/EU (the “AIFMD”), although NCAs’ responses to the ESMA questionnaire referred to in paragraph 1 above showed many additional requirements imposed by Member States to further regulate the marketing of UCITS or AIFs in their jurisdiction.

8. With respect to the verification of marketing communications, a large number of NCAs indicated that no national rules required the ex-ante or ex-post verification of marketing communications, or that such verifications were not part of their supervisory practice. It also appeared that little harmonisation exists in respect of de-notification of arrangements made for cross-border marketing because only a limited number of Member States have adopted rules setting-out a formal process for de-notification. There are also diverging approaches between Member States that allow the de-notification of a fund that was previously notified for marketing in their jurisdiction and this process relies mostly on informal exchanges with NCAs and is subject to various sets of conditions. Finally, it should be noted that there are diverging rules and practices as regards the obligation for UCITS management companies and AIFMs to appoint a local third-party to serve as a contact point in host Member States in order to carry out marketing activities.
9. It should however be noted that harmonisation of the rules governing verification of marketing communications, de-notification of arrangements made for marketing, and the obligation to have a local presence in host Member States, have been addressed by Directive (EU) 2019/1160 (the “cross-border funds’ distribution Directive” or “CBFD Directive”). Since the deadline for transposing the CBFD Directive is on 2 August 2021, the current state of national legislations does not yet reflect the expected harmonisation. It can be expected that a greater level of convergence will be achieved in national legislations governing these requirements after the transposition of the CBFD Directive.
10. Responses to ESMA’s questionnaire also showed that certain Member States had adopted additional requirements that do not stem from the transposition of the UCITS Directive or AIFMD. Two sets of national rules should be distinguished.
11. On the one hand, certain Member States have adopted national provisions on the basis of options set out in the UCITS Directive or AIFMD. This concerns, in particular, the language requirements for documents submitted for notifications of cross-border marketing for which some Member States chose to clarify that the “language customary in the sphere of international finance” in which documents have to be translated is English. Additionally, some Member States impose that the prospectus must also be translated into one or all of their official languages, which ESMA considers to be contrary to the language requirements set out in Article 94 of the UCITS Directive.
12. Furthermore, certain national divergences stem from provisions of the UCITS Directive and the AIFMD allowing Member States to discretionally adopt national rules. In this context, some Member States imposed additional rules for the marketing of AIFs to retail investors as allowed by Article 43 of the AIFMD and for the marketing of non-EU AIFs under a national private placement regime under Article 42 of the AIFMD. These latter requirements differ from one Member State to another and, thus, are setting an unlevel playing field. However, the AIFMD does not prevent certain divergences in these areas.

13. On the other hand, the replies of some NCAs highlighted certain divergences that related to certain areas that are not subject to any provisions of the UCITS Directive or the AIFMD. This concerned, for example, rules imposing the disclosure of certain information in marketing communications (e.g. imposing regulatory fees and charges relating to inwards or outwards cross-border marketing, or imposing the disclosure of information on sustainability-related aspects of the investment in marketing communications).
14. Against this background, the sub-sections hereafter provide a more detailed overview of the responses submitted by NCAs to the ESMA questionnaire with a distinction between the requirements governing the marketing of UCITS (3.1.) and the requirements governing the marketing of AIFs (3.2.).

3.1 National laws, regulations and administrative provisions governing marketing requirements for UCITS

15. The overview below is based on the information provided by NCAs on the various categories of marketing requirements for UCITS, which are broken down into several categories.

1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing

16. Generally, NCAs only pointed to the relevant rules laid down in their national legislation, which governed the format and content of marketing material and of information documents, without referring to any additional requirements than those stemming from the UCITS Directive (DK, EE, EL, FI, IS, LV, NL).
17. Some NCAs mentioned that some rules applied in their jurisdiction in addition to the requirements laid down in the former Article 77 of the UCITS Directive. These additional national rules impose obligations in particular to:
- Include specific information in marketing communications, such as:
 - o The timeframe which information on costs and performance relates to, being specified that the information on performance shall be disclosed over the last five preceding years or the entire time for which the fund was marketed if lower, in full periods of 12 months, and is expressed in terms of returns (ES);
 - o Information on risks, costs or returns (PT);
 - o Other various information detailed in the legislation, which aim at ensuring that the target audience of the communication understands the information it contains and that this information is fair, clear and not misleading (IE, PL); and
 - Observe rules applicable to advertisements disseminated in connection with the professional marketing of financial products to retail clients within the territory (BE);

- Provide additional information when marketing is carried out via telephone call, in particular as regards the identity of the person calling, the name of the UCITS and its management company, and the identification of the promoted units. In this case, additional requirements relating to the frequency of calls apply (BG);

18. 2 NCAs referred to a list of documents that qualify as marketing material which should meet the requirements set out in the relevant laws, regulations or administrative provisions, or criteria taken into account to determine whether a communication is subject to rules on marketing material (HR, HU).

19. One NCA indicated that any violation of the rules on the format and content of marketing material could result in a ban of marketing communications on the basis of national laws on the protection of consumers (HU).

2) Verification of marketing communications by the authority

20. 17 NCAs replied that they do not carry ex-ante verification of marketing communications (AT, BG, CZ, DE, ES, HR, HU, IE, IS, LT, LU, MT, NL, PT, SE, SI, SK). Rather, some NCAs mentioned that they rely on the documents submitted for the approval of the fund and the amendments of these documents (AT, DK).

21. On the contrary, 2 other NCAs indicated that they usually carry out ex-ante verifications of marketing communications (BE, LI). In some cases, such verifications are not only a usual practice of the authority but derive from specific requirements set out in the national legislation, which provides elements on the procedure to be followed (BE), while in another case the verification is a practice of the NCA, who verifies all means of communications used for the promotion of UCITS, such as websites, newspapers or complaints received (LI).

22. 5 NCAs mentioned that they had carried out verifications after the marketing communications are issued, in particular during inspections or through ad-hoc verifications (EL, IT, MT, PT, RO). One of these NCAs clarified that the verification is put in place on an ongoing basis pursuant to a risk-based approach (IT).

23. In addition, one NCA (FR) reported having a risk-based approach combining a non-systematic ex-ante review primarily focusing on innovative strategies or strategies identified as bearing a high risk of inappropriate marketing and a sample-based ex-post review.

3) Reporting obligations in relation to marketing

24. 10 NCAs mentioned the existence of reporting obligations in relation to marketing that come in addition to the obligation foreseen in the UCITS Directive to communicate legal documentations such as annual and half-yearly reports (BE, DE, EL, FR, HU, IS, IT, NO, PT, SK). 7 of these NCAs specified that these obligations apply in particular in the event of a change to the information previously notified (EL, FR, HU, IS, NO, PT, SK). One NCA clarified that these additional reporting obligations take the form of additional elements to be included in other national reporting (in particular in the report of the effective management on the internal control of self-managed investment companies and in the

statistical information) being specified that these additional reporting obligations do not apply to foreign UCITS (BE).

25. 8 NCAs indicated that there are no specific national reporting obligations in respect of marketing arrangements (AT, BG, CZ, FI, HR, LV, MT, SE).

26. However, one NCA indicated that the national rules implementing Article 13 of the UCITS Directive on delegation of functions to third parties did foresee reporting in this regard (AT).

4) Passporting rules

27. The vast majority of NCAs indicated that the national rules governing passporting merely implement the requirements set out in the UCITS Directive, in particular those requirements set out in Articles 91 *et seq.* of the UCITS Directive (AT, BE, BG, CZ, DE, EE, EL, HR, HU, IS, LI, LT, LU, NL, NO, PT, SE, SK).

28. Some NCAs clarified the relevant rules relating to passporting fees. 2 NCAs mentioned that no fees were levied for inwards marketing of EEA UCITS (IE, EE). On the contrary, 6 other NCAs mentioned the existence of such fees for inwards marketing (BE, EL, FI, FR, HR, LU).

5) De-notification of arrangements made for marketing

29. 4 NCAs indicated that there were no specific obligations to report de-notification arrangements made for marketing of UCITS (AT, CZ, HR, SK).

30. 16 NCAs mentioned that de-notification of UCITS was possible under their national law (BE, BG, EL, FI, FR, HR, IE, IS, IT, LT, LU, MT, NO, PT, SE, SI). These NCAs specified that the following conditions applied for the de-notification of arrangements made for marketing:

- 2 NCAs indicated that this required their approval, in particular as it was regarded as a change to the initial notification (BE, BG), while 8 NCAs mentioned that the termination of marketing required a prior or prompt notification without prior approval (FI, IE, IT, LT, LU, PT, SE, SI);
- 3 NCAs mentioned that it required a notification to investors (DK, FI, MT);
- Another NCA indicated that de-notification is possible only when there are less than 100 investors in the UCITS and that the UCITS had the obligation of providing investors with options to redeem their units or to exchange their units with units of another UCITS or another compartment of the same UCITS (EL);
- One NCA indicated that they did not have any formal de-notification procedure yet, but that denotifications were allowed based on a case-by-case assessment and that UCITS were required to provide the evidence that the UCITS no longer had any domestic investors who subscribed through an act of marketing in the Member State (FR); and

- One NCA indicated that de-notification was allowed only in case there were no domestic investors left in the UCITS (IS).

6) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA

31. The majority of NCAs reported that the rules governing the marketing of UCITS in their jurisdiction were limited to provisions transposing the requirements set out in the UCITS Directive. One NCA referred in particular to the provisions of national laws transposing Articles 54, 60, 63 or 70 of the UCITS Directive (AT).

32. Several NCAs referred to additional requirements existing in their national legislation. These additional requirements impose, in particular:

- Translating documents (marketing communications and/or certain offering documents) into the official language of the Member State (FR, HR, IS, NO, PT), into English (IS, LI, LT), or at least one of these languages (BG), or into other languages specified in the national legislation (NO);
- Appointing a third-party, such as a central correspondent, a representative, a paying agent or a distributor in the Member State in order to market the units of a foreign UCITS (DK, EL, FR, IE, IT, LU, NO, PT, SI). Two NCAs clarified that this requirement applied to marketing to retail investors, but not in the event that the UCITS is intended to be marketed only to professional investors (DK, IT). One of these NCAs elaborated that this applies under certain circumstances and clarified that the requirement will be replaced by the requirements set out in Article 1(4) of the CBFDD Directive as of 1st July 2021 (DK)⁵;
- Specific rules governing the rebates of management fees or subscription and redemption fees to the benefit of funds or fund managers (FR);
- Additional requirements for the admission to trading on a regulated market of units of a UCITS (FR, IT), for the marketing of shares or units of complex UCIs and in UCIs offering a guarantee, and for the marketing of units of a UCITS to a specific category of investors (FR);
- Consistency between the legal and the marketing documents as regards the non-financial aspects of the investment⁶ (i.e. ESG-related aspects) (FR);
- Disclosing additional information in the prospectus, concerning e.g. the facilities, the relevant provisions of tax law (IE);
- Transmitting to the NCA the marketing documentation relating to marketing campaigns aimed at retail investors (IT);

⁵ Although this was mentioned by only one NCA, it is expected that the rules of the CBFDD Directive will be transposed and applicable in all Member States by 2 August 2021.

⁶ It should be noted that Article 13 of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial sector contains similar obligations.

- UCITS management companies to obtain information about the investors' investment knowledge and experience relating to units of UCITS to determine whether the investment is suitable for them (LT).
- Drafting an addendum to the prospectus, made mandatory in the national legislation, to give information to investors on the contact details of the paying agent, the payment of dividends, and the place where investors may present subscriptions, redemption or conversion requests (LU).
- All funds notified for marketing and their manager shall be identified with a Legal Entity Identifier code (LEI) if applicable (NO).
- Monthly reporting of marketing activities by the entity carrying out marketing of UCITS (PT, SI)

33. Furthermore, certain NCAs mentioned that additional requirements may be applicable to the marketing of UCITS in their jurisdiction, although these requirements do not fall within their remit, such as rules on fair competition (AT), on the protection of consumers (AT, FI, IS) or on good business and marketing practices and customs (IS and DK), general rules governing marketing of products and services (SE), general rules of contract law (AT), as well as tax law (ES, IE, PT). One NCA specified that these rules fell outside of their supervision (AT).

3.2 National laws, regulations and administrative provisions governing marketing requirements for AIFs

34. The overview laid down below is based on the information provided by NCAs as regards the various categories of marketing requirements for AIFs, which are broken down into several categories.

1) Prior authorisation for marketing

35. 4 NCAs mentioned that no other requirements than those set out in Article 31 of the AIFMD were applicable in their jurisdiction (AT, CZ, HR, SK), while one NCA specified that this was the case only in the event of a private placement as defined in the law or in case of marketing towards professional investors (BE).

36. However, certain NCAs made reference to specific regimes for the marketing of AIFs in their jurisdiction, in particular:

- The obligation to obtain a prior approval of the offering documents of AIFs offered as part of a public offer (BE);
- The obligation to obtain a prior authorisation of the AIF (MT);
- The obligation to obtain a prior authorisation for the marketing of an AIF (LU);

- The obligation for the AIFM to communicate an updated version of the AIF's legal documents to the NCA. In the case of AIFs marketed to retail investors, the NCA may oppose to the marketing based on these documents (PT).

2) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing

37. 11 NCAs replied that the rules governing the format and content of marketing materials for AIFs were similar to those applicable to the marketing materials for UCITS (BE⁷, CZ, DE, FR, HR, HU, IS, NL, PL, PT, RO), in particular as regards the requirement of fair, clear and not misleading information (CZ, DE, HR, NL, RO).

38. However, a small number of NCAs indicated that additional requirements applied to marketing materials, in particular:

- A statement must be included in the prospectus and in any other marketing communication to indicate that the AIF is not supervised by the NCA and is established in another Member State (IE);
- Details are included in the prospectus on the facilities agent and the facilities maintained, as well as on the place where issue and repurchase prices can be obtained or are published (IE); and
- The presentation of costs, risks and returns (PT).

39. 2 NCAs mentioned that there were no particular requirements applicable to the format and content of marketing materials (EL, LV).

3) Verification of marketing communications by the authority

40. 19 NCAs indicated that they did not carry out ex-ante verification of marketing material (AT, BG, CZ, DK, ES, HR, HU, IE, IS, LT, LU, LV, MT, NL, PT, RO, SE, SI, SK). One NCA mentioned that they verified marketing material at the occasion of the approval of the documentation of the fund (AT). One NCA replied that they carry out prior verifications of marketing communications only in the case of public offerings of the units or shares of an AIF, being specified that the absence of a public offer is always verified (BE).

41. 4 NCAs indicated that they carried out ex-post verifications to ensure compliance of marketing communications with the applicable national rules (AT, HR, IT, PT). One NCA indicated that the verification of marketing communication was a customary practice, as it verifies all means of communications used for the promotion of AIFs, such as websites, newspapers or complaints received (LI).

⁷ BE clarified that this is the case only for marketing the units or shares of an AIF as part as a public offer and that, in other cases, there are no particular requirements applicable to the format and content of marketing material.

42. One NCA reported following a risk-based approach combining a non-systematic ex-ante review primarily focusing on innovative strategies or strategies identified as bearing a high risk of inappropriate marketing and a sample-based ex-post review (FR).

4) Marketing to retail investors or to professional investors

43. 25 NCAs replied that marketing of AIFs to retail investors was authorised in their jurisdiction (AT, BE, BG, CY, DK, EE, EL, FI, FR, HR, HU, IE, IS, IT, LI, LT, LU, LV, MT, NL, NO, PT, RO, SE, SI). Among these NCAs, one NCA specified that marketing to retail investors was subject only to the requirements set out in Articles 31, 32, 36 and 42 of the AIFMD and national provisions transposing the AIFMD⁸ if this marketing is done by the means of a private placement as defined in the law (BE).

44. In addition, a few NCAs indicated that their national legislation contained specific frameworks for marketing to “informed investors” (CY, LT), “semi-professional investors” (DE), “qualified investors” (SL, SI), or retail investors who invest a minimum amount, such as at least €100,000 (EL, NL), €150,000 (SI), or €25,000 in case of open-ended AIFs (SI). One NCA mentioned that a specific framework for investors investing at least €500,000 was envisaged (IT). Another NCA indicated that the minimum amount to be invested by retail investors was €100,000 in case the AIF was managed by an licenced AIFM and AIF fund rules provides use of leverage which exceeds 50 per cent of net asset value of the fund. This NCA also indicated that, in addition to the minimum investment amount, retail investors had to submit a written statement according to which they could make an independent decision on investing in the fund and were aware of all risks (LV).

45. Several NCAs mentioned that additional conditions were applicable for the marketing of AIFs to retail investors, in particular:

- A prior notification is filed with the NCA (LI, NL);
- A prior authorisation is granted by the NCA (BE, CZ, DK, FR, HU, IS, LT, LU, SI, SK);
- The appointment of a local representative (DK, FR) or a paying agent (HR, SI) or the setting up of facilities (IT) (although one NCA clarified that this requirement will be amended as of the entry into force of the national provisions transposing the CBFDD Directive) (DK);
- The offer must constitute a non-public offer, i.e. it must be inferior to 2,500,000 euros in all Member States where it is offered (EE);
- The offer must comply with the requirements for public offerings in the Member State (SI);

⁸ For additional information on the procedure laid down in Belgian law for marketing AIFs to retail investors, please see the procedure set out in Article 128 of the Belgian AIFM Law set out in FSMA's response to ESMA's questionnaire in Annex III (for EU small-scale AIF marketed in Belgium by EU managers).

- A prohibition of preferential treatment (IT);
- The leverage disclosed in the offering documents of the fund does not exceed three times the NAV of the fund calculated according to the commitment method (LI);
- The AIFM must assess the suitability of the investment for investors (EL);
- The AIF complies with specific investment limit, transparency, reporting and marketing requirements, and the entities distributing the units or shares of the AIF are authorised to provide investment services (RO);
- The AIF must draw up a KIID (FI, HR, LI, LT, NL, SE) or this is required in case it is subject of a public offering (BE);
- Marketing communications relating to the AIF must be transmitted to the NCA at the time of advertising (IT);
- The offering documents must be translated into the official language of the Member State and/or into English (LT);
- The information on non-financial aspects of the investment (i.e. ESG-related aspects) provided in the marketing must be consistent with the information provided in the regulatory documents (FR);
- Foreign AIFs must be considered equivalent to the types of AIFs existing under national law, which can be offered to retail investors (HU);
- Foreign AIFs marketed to retail investors shall meet the conditions laid down in an information exchange and mutual assistance system signed by the home NCA of the fund (FR);
- Foreign AIFs must also be marketed to retail investors in their home Member State (LT); and
- Stricter reporting obligations for EU AIFs marketed to retail investors (IS).

46. One NCA also clarified that rules on public offerings were applicable in its jurisdiction and could be applicable to the marketing of AIFs (BE).

5) Reporting obligations in relation to marketing

47. 11 NCAs indicated that their national legislation contained no reporting obligations in relation to marketing (AT, BG, CZ, DK, EL, HR, HU, LV, MT, SI, SK).

48. However, 3 NCAs referred to the following specific reporting obligation:

- Reporting on the delegation arrangements of AIFM functions (AT);

- Annual and semi-annual reports as well as elements of the statistical information (both also for foreign public AIFs) and some elements of the report of the effective management on the internal control of self-managed investment companies (BE); and
- The legal person designated by the AIF or its distributor must keep in their head office for a minimum period of six years the economic reports and annual reports prepared subsequent to registration of the AIF and make these documents available to the NCA upon request (ES).

6) Passporting rules

49. 20 NCAs mentioned that their national legislation contained no additional requirements than those laid down in Article 32 of the AIFMD (AT, BG, CY, CZ, DE, DK, EE, EL, FI, FR, HR, HU, LT, LU, NO, PT, RO, SE, SI, SK).

50. 9 NCAs clarified the relevant rules relating to passporting fees. 2 NCAs mentioned that no fees were levied in relation to passporting for inwards marketing of EEA UCITS (NO, SK). On the contrary, 7 other NCAs mentioned the existence of such fees for inwards marketing (BE, EE, EL, FI, FR, HR, LV), with one of these NCAs clarifying that they applied in the case of public offering (BE) and another indicating that a AIFMs established in other Member States had to make a single €1.209 for the supervision of each AIF they manage and that are marketed in its jurisdiction (LV). The responses showed that the fees could take different shapes: fixed or variable (based on the assets under management of the AIF), one-off or recurring.

7) Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable)

51. 19 NCAs indicated that a national private placement regime was established in their Member State (AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IS, LI, LU, MT, NO, PT, SE).

52. On the contrary, 5 NCAs replied that no private placement regime had been adopted in their jurisdiction (BG, HR, IT, LV, SI).

53. One NCA specifically mentioned additional requirements that applied to non-EU AIFs marketed under the national private placement regime, namely that all third country AIFMs using the national private placement regime must report on acquisitions of non-listed companies and include additional information in the prospectus of such AIFs (SE).

8) Distribution of open-ended AIFs and of closed-ended AIFs

54. 9 NCAs indicated that there were no particular rules relating to the distribution of open-ended AIFs or closed-ended AIFs in their jurisdiction (AT, BE, BG, CY, CZ, EL, FR, IS, LT). One NCA indicated that in case of a public offer of open-ended and closed-ended AIFs, a prior approval of the NCA is needed (BE).

55. A limited number of NCAs indicated that certain specific requirements were set out in their national legislation, in particular the following:

- Open-ended AIFs marketed to retail investors must be open for redemptions once a month and publish the NAV every 14 days (DK);
- Foreign open-ended AIFs marketed to retail investors must be subject to a specific supervision in their home Member State (LU);
- Foreign open-ended funds must obtain prior approval of the NCA (EE);
- Only open-ended funds may be offered publicly (EE); and
- The minimum period during which redemptions are prohibited for an AIF to qualify as closed-ended is 5 years (SE).

9) De-notification of arrangements made for marketing

56. 14 NCAs replied that the de-registration of an AIF notified for marketing was possible in their jurisdiction (BE, BG, DE, DK, EE, EL, HR, IT, LT, LU, NO, PT, SE, SI). This is subject to prior notification to the NCA (BG, DK, EE, EL, IT, LT, PT, SE, SI) or, in some cases, to prior authorisation that may be granted to non-EU AIFs in case the AIF stops marketing in the Member State and on the condition that there is no domestic investor left in the AIF (BE). Some NCAs indicated that additional conditions applied, in particular:

- The publication of the cessation of marketing in an official gazette (DE);
- An information to investors (DK);
- An information to the NCA on the number of remaining investors in the AIF (EL, LU);
- In case the AIF is managed by a non-EU AIFM, the AIFM shall fulfil its reporting obligations under Annex IV of the AIFMD Directive (LU, NO); and
- No domestic investors remain invested in the AIF (IS).

57. On the contrary, 4 NCAs mentioned that there were no particular rules on the de-notification arrangements made for marketing AIFs in their jurisdiction (CZ, HR, RO, SK). One NCA indicated that this was an informal process set on a case-by-case basis for which the fund shall provide evidence that it no longer has any investors who subscribed through an act of marketing (FR).

10) Any other rules governing marketing of AIFs applicable within the jurisdiction of the NCA

58. 3 NCAs indicated that rules governing marketing communications equivalent to those applicable UCITS were adopted in its jurisdiction (AT, FR, HR).

59. A few NCAs referred to additional requirements existing in their national legislation. These additional requirements impose, in particular:

- The documentation of the fund must be translated into the official language of the Member State (BG, EE, LI), into English (EE, LT, NO) or into any other language recognised by the NCA (LI);
- That AIFMs which fall in the scope of Article 3(2) of the AIFMD restrict their business only on the territory of the Member State (DK); and
- A prohibition of certain means of communication, such as written or audio-visual advertising, as well as direct contact of local investors via telephone or internet, at the initiative of the AIFM (RO).

60. Additionally, some NCAs indicated that other sets of requirements could be applicable to the marketing of AIFs in their jurisdictions, although these requirements do not fall within their remit. This concerned, in particular, rules on fair competition (AT), the protection of consumers under national consumer law⁹ (AT, DK, FI and IE) or good business practices and customs (IS), general rules governing marketing of products and services (NO), general rules of contract law (AT, NO), real estate legislation (AT), as well as tax law (IE, PT). These NCAs generally specified that these rules fall outside of their supervision (AT).

4 Analysis of the effects of national laws, regulations and administrative provisions governing marketing communications

61. The purpose of this section is to provide an analysis of the effects of the national laws, regulations and administrative provisions governing marketing communications, as referred to in Article 8(2) of the Regulation. It is based on the overview of the rules referred to in section 3 above, in particular those concerning the verification and the content of marketing communications. It is also based on the data detailed below relating to the number of requests for amendments of marketing communications made on the basis of ex-ante and of ex-post verifications, as well as the most frequent findings identified by NCAs¹⁰.

62. It should be noted that this analysis does not cover the most frequent breaches of the requirements referred to in Article 4 of the Regulation, as well as one example of such breaches, since this Article will be applicable only as of 2 August 2021¹¹.

63. Based on the information received from NCAs in response to the questionnaire submitted by ESMA referred to in paragraph 2 above, some general observations can be made.

64. There is only a limited number of Member States in which the verification of marketing communications is mandatory for NCAs¹². In this context, the vast majority of NCAs indicated that they do not carry out any ex-ante or ex-post verifications. Only a limited

⁹ As outlined by one NCA (IE), it is its role to ensure consumer protection in the area of financial services in general.

¹⁰ As the Regulation has not yet been incorporated in the EEA Agreement, it is therefore not applicable yet in Norway. Therefore, Finanstilsynet has chosen not to provide data relating to this section of the report.

¹¹ In accordance with the provisions of Article 19 of the Regulation.

¹² See par. 19 and 38 above.

number of NCAs indicated that they checked compliance of marketing communications with the national rules governing their content, in particular in the context of thematic checks¹³.

65. Two observations can be made on this point. On the one hand, it should be reminded that the harmonisation of the standards applicable to the content of marketing communications is currently limited but it is expected that greater harmonisation of market participants' practices as regards the format and the content of marketing communication will result from the entry into force of the requirements set out in Article 4 of the Regulation, in particular as these standards will be further specified by ESMA's Guidelines¹⁴. On the other hand, there seems to have been no change in the supervisory practice of NCAs at the occasion of the entry into force of the Regulation, which grants explicit powers to NCAs to carry out ex-ante and ex-post verifications of marketing communications.

66. At this stage ESMA has no regulatory data on the number of funds that are notified for cross-border marketing in Europe. ESMA will be able to report on cross-border marketing trends when ESMA publishes the central database listing the AIFs and UCITS notified for cross-border marketing pursuant to Article 12 of the Regulation. However, despite the absence of regulatory data, it is worth noting that the 2021 ESMA report on Performance and Costs of EU Retail Investment Products¹⁵ shows a positive trend in the cross-border marketing of funds sold cross-border between 2010 and 2019¹⁶.

EU cross-border UCITS¹⁷
Increasing trend of funds sold cross-border

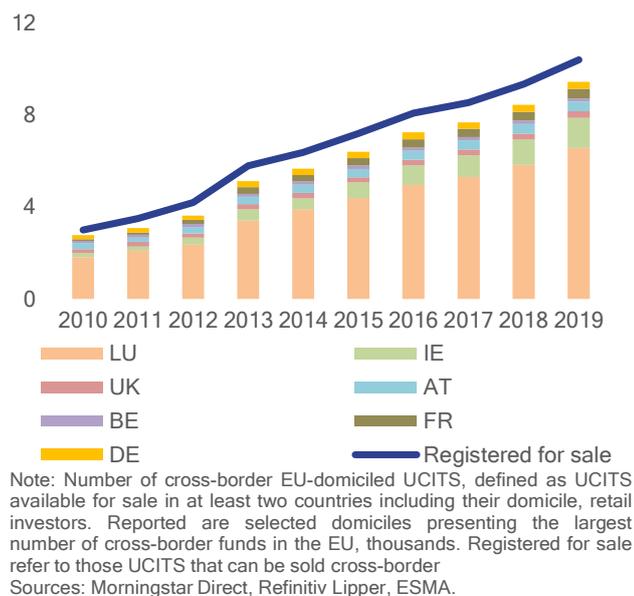
¹³ See par. 68.

¹⁴ Article 77 of the UCITS Directive is deleted by virtue of Article 1(2) of the CBF Directive. Article 4(1) of the Regulation sets out new standards that all marketing communications, relating to both AIFs and UCITS, have to meet and reads as follows: "AIFMs, EuVECA managers, EuSEF managers and UCITS management companies shall ensure that all marketing communications addressed to investors are identifiable as such and describe the risks and rewards of purchasing units or shares of an AIF or units of a UCITS in an equally prominent manner, and that all information included in marketing communications is fair, clear and not misleading". Pursuant to Article 4(6), these requirements will be further specified by Guidelines to be issued by ESMA by 2 August 2021 (i.e. the date as of which Article 4(1) will apply), also taking into account the on-line aspects of marketing communications. The [Final Report on these Guidelines](#) was published on ESMA's website on 27 May 2021.

¹⁵ [ESMA 50-165-1710 – 2021 Performance and Costs of EU Retail Investment Products](#).

¹⁶ The EU market includes the United Kingdom as it is a Member of the EU during the reporting period, 2010-2019. The United Kingdom is reported in the aggregate and in the country-by-country analysis. The data are commercial data from Refinitiv Lipper and are therefore publicly available to subscribers. Having all Member States is envisaged in order to have a more instructive comparison across the current and the previous years' reports.

¹⁷ Source: ESMA 2021 Annual Statistical Report on the Performance and Costs of EU Retail Investment Products, p. 9.



4.1 Requests for amendments of marketing communications made on the basis of ex-ante verification

67. ESMA received the following information from NCAs in relation to the number of requests for amendments of marketing communications made on the basis of ex-ante verifications between 1 August 2019, which corresponds to the date of entry into force of the Regulation, and 31 January 2021:

- 23 NCAs indicated that they had not made any requests for amendments on the basis of ex-ante verifications (AT, BG, CZ, DE, DK, EE, EL, ES, FI, HR, HU, IE, IS, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK).
- Only 2 NCAs mentioned that they had made such requests for amendments (BE, FR).

4.2 Requests for amendments and decisions taken on the basis of ex-post verifications

68. ESMA received the following information from NCAs in relation to the number of requests for amendments of marketing communications made on the basis of ex-post verifications between 1 August 2019, which corresponds to the date of entry into force of the Regulation, and 31 January 2021¹⁸.

¹⁸ In accordance with Article 8(1) of the Regulation, ESMA received only information on the number of requests for amendments based on ex-ante verifications, the number of requests for amendments made on the basis of ex-post verifications, clearly distinguishing the most frequent breaches, including a description and nature of these breaches, and an example of the breaches identified by NCAs on the basis of ex-ante and ex-post verifications. However, ESMA was not provided with details on the underlying cases and requests.

69. 16 NCAs indicated that they had not made any requests for amendments on the basis of ex-post verifications (AT, BG, CZ, DK, EE, FI, IE, IS, LT, LU¹⁹, LV, MT, PT, SE, SI, SK).

70. NCAs from 6 Member States replied that they had made such requests for amendments on the basis of ex-post verifications, as follows:

- DE made 4 requests for amendments of marketing communications related to AIFs;
- ES indicated that two horizontal analysis of marketing communications were made in relation to marketing communications published by fund managers and distributors on their websites. The first analysis, which was carried out in the second half of 2019, allowed detecting 41 potential breaches by 24 fund managers;
- FR requested 3 UCITS management companies to amend their marketing communications and made approximately 15 amendment requests related to AIFs managed by 3 management companies;
- HR made 5 requests for amendments of marketing communications related to UCITS and one request for amendments of marketing communications related to AIFs;
- HU made 8 requests for amendments of marketing communications related to UCITS and 9 requests for amendments of marketing communications related to AIFs;
- IT made 12 requests for amendments of marketing communications relating to UCITS and 4 requests for amendments of marketing communications related to AIFs; and
- NL made 6 informal requests for amendments of marketing communications related to AIFs.

71. In most cases, the requests for amendments were not followed by any decisions taken by NCAs on the basis of the requests for amendments. However, NCAs from the following jurisdictions reported decisions taken on the basis of ex-post verifications of marketing communications:

- BE reported 2 decisions taken in relation to UCITS;
- GR reported 2 decisions taken in relation to UCITS; and
- SI reported one decision taken in relation to a UCITS and one decision taken in relation to an AIF.

¹⁹ In principle, the CSSF does not perform systematic ex-post verifications of marketing communications used by UCITS management companies. Such ex-post verifications may be performed on an ad hoc basis during the ongoing prudential supervision of a specific file but any numbers or statistics are not (yet) available in this respect. The CSSF is currently developing an ex-post surveillance practice so as to be able to verify the obligations of the relevant entities in matters regarding marketing communications under Article 4 of the CBDF Regulation that will apply as of 2 August 2021

4.3 Examples of breaches identified in the context of requests for amendments on the basis of ex-post verifications

72. When NCAs identified breaches in the context of ex-post verifications of marketing communications relating to UCITS, the following examples were cited by NCAs:

- The marketing material failed to provide the legally required minimum information, for example regarding the most significant risks (BE);
- The information on past performance did not cover complete 12-months periods as required by Article 44 of the Commission Delegated Regulation (EU) 2017/565 (ES);
- The marketing material lacked balance between products' risks and rewards (FR);
- The most prominent feature of the marketing communication was past performance (FR);
- The marketing material contained misleading language, i.e. to disguise or diminish important items such as risks or fees (FR);
- A lack of consistency between marketing material and legal material was found, especially concerning sustainable finance criteria (FR);
- Incorrect descriptions of risks and rewards were identified as well as a misalignment of information between the marketing material and the legal documents (GR);
- Inconsistencies with the KIID and the prospectus (HU);
- There was no proper presentation of the investment strategy (HU);
- The disclaimer required for marketing communications to be identifiable as such was not disclosed in a clear and prominent manner (IT);
- No warning inviting potential investors to consult the fund's prospectus and KIID was included, or such warning was not disclosed prominently (IT); and
- The information on expected returns was not consistent with the same information included in the fund's offering documents and was not based on reliable grounds, and the information on the sustainability-related aspects of the promoted fund was not consistent with the information contained in the fund's offering documents either (IT).

73. The following examples were cited by NCAs in the context of ex-post verifications relating to AIFs:

- The marketing communications included the logo of the NCA (DE);
- The marketing communication referred to a benchmark index, although precontractual documents indicated that the promoted fund was managed on the basis of discretionary management without using a benchmark (DE);

- The marketing material lacked balance between the products' risks and rewards (FR);
- The most prominent feature of the marketing communication was past performance (FR);
- The marketing material contained misleading language, i.e. to disguise or diminish important items such as risks or fees (FR);
- The marketing communication included misleading information on the promoted retail AIF's investment strategy and was therefore inconsistent with the content of, inter alia, the prospectus and the KIID (HR);
- The information on the key characteristics of the promoted fund was inconsistent with the information contained in the prospectus concerning, inter alia, the expiration date of the fund (IT);
- The disclaimer required for marketing communications to be identifiable as such was not disclosed in a clear and prominent manner (IT); and
- Fund managers did not include the correct the risk indicator (i.e. the same risk indicator prescribed in the UCITS KIID) in the marketing material (NL).

5 Annexes

5.1 Annex I: Legislative mandates to develop the Report

Article 8(2) of the Regulation provides that:

“By 30 June 2021 and every second year thereafter, ESMA shall submit a report to the European Parliament, the Council and the Commission which presents an overview of marketing requirements referred to in Article 5(1) in all Member States and contains an analysis of the effects of national laws, regulations and administrative provisions governing marketing communications based also on the information received in accordance with paragraph 1 of this Article.”

5.2 Annex II: Questionnaire sent to NCAs on the national laws, regulations and administrative provisions governing marketing requirements

In order to allow ESMA developing the report to the European Parliament, the Council and the Commission pursuant to Article 8(2) of Regulation (EU) 2019/1156 on facilitating the cross-border distribution of collective investment undertakings, please provide, **by 31 January 2021**, an overview of the following categories of national laws, regulations and administrative provisions governing marketing requirements in your jurisdiction:

Marketing requirements for UCITS (please provide a concise summary of **maximum [500] words** covering all the marketing requirements below, where applicable; you can also include hyperlinks to other sources where additional information is available, where needed):

- 1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;
 - Verification of marketing communications by the authority;
 - Reporting obligations in relation to marketing;
 - Passporting rules;
 - De-notification of arrangements made for marketing;
 - Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

Marketing requirements for AIFs (please provide a concise summary of **maximum [500] words** covering all the marketing requirements below, where applicable; you can also include hyperlinks to other sources where additional information is available, where needed):

- Prior authorisation for marketing;
- The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;
- Verification of marketing communications by the authority;
- Marketing to retail investors or to professional investors;
- Reporting obligations in relation to marketing;
- Passporting rules;
- Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);
- Distribution of open-ended AIFs and of closed-ended AIFs;
- De-notification of arrangements made for marketing;
- Any other rules governing marketing of AIFs applicable within the jurisdiction of the NCA.

* * *

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

[Please insert your text here.]

Marketing requirements for AIFs

[Please insert your text here.]

5.3 Annex III: Questionnaire sent to NCAs on the requests for amendments of marketing communications made on the basis of ex-ante and ex-post verification

1. Ex-ante verifications of marketing communications used by UCITS management companies

Please specify the number of requests for amendments of marketing communications made on the basis of ex-ante verification, between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by UCITS management companies.

2. Ex-ante verifications of marketing communications used by AIFMs, EuVECA managers and EuSEF managers

Please specify the number of requests for amendments of marketing communications made on the basis of ex-ante verification, between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by AIFMs, EuVECA managers and EuSEF managers for AIFs marketed to retail investors.

3. Ex-post verifications of marketing communications used by UCITS management companies

- 3.1. Please specify the number of requests for amendments made on the basis of ex-post verifications between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by UCITS management companies.

- 3.2. Please specify the number of decisions taken on the basis of ex-post verifications between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by UCITS management companies.

- 3.3. For the requests and decisions identified in questions 3.1. and 3.2., please specify the most frequent breaches identified, including a description and the nature of those breaches.

- 3.4. Please give an example of a breach you identified following an ex-post verification.
4. Ex-post verifications of marketing communications used by AIFMs, EuVECA managers and EuSEF managers
 - 4.1. Please specify the number of requests for amendments made on the basis of ex-post verifications between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by AIFMs, EuVECA managers and EuSEF managers to market their AIFs to retail investors.
 - 4.2. Please specify the number of decisions taken on the basis of ex-post verifications between 1 August 2019 (date of entry into force of Regulation (EU) 2019/1156) and 31 January 2021 in relation to marketing communications used by AIFMs, EuVECA managers and EuSEF managers to market their AIFs to retail investors.
 - 4.3. For the requests and decisions identified in questions 4.1. and 4.2., please specify the most frequent breaches identified, including a description and the nature of those breaches.
 - 4.4. Please give an example of a breach you identified following an ex-post verification.

5.4 Annex IV: Full version of replies to ESMA's survey on national laws, regulations and administrative provisions governing marketing requirements

- AT - Österreichische Finanzmarktaufsicht (FMA)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

1 and 2:

The FMA does not undertake pre-authorisation or verifications of marketing communications for UCITS but relies on the approval of fund rules and amendments thereto. In the course of supervisory actions, ex-post checks on a random basis of prospectus and KIID, especially in regard to specific topics, are also conducted by the FMA.

3, 5:

According to Austrian legislation, no reporting obligation in relation to marketing or de-notification arrangements exist. This goes with the exception of section 28 Investment Fund Act (implementing Art 13 of the Directive 2009/65/EG) concerning the delegation of functions of the management company to third parties. In addition, also the Austrian *Wertpapieraufsichtsgesetz 2018* (implementing the directive 2014/65/EU - MiFID II) may be applicable (<https://www.fma.gv.at/download.php?d=2085>).

4:

There are no additional national rules covering passporting that exceed the UCITS Directive framework.

The only rules applicable are Section 139 Investment Fund Act 2011 ("Marketing in other Member States of units of a UCITS approved in Austria"), which implements Art 93 of the Directive 2009/65/EG and Section 140 Investment Fund Act 2011 ("Marketing in Austria of units approved in another Member State"), which implements Art 91 and 96 of the Directive 2009/65/EG.

That, as well as additional information on relevant administrative practice and legal requirements pertaining to the notification and distribution of UCITS according to Section 155 Investment Fund Act 2011 (implementing Art 91 para 3 of the Directive 2009/65/EC and Art 30 para 1 and 2 of the Commission Directive 2010/44/EU), can be found on the FMA Website: (<https://www.fma.gv.at/en/investment-funds-and-investment-fund-managers/ucits-and-investment-fund-management-companies/notification/>).

6:

The only rules governing marketing of UCITS within the jurisdiction of the FMA are covered by Section 128 Investment Fund Act 2011. This provision implements the following provisions of the directive 2009/65/EG, specifically:

Section 128 para 1, 2, 3 InvFG 2011: Art 77 of the directive

Section 128 para 4 InvFG 2011: Art 63 para 4 of the directive

Section 128 para 5 InvFG 2011: Art 70 para 2 of the directive

Section 128 para 6 InvFG 2011: Art 54 para 3 of the directive

Austrian Investment Fund Act 2011:

[http://www.voieg.at/voieg/internet_4.nsf/sysPages/18B78875180CEE25C125750B002DF/FBD/\\$file/Investmentfondsgesetz%202011_BGBl_I_62_2019_englisch.pdf](http://www.voieg.at/voieg/internet_4.nsf/sysPages/18B78875180CEE25C125750B002DF/FBD/$file/Investmentfondsgesetz%202011_BGBl_I_62_2019_englisch.pdf)

Other requirements for marketing in Austria on the basis on other national legal acts fall **outside** the FMA's jurisdiction and is therefore **not enforced** by the FMA. Relevant requirements can be found in other legal acts, for example (**non-exhaustive list**):

- Federal act against Unfair Competition (UWG; https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=ErV&Titel=Unfair+Competition&Quelle=&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=&Position=1&SkipToDocumentPage=true&ResultFunctionToken=a56c506c-df6c-481e-8a8f-86b3be8f02aa&Dokumentnummer=ERV_1984_448)
- General Civil Code (ABGB)
- Consumer Protection Act (KSchG; https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=ErV&Titel=consumer+protection&Quelle=&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=&Position=1&SkipToDocumentPage=true&ResultFunctionToken=236107e9-41e4-4e84-b17f-f802d551bf53&Dokumentnummer=ERV_1979_140)

Marketing requirements for AIFs

1:

Besides the rules covering the marketing of EU AIF units or shares in Austria as the home Member State of the AIFM (Section 29 Alternative Investment Fund Manager Act - Art 31 of the Directive 2011/61/EU) and passporting provisions (see no 6 below), there are no additional national provisions.

2-3:

The FMA does not undertake pre-authorisation or verifications of marketing communications for AIF but relies on the approval of fund rules and amendments thereto. In the course of supervisory actions, ex-post checks on a random basis of fund documents, especially in regard to specific topics, are also conducted by the FMA

Apart from this however, concerning the marketing of EU AIF units or shares in Austria as the home Member State of the AIFM (Section 29 Alternative Investment Fund Manager Act - Art 31 of the Directive 2011/61/EU) information in accordance with the contractual conditions or the statutes of the AIF according to Section 21 Alternative Investment Fund Manager Act (Art 23 of the Directive 2011/61/EU) is approved by the FMA.

For passporting provisions see no. 6 below.

4:

Concerning marketing to professional investors: See no. 6 (passporting).

Concerning marketing to retail investors: Requirements for marketing AIF to retail investors in Austria are in accordance with Art 49 para 1 subpara 1 – 3 Alternative Investment Fund Manager Act (Art 43 Directive 2011/61/EU). Detailed information can be found on the FMA Website: <https://www.fma.gv.at/en/investment-funds-and-investment-fund-managers/aifs-and-aif-managers/art-49-aifmg-authorisation-procedure/>

5, 9:

According to Austrian legislation, no reporting obligation in relation to marketing or de-notification arrangements exist. This goes with the exception of Section 18 Alternative Investment Fund Manager Act (Art 20 of the Directive 2011/61/EU and Commission Delegated Regulation (EU) No 231/2013) concerning the delegation of AIFM functions. In addition, also the Austrian *Wertpapieraufsichtsgesetz 2018* (transposition of the directive 2014/65/EU - MiFID II) may be applicable.

6:

There are no additional national rules covering passporting.

The only rules applicable are Section 30 Alternative Investment Fund Manager Act ("*Marketing of EU AIF units or shares in other Member States by an AIFM authorized in Austria*"), which transposes Art 32 of the Directive 2011/61/EU and Section 31 Alternative Investment Fund Manager Act ("*Marketing of EU AIF units or shares from other Member States in Austria by an AIFM approved in a Member State*"), which implements Art 32 of the Directive 2011/61/EU.

This information can be found on the FMA Website: <https://www.fma.gv.at/en/investment-funds-and-investment-fund-managers/aifs-and-aif-managers/notification/> .

7:

Austria has made use of the option stipulated in Article 42 of Directive 2011/61/EU in Article 47 Alternative Investment Fund Manager Act and has created a basis for the marketing of AIFs in Austria without a passport. Article 47 Alternative Investment Fund Manager Act defines the requirements for the notification and marketing of AIFs that are managed by non-EU AIFMs.

Further information can be found on the FMA Website: <https://www.fma.gv.at/en/investment-funds-and-investment-fund-managers/aifs-and-aif-managers/art-47-aifmg-authorisation-procedure/>

8:

There are no additional national provisions concerning the distribution of open-ended AIFs and of closed-ended AIFs.

10:

Due to the fact, that the Austrian Alternative Investment Fund Manager Act refers to the aforementioned article 128 of the Austrian Investment Fund Act 2011, this provision is also applicable with regards to AIF.

Other than that, there are no other additional national rules governing marketing of AIF applicable within the jurisdiction of the NCA.

Other requirements for marketing in Austria on the basis on other national legal acts fall **outside** the FMA's jurisdiction and is therefore **not enforced** by the FMA. Relevant requirements can be found in other legal acts, for example (**non-exhaustive list**):

- Federal act against Unfair Competition (UWG; https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&Titel=Unfair+Competition&Quelle=&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=&Position=1&SkipToDocumentPage=true&ResultFunctionToken=a56c506c-df6c-481e-8a8f-86b3be8f02aa&Dokumentnummer=ERV_1984_448)
- General Civil Code (ABGB)
- Consumer Protection Act (KSchG): <https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&Titel=consumer+protection&Quelle=&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&Re>

[sultPageSize=100&Suchworte=&Position=1&SkipToDocumentPage=true&ResultFunctionToken=236107e9-41e4-4e84-b17f-f802d551bf53&Dokumentnummer=ERV_1979_140](https://www.fma.gv.at/download.php?d=2085)

- Securities Supervisory Act (WAG 2018):
<https://www.fma.gv.at/download.php?d=2085>
- Real Estate Investment Funds Act (ImmolnVG):
[http://www.veoig.at/veoig/internet_4.nsf/sysPages/18B78875180CEE25C125750B002DFFBD/\\$file/Immobilien-Investmentfondsgesetz%20BGBl I%202019_englisch.pdf](http://www.veoig.at/veoig/internet_4.nsf/sysPages/18B78875180CEE25C125750B002DFFBD/$file/Immobilien-Investmentfondsgesetz%20BGBl%20I%202019_englisch.pdf)
- Alternative Investment Fund Manager Act:
<https://www.fma.gv.at/en/investment-funds-and-investment-fund-managers/aifs-and-aif-managers/>

- BE – Autoriteit voor Financiële Diensten en Markten / Autorité des services et marchés financiers

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

Belgian UCITS

Marketing in Belgium

Marketing material²⁰

- KIID, prospectus and fund rules/instruments of incorporation (ex-ante approval by FSMA)
- annual/ half-yearly report (ex post supervision by FSMA)
- marketing communications:
 - The requirements laid down in the former Article 77²¹ of the UCITS Directive are applicable
 - The Royal Decree of 25 April 2014 imposing certain information obligations for the marketing of financial products to retail clients contains rules applicable to

²⁰ UCITS-law and UCITS-RD

²¹ Article 77 of the UCITS Directive reads as follows: "All marketing communications to investors shall be clearly identifiable as such. They shall be fair, clear and not misleading. In particular, any marketing communication comprising an invitation to purchase units of UCITS that contains specific information about a UCITS shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information referred to in Article 78. It shall indicate that a prospectus exists and that the key investor information referred to in Article 78 is available. It shall specify where and in which language such information or documents may be obtained by investors or potential investors or how they may obtain access to them."

advertisements disseminated in connection with the professional marketing of financial products to retail clients within Belgian territory.²² Circular FSMA_2015_16 of 27/10/2015 has been drawn up by the FSMA to provide more information on the application of this Royal Decree.²³

Verification of marketing communications by the authority

The FSMA exercises ex ante supervision (approval) on advertisements of units of UCITS offered as part of a public offer and ex post supervision on advertisements of units of UCITS not offered as part of a public offer.

The communication FSMA_2019_15 of 30/07/2019 describes the procedure for submitting advertisements relating to UCIs that will be marketed in Belgium.²⁴

Reporting obligations in relation to marketing

- annual and semi-annual report
- some elements of the report of the effective management of the internal control of the self-managed sicav²⁵
- some elements of the statistical information²⁶

De-notification of arrangements made for marketing²⁷

Deregistration from the list provided for in article 33 of the Belgian UCITS-law is possible in case of liquidation, restructuring, maturity and deactivation²⁸ of a compartment/UCITS. Approval of the FSMA is required.

Marketing in EU countries

- application of UCITS notification procedure
- reporting: idem Belgian UCITS marketed in Belgium (no specific reporting obligations)

Foreign UCITS marketed in Belgium

Passporting rules

Application of the UCITS notification procedure as described in circular FSMA_2013_05 of 14/02/2013²⁹.

²² https://www.fsma.be/sites/default/files/public/content/wg/kbar/rd_25-04-2019.pdf

²³ https://www.fsma.be/sites/default/files/public/sitecore/media%20library/Files/fsmafiles/circ/en/2015/fsma_2015_16.pdf

²⁴ https://www.fsma.be/sites/default/files/public/content/EN/Circ/2019/fsma_2019_15.pdf

²⁵ Circular FSMA_2019_23 of 5/08/2019

https://www.fsma.be/sites/default/files/public/content/FR/circ/2019/fsma_2019_23_fr.pdf

²⁶ Circular FSMA_2017_16 of 22/08/2017: explanatory Circular of the FSMA Regulation on the statistical information

https://www.fsma.be/sites/default/files/public/fsma_2017_16_0.pdf

²⁷ UCITS-law and UCITS-RD

²⁸ Procedure when a compartment has no participants and commercialization of the compartment is no longer wanted.

²⁹ https://www.fsma.be/sites/default/files/public/sitecore/media%20library/Files/fsmafiles/circ/en/2013/fsma_2013_05.pdf

Passporting fees are levied for inwards marketing in Belgium.

Marketing material

Application of the UCITS notification procedure: notification letter, KIID, prospectus, fund rules/instruments of incorporation and annual/ half-yearly report.

Verification of marketing communications by the authority

Cfr. Belgian UCITS.

Reporting obligations in relation to marketing

No obligation to report specific information to the FSMA.

De-notification of arrangements made for marketing

See title 6 of circular FSMA_2013_05 of 14/02/2013.

Marketing requirements for AIFs

Belgian AIFs

Marketing in Belgium

Prior authorisation for marketing

Professional investors: application of notification procedure (article 31 AIFMD). A prior authorization by the FSMA is required.

Retail investors: the units of the AIFs can be marketed in Belgium to retail investors without any public offer if this marketing is done by the means of a private placement as defined in the Belgian Law. A notification pursuant article 31 is sufficient.

In case of marketing units of AIFs offered as part of a public offer, a procedure similar to this applicable to the Belgian UCITS must be carried out.

Marketing material

only in case of public offering in Belgium (idem Belgian UCITS)³⁰:

- KIID³¹, prospectus and fund rules/instruments of incorporation (ex ante approval by FSMA necessary)

³⁰ In case of no public offer, common right is applicable as well as the obligation to elaborate a PRIIPS KID. In some cases specific obligations can apply (funds not under supervision of FSMA).

³¹ Only open-ended funds

- annual/ half-yearly report/KID³² (ex post supervision by FSMA)

Verification of marketing communications by the authority

Only in case of public offering in Belgium (idem Belgian UCITS).

Marketing to retail investors or to professional investors

See prior authorisation for marketing.

Reporting obligations in relation to marketing

- public AIFs: idem UCITS
- all AIFs: cfr. AIFMD-reporting³³

De-notification of arrangements made for marketing

- public AIFs: similar regime as UCITS (AIF-law and AIF-RD)
- non-public AIFs: deregistration is possible in case of liquidation, restructuring, maturity and deactivation of a compartment/AIF.

Distribution of open-ended AIFs and of closed-ended AIFs

In case of marketing units of AIFs offered as part of a public offer, open-ended as well as closed-ended, a prior approval of the NCA is needed **Marketing in other countries**

EU countries:

- application of AIFM notification procedure (article 32 of the AIFMD)³⁴
- the Small-scale managers referred to in article 3 § 2 of the AIFMD must apply directly to the authorities of the EU country
- reporting: no specific reporting obligations

Third countries:

- the manager must apply directly to the authorities of the third country
- reporting: no specific reporting obligations

Foreign AIFs

Marketing in Belgium

³² Only closed-ended funds

³³ FSMA_2014_09 of 1/09/2014

https://www.fsma.be/sites/default/files/public/sitecore/media%20library/Files/fsmafiles/circ/en/2014/fsma_2014_09.pdf

³⁴ FSMA_2017_05 of 24/02/2017

https://www.fsma.be/sites/default/files/public/fsma_2017_05-01_nl.pdf

- Professional investors: application of the AIFM notification procedure (see below under Prior authorisation for marketing)
- Retail investors: the units or shares of the AIFs can be marketed in Belgium to retail investors without any public offer if this marketing is done by the means of a private placement as defined in the Belgian Law. Marketing under the same conditions as professional investors.

In case of marketing units of AIFs offered as part of a public offer, a procedure similar to this applicable to the Belgian UCITS must be carried out.

Passporting fees are levied for inwards marketing in Belgium of public AIFs.

Prior authorisation for marketing

- EU AIFs managed by an EU AIFM: application of AIFM notification procedure (art. 32 of the AIFMD) - a prior authorisation from the FSMA is not required.
- EU small-scale managers: application of Belgian notification procedure (art. 128 of the AIFM Belgian Law). Pursuant the Belgian law, the AIFM must submit to FSMA:
 - a notification letter, including a programme of operations identifying the AIFs the AIFM intends to market and information on where the AIFs are established;
 - the AIF rules or instruments of incorporation;
 - a description of, or any information on, the AIF available to investors.
 A prior authorisation from the FSMA is not required.

- Non-EU AIFs managed by an EU AIFM: application of AIFM notification procedure (art. 36 AIFMD) - a prior authorisation from the FSMA is required³⁵.
- Non-EU AIFs managed by non-EU AIFM: application of AIFM notification procedure (art. 42 AIFMD) - a prior authorisation from the FSMA is required³⁶.
- In case of marketing units of AIFs offered as part of a public offer, prior authorization from the FSMA is required (procedure similar to procedure for Belgian UCITS).

Marketing material

- in case of marketing units of AIFs offered as part of a public offer: idem Belgian UCITS
- in other cases: the FSMA does not approve marketing material

Verification of marketing communications by the authority

The role of the FSMA is limited to the verification of the absence of a public offer in Belgium.

In case of marketing units of AIFs offered as part of a public offer: Cfr. Belgian UCITS.

Marketing to retail investors or to professional investors

See above (Marketing in Belgium).

Reporting obligations in relation to marketing

³⁵ FSMA_2017_09 of 24/02/2017
https://www.fsma.be/sites/default/files/public/fsma_2017_06-01_en.pdf

³⁶ FSMA_2017_09 of 24/02/2017
https://www.fsma.be/sites/default/files/public/fsma_2017_06-02_en.pdf

- All AIFs: cfr. AIFMD-reporting³⁷
- Public AIFs:
 - annual and semi-annual report
 - some elements of statistical information³⁸

De-notification of arrangements made for marketing

- EU AIFs: deregistration is possible in case of stop marketing in Belgium.
- Non-EU AIFs: deregistration is possible :
 - in case of liquidation, restructuring, maturity and deactivation of a compartment/AIF;
 - in case of stop of marketing in Belgium and on the condition that there is no Belgian investors in the AIF anymore.

Distribution of open-ended AIFs and of closed-ended AIFs

no specific rules

- BG - Комисия за финансов надзор (FSC)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing:

- Art. 65 of CISOU CIA (transposing Art. 77 of UCITS Directive)
- Art. 81 and 82 of Ordinance 44.

2) Marketing communications are not verified by the Bulgarian Financial Supervision Commission (FSC). According to Art. 81 of Ordinance 44² marketing communications associated with the activity of collective investment schemes, as well as public statements of members of the Board of directors of the management companies must be approved in advance by the head of internal control and compliance in the management companies of UCITS. Marketing communications are subject to ongoing supervision (on-site inspections) conducted by the FSC.

3) Reporting obligations in relation to marketing - Relevant articles by national legal framework regarding reporting obligations in relation to marketing of UCITS are following:

Domestic UCITS:

- Art. 53-64 of CISOU CIA;
- Art. 71-82 of Ordinance 44.

³⁷ FSMA_2014_09 of 1/09/2014

https://www.fsma.be/sites/default/files/public/sitecore/media%20library/Files/fsmafiles/circ/en/2014/fsma_2014_09.pdf

³⁸ Circular FSMA_2017_16 of 22/08/2017: explanatory Circular of the FSMA Regulation on the statistical information https://www.fsma.be/sites/default/files/public/fsma_2017_16_0.pdf

EU UCITS - no additional requirements exceed UCITS directive

4) Passporting rules – art. 128-135 of CISOU CIA (transposing Art. 91-95 of UCITS Directive)

Information about the notification procedure is available in Bulgarian on this link: <https://www.fsc.bg/bg/podnadzorni-litsa/notifikatsii/http-www-fsc-bg-informaciya-otnosno-proceduri-po-notifikaciya-bg-113/predlagane-na-dyalove-aktsii-na-kolektivni-investitsionni-shemi-sas-sedalishte-v-darzhava-chlenka-v-republika-balgariya/>

5) De-notification of arrangements made for marketing – the denotification is notified as change in the initial notification and according to Art. 131, para 3 of CISOU CIA. There are no additional rules set.

6) Any other rules governing marketing of UCITS:

Language requirements - according to Art. 131, para 2 of CISOU CIA the KIID has to be translated into Bulgarian in any case and any other information may be presented in Bulgarian or in English by the choice of the UCITS, respectively the management company. Additionally, Ordinance No 44 on the Requirements to the Activity of Collective Investment Schemes, Management Companies, National Investment Funds and Alternative Investment Fund Managers requires that all the information the UCITS makes public to the investors in Bulgaria should be translated into Bulgarian at the request of an investor.

¹ The Bulgarian Collective Investment Schemes and Other Undertakings for Collective Investment Act (CISOU CIA) is available in English: <https://www.fsc.bg/en/markets/capital-market/legal-framework/laws/>.

² Ordinance No 44 of 20.10.2011 on the requirements to the activity of collective investment schemes, their management companies, national investment funds and managers of alternative investment funds is available in English on FSC's website: <https://www.fsc.bg/en/markets/capital-market/legal-framework/ordinances/>

Marketing requirements for AIFs

1) Prior authorisation for marketing of AIF to professional investors – Art. 240 and 241 and Art. 251 of CISOU CIA.

In case of marketing to retail investors the rules for national investment funds (NIF) apply (Art. 171 and following of CISOU CIA).

2) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing:

Only in case of retail AIF the rules for marketing materials for NIF apply - Art. 182, par. 4 of CISOU CIA, and Art. 174 of Ordinance 44.

3) Marketing communications are not verified by the FSC.

4) Marketing to retail investors or to professional investors:

Marketing to professional investors – AIFMD rules apply.

Marketing to retail investors is allowed only in case of NIFs where national rules apply (Art. 171 and following of CISOU CIA).

5) Reporting obligations in relation to marketing – none;

6) Passporting rules - Art. 244, 245 and 249 of CISOU CIA.

7) Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable): N/A

8) Distribution of open-ended AIFs and of closed-ended AIFs – the rules for both types of AIFs are the same in case marketed to professional investors. When marketed to retail investors, the NIF rules apply (Art. 171 and following of CISOU CIA).

9) De-notification of arrangements made for marketing:
When a decision for cessation of marketing in Bulgaria of an EU-AIF is taken, the FSC should be notified about that decision by way of an update of the marketing notification under Art. 32 of AIFMD.

10) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA:

Language requirements: Art. 193, para 2 of Ordinance 44.

Approval under Art. 251 of CISOUCIA – the requirements to the documents and the language are set in Art. 194 of Ordinance 44.

The Bulgarian Collective Investment Schemes and Other Undertakings for Collective Investment Act (CISOUCIA) is available in English on FSC's website: <https://www.fsc.bg/en/markets/capital-market/legal-framework/laws/>.

Ordinance No 44 of 20.10.2011 on the requirements to the activity of collective investment schemes, their management companies, national investment funds and managers of alternative investment funds is available in English on this link:

<https://www.fsc.bg/en/markets/capital-market/legal-framework/ordinances/>

- CY - Επιτροπή Κεφαλαιαγοράς (CySEC)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

[Marketing requirements for UCITS in Cyprus are governed by:

- the Open-Ended Undertakings for Collective Investments Law of 2012 as amended in 2016 which harmonizes UCITS Directive (the '[UCI Law](#)'). Specifically, sections 67 and 68 of the UCI Law set the requirements for UCITS established in the Republic to market their units in other Member States, whereas sections 69 and 70 set the requirements for UCITS established in other Member States to market their units in the Republic;
- Form [F78-2012-10](#), which sets the 'National Rules for Marketing of UCITS authorised in another Member State and other specific National Regulations related to the Notification Procedure (please note that the notification fees determined in paragraph 5 no longer apply);
- Directive [DI78-212-10](#) regarding the rules to be followed by UCITS for the launch of advertisements;
- Directive [DI78-2012-11](#) regarding the terms and the procedure for the marketing of units of UCITS in Cyprus, the organization of the marketing network and the obligations of the persons participating in the network, specifies the reporting obligations in relation to marketing and the de-notification arrangements made for marketing;
- Directive [DI78-2012-24](#) regarding the notification procedure of UCITS and the Standard [Notification Letter](#) and UCITS attestation of the Commission Regulation (EU) No. 584/2010 specify the format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

- Directive [DI78-2012-30](#) regarding the notification of events to the Commission for the UCITS authorised in another Member State and which are subject to the Directive 2009/65/EU;

All Directives are issued by CySEC pursuant to the UCI Law in order to specify the provisions of the UCI Law.]

Marketing requirements for AIFs

[The marketing requirements for AIFs in Cyprus are governed by:

- The Alternative Investment Fund Managers Law of 2013, as amended in 2019, which harmonises into National Law the AIFMD, (the '[AIFM Law](#)'). Specifically, the rights of AIFMs to manage and market EU AIFs in EU are set in Part VI of the AIFM Law;
- The Alternative Investment Funds Law of 2018 (the '[AIF Law](#)'). The AIF Law is the National Law that governs the establishment and operation of Alternative Investment Funds ('AIFs') in the Republic. The marketing of units of AIFs in the Republic is governed by sections 98-100 of the AIF Law.
- Directive [DI131/56/02](#) of the Securities and Exchange Commission regarding the procedure and conditions for the marketing of units of AIFs and AIFLNPs in the Republic, the organisation of the marketing network, the obligations of the persons that participate in the marketing network, as well as the conditions for the marketing of units of AIFs established in the Republic in another member state or in a third country (the 'Directive').

CySEC's Directive is issued pursuant to AIFM and AIF Laws and specifies the relevant provisions that govern the marketing of AIFs in the Republic and the notification process under AIFMD. Specifically, it defines the rules and procedures in relation to the following:

1. Prior authorisation for marketing is required for the marketing of units of AIFs by sub-threshold AIFMs to professional and well informed investors in the Republic, (other than EUSEF and EUVECA managers, which benefit from the passport) and for the marketing of units of AIFs in the Republic to retail investors by AIFMs (section 67 of the AIFM Law).
2. The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing is defined in section 36 of the AIF Law;
3. The obligations in relation to the marketing, redemption, or repurchase of units of AIFs in the Republic are further specified in Annex IV of the Directive DI 131/56/02
4. The AIFMD passporting rules apply. The Template of the notification letter for the marketing of units of AIFs to professional investors in the Republic is the **Annex I** of the Directive.
5. The rules regarding the distribution of funds established in a non-EU Member State under the national private placement regime are specified in section 7 of the Directive.
6. The same marketing rules apply to distribution of open-ended AIFs and of closed-ended AIFs.

7. According to sections 9 and 15 of the Directive, CySEC may decide to prohibit an AIFM without a passport to market its units in the Republic or revoke the authorisation granted to sub-threshold AIFMs for the marketing of units of AIFs in the Republic in specific cases defined in the Directive. Section 31 of the Directive sets the procedure for the termination of the marketing of units in the Republic.]

- CZ - Česká národní banka (CNB)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

1,2: CNB does not authorize marketing materials before the beginning of the distribution of the fund. The approval of the fund rules and its amendments are conducted for all UCITS funds. We consider the approval of the information in the fund rules to be sufficient. As part of the supervisory practice, ex-post checks of prospectus and KIID and other marketing materials are carried out on a random basis.

3,5: There are no reporting obligations in relation to marketing or de-notification arrangements in the Czech laws.

4: According to Czech laws, there are no specific passporting rules that would go beyond the requirements of the UCITS Directive. Marketing of units of a UCITS fund approved in the Czech Republic in other member states is subject to the rules stipulated in Sections 301 – 304 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

6: The rules applicable to the public marketing of investments in a foreign UCITS fund (managed by a management company in another EU member state) are stipulated in Sections 305 – 307 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

The rules regarding the promotional communication of the UCITS fund in the Czech Republic are stipulated in Sections 242 – 244 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

Czech Act on Investment companies and investment funds (2013):

<https://www.mfcr.cz/assets/en/media/Act-on-Management-Companies-and-Investment-Funds-2020-05-01.pdf>

Further requirements for marketing in the Czech Republic are stipulated also in other Czech laws that are outside CNB supervision. Relevant requirements can be found also in (non-exhaustive list):

The Civil Code (<http://obcanskyzakonik.justice.cz/images/pdf/Civil-Code.pdf>)

The Consumer Protection Act (<https://www.mpo.cz/en/consumer-protection/legal-regulations-applicable-to-consumer-protection/act-no--634-1992-coll--on-consumer-protection-as-amended--243610/>)

Marketing requirements for AIFs

1: In addition to the rules covering the marketing of EU AIF units or shares in the Czech Republic as the home Member State of AIFM (Sections 309 – 310 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds) and passporting provisions, there are no specific national provisions.

2,3: CNB does not authorize marketing materials prior to the commencement of distribution of the fund. CNB does not approve the fund rules of the AIF and its amendments. The fund rules and KIIDs and its changes are provided to CNB by note as stipulated in Section 457 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds. As part of the supervisory practice, ex-post checks of prospectus and KIID and other marketing materials are carried out on a random basis.

4: Rules concerning marketing to retail investors in Czech Republic are stipulated in Section 297 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

5,9: There are no reporting obligations in relation to marketing or de-notification arrangements in the Czech laws.

6: According to the Czech laws, there are no specific passporting rules that would go beyond the requirements of the AIFMD Directive. Marketing in other member states of units of an AIF approved in Czech Republic is subject to the rules stipulated in Sections 311 – 314 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

7: The basis for the marketing of an AIF that is managed by a non-EU AIFM is stipulated in Sections 297 and 316 – 317 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds. Private placement regime is stipulated in Section 295a of the same Act.

8: There are no specific national provisions concerning the distribution of open-ended AIFs and closed-ended AIFs in Czech Republic.

10: The rules applicable to the public marketing in Czech Republic of investments in an AIF managed by a management company authorised in another EU member state are stipulated in Section 315 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

The rules regarding the promotional communication of the AIF funds in Czech Republic are stipulated in Sections 242 – 244 of the Czech Act No. 240/2013 Coll. on Management Companies and Investment Funds.

The Czech Act on Investment companies and investment funds (2013):

<https://www.mfcr.cz/assets/en/media/Act-on-Management-Companies-and-Investment-Funds-2020-05-01.pdf>

Further requirements for marketing in Czech Republic are based also in other national legislative acts that are outside of CNB supervision. Relevant requirements can be found also in (non-exhaustive list):

The Civil Code (<http://obcanskyzakonik.justice.cz/images/pdf/Civil-Code.pdf>)

The Consumer Protection Act (<https://www.mpo.cz/en/consumer-protection/legal-regulations-applicable-to-consumer-protection/act-no--634-1992-coll--on-consumer-protection-as-amended--243610/>)

- DE – Bundesanstalt für Finanzdienstleistungsaufsicht (BaFIN)

Overview of national rules governing marketing requirements

Germany | BaFin

Marketing requirements for UCITS

Marketing communications for UCITS (and AIFs)

Sections 297 to 308 of the German Capital Investment Code (hereinafter referred to as “KAGB”) form the legal framework that marketing communications for UCITS and AIFs have to comply with.

The provisions inter alia require marketing communications to be identifiable as such and to be fair, clear and not misleading. No approval has to be obtained before publication. Germany has not employed the option given by Article 7 of Regulation (EU) 2019/1156.

Furthermore, sections 298 to 300 of the KAGB comprise publication obligations with regard to the marketing of EU UCITS, EU AIFs and foreign AIFs to German retail investors. These publication obligations implement the respective Article 94 of Directive 2009/65/EC and Article 22 of Directive 2011/61/EU that inter alia require the publication of annual reports or prospectuses.

Sections 307 and 308 of the KAGB apply exclusively to the marketing of AIFs to professional investors. They transpose the Articles 22 and 23 of Directive 2011/61/EU that stipulate the publication of inter alia the AIF's investment strategy and a description of its valuation procedure and pricing methodology. As the KAGB established an investor category in between retail investors and professional investors (the so-called semi-professional investors), the rules also apply to semi-professional investors. In order to qualify as a semi-professional investor, an investor has to commit to invest at least EUR 200,000 and has to be assessed in writing by the AIFM to have the necessary knowledge and experience to be able to understand the underlying risks associated with the investment. In addition to that managing directors or other associates of AIFMs, retail investors that commit to invest EUR 10 million or legal entities governed by public law may qualify as semi-professional investors.

Detailed information on some questions with regard to marketing communications can be found in the [FAQs](#).

Notification to market EU UCITS

The notification procedure stipulated in sections 309 to 313 of the KAGB has been built according to the requirements set out in the Articles 93 et seq. of Directive 2009/65/EC and Articles 1 to 5 of Commission Regulation (EU) No. 584/2010. The UCITS management company files the relevant documents with the competent authority in its home member state that forwards them to BaFin.

The provisions also contain rules for the discontinuation of marketing.

Detailed information can be found in the respective [guidance notice](#).

Marketing requirements for AIFs

Marketing communications for AIFs

Please refer to the above explanations to section 297 to 308 of the KAGB.

Notification to market EU AIFs or foreign AIFs managed by EU AIFM or foreign AIFM to retail investors

According to Article 43 of Directive 2011/61/EU the notification procedure in section 320 of the KAGB differentiates between the notification by EU AIFM and foreign AIFM.

EU AIFM inter alia have to file an attestation by the home member state's competent authority about their compliance with Directive 2011/61/EU.

Foreign AIFM must file the documents required for the application of an AIFM pursuant to Article 7 of Directive 2011/61/EU.

Detailed information and additional documents to be filed can be found in the respective [guidance notice](#).

Notification to market EU AIFs or domestic special AIFs managed by an EU AIFM to semi-professional and professional investors

Section 323 of the KAGB transposes Article 32 of Directive 2011/61/EU into national law.

Marketing in Germany may commence when the EU AIFM has been notified about the transmission of the documents to BaFin.

Detailed information can be found in the respective [guidance notice](#).

Notification to market domestic special feeder AIFs or EU feeder AIFs or foreign AIFs managed by an EU AIFM to semi-professional and professional investors

Section 329 of the KAGB transposes Article 36 of the Directive 2011/61/EU into national law.

The EU AIFM inter alia has to file with BaFin an attestation issued by the home member state's competent authority about its compliance with Directive 2011/61/EU. In case of a foreign AIF to be marketed, the notification has to comprise that there is a cooperation agreement between the EU AIFM's competent home member state authority and the competent authority of the AIF's home state.

Detailed information and additional documents to be filed can be found in the respective [guidance notice](#).

Notification to market EU AIFs or foreign AIFs managed by a foreign AIFM to semi-professional and professional investors

Section 330 of the KAGB transposes Article 42 of Directive 2011/61/EU into national law.

Besides a declaration to provide information about future changes to the filed information, material particulars about the foreign AIFM inter alia have to be provided.

Detailed information and additional documents to be filed can be found in the respective [guidance notice](#).

Notification to market AIFs managed by EU AIFM that comply with the requirements under Article 3(2) of Directive 2011/61/EU to semi-professional and professional investors

Section 330a of the KAGB defines the conditions under which EU AIFM that pursuant to Art. 3(2) of Directive 2011/61/EU fall out of the scope of Directive 2011/61/EU may market AIFs in Germany.

The procedure is built similarly to the above outlined and therefore inter alia requires the filing of a declaration that the EU AIFM will provide information about future changes to the filed information.

Discontinuation of the marketing of AIFs

Pursuant to section 315 (1) of the KAGB, the discontinuation of marketing has to be published in the German Federal Gazette. The publication has to be proven to BaFin.

- DK – Finanstilsynet

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

Cross-border marketing of UCITS to investors in Denmark is not subject to national authorization, but presupposes that the UCITS manager has obtained authorization in its home member state according to article 5 in the UCITS Directive. Cross-border marketing of UCITS' to investors also presupposes notification of marketing according to article 93 in the UCITS Directive which is implemented in the [Executive Order 786 of 17 June 2014](#). Before cross border marketing in Denmark, the UCITS manager must identify the marketing material as required in article 93 in the UCITS Directive and the above-mentioned Executive Order. There is no national regulations governing the verification of marketing communication by the Danish FSA.

In accordance with the Executive Order, foreign UCITS must have a Danish representative in order to market its units to retail investors in Denmark. UCITS only intended to be marketed towards professional investors may be omitted from having a local representative, provided that it meets the requirements in the Executive Order section 5(5). The executive order will be amended with effect from the 1st of July 2021, so that it will be in accordance with the cross-border Directive. After the 1st of July 2021, there is no longer a requirement for a local presence in the form of a representative. Instead, the provisions of the directive on which facilities that should be made available to investors are implemented in the executive order.

Besides the provisions laid in the EU framework (e.g. the UCITS Directive, Regulation 2019/1156 etc.), the format and content of marketing material is subject to Section 3 in the Danish Marketing Practices Act requiring all traders to exercise good marketing practice with reference to consumers, other traders and public interests.

There is no national laws, regulations etc. on reporting obligations in relation to marketing. However, article 93(7) in the UCITS Directive applies.

The [Executive Order 786 of 17 June 2014](#) regulates the requirements that applies when an UCITS manager ceases to market the UCITS in Denmark which includes, among other things, that the UCITS manager must notify the investors and the Danish FSA as soon as possible and no later than 14 days after the decision have been made.

Marketing requirements for AIFs

Cross-border marketing of AIFs to professional investors in Denmark is not subject to national authorization, but presupposes that the AIFM has obtained authorization in its

home member state according to article 7 in the AIFMD. Cross boarder marketing of AIFs to professional investors also presupposes notification of marketing according to article 32 in the AIFMD which is implemented in [the Danish AIFM regulation](#). Before cross boarder marketing in Denmark, the AIFM must identify the marketing material as required in article 32 in the AIFMD. There is no national regulations governing the verification of marketing communication by the Danish FSA.

Besides the provisions laid in the EU framework (e.g. the AIFMD, the PRIIP regulation, Regulation 2019/1156 etc.), the format and content of marketing material is subject to Section 3 in [the Danish Marketing Practices Act](#) requiring all traders to exercise good marketing practice with reference to consumers, other traders and public interests.

Marketing to retail investors in Denmark is subject to authorization according to Section 3 the [Executive Order 797 of 26 June 2014](#). In accordance with the Executive Order, foreign AIFs must have a Danish representative in order to be marketed towards retail investors in Denmark. The executive order will be amended with effect from the 1st of July 2021, so that it will be in accordance with the cross-border directive. After the 1st of July 2021, there is no longer a requirement for a local presence in the form of a representative. Instead, the provisions of the directive on which facilities that should be made available to investors are implemented in the Danish AIFM regulation. Both open-ended and closed-ended AIFs can obtain such authorization. Open-ended AIFs marketed to retail investors must be open for redemption once a month and publish NAV every 14 days. The Executive order also regulates the requirements that applies when an AIFM ceases to market the AIF towards retail investors in Denmark which includes, among other things, that the AIFM must notify the investors and the Danish FSA as soon as possible and no later than 14 days after the decision have been made. Marketing of AIFs to retail investors also requires an Investor KID in accordance [to the Executive Order 941 of 28 June 2013](#).

There no national laws, regulations etc. on reporting obligations in relation to marketing. AIFMs are subject to the reporting obligations laid out in the AIFMD.

Distribution of funds established in a non-EU Member State is subject to authorization according to Section 109 and 130 of the Danish AIFM regulation and Section 3 in [the Executive 1504 of 19 October 2020](#). The Executive order also regulates the requirements that applies when an AIFM ceases to market the AIF in Denmark which includes, among other things, that the AIFM must notify the investors. Moreover, the Danish FSA shall be notified as soon as possible and no later than 14 days after the decision have been made.

AIFMs subject to article 3(3) (sub-threshold AIFMs) are not allowed to conduct cross boarder marketing of AIFs in Denmark, see Section 5(10) in [the Danish AIFM regulation](#). This goes for both professional and retail investors.

- EE – Finantsinspeksioon (FSA)

Marketing requirements for UCITS

EEA Management Companies may exercise passporting rights for the management and marketing of an UCITS Scheme in Estonia provided that the requirements set out in the Estonian [Investment Funds Act](#) (hereafter IFA) are met. If a fund wants to offer units in Estonia, it must submit a letter to the financial supervisory authority of its home country notifying it of its plan. The notification letter must contain information on the marketing agreements of the units for the fund. The notification process is supported by the principles in the UCITS directive ([UCITS; 2009/65/EC](#)), of which Article 93 been enacted into the [IFA §408](#). Together with the notification letter, the fund sends the financial supervisory authority of its own country the following data and documents:

- 1) the fund rules or articles of association of the fund;
- 2) the prospectus and key information;
- 3) the latest audited annual accounts or annual report of the fund and the latest semi-annual report of the fund if this has been approved after the latest audited annual accounts or annual report;
- 4) an overview of the arrangements of the fund offer in Estonia which sets out the methods of disclosure of information for the offer of the fund;
- 5) the names of the classes of the units or shares of the fund offered in Estonia if the fund has different classes of units or shares;
- 6) a notation stating whether the same fund manager that manages the fund in another EEA Member State offers the units or shares of the fund in Estonia.

The financial supervisory authority of the home country of the UCITS forwards the full documentation to Finantsinspektsioon together with an attestation confirming the fund complies with the requirements of Directive 2009/65/EC. After Finantsinspektsioon has been informed, the financial supervisory authority of the home country of the fund immediately informs the fund that the documents have been sent. A UCITS may be publicly offered in Estonia once this information has been received, as set out in [IFS § 408 subsection 2](#). Finantsinspektsioon does not charge a one-off or an annual fee for the information concerning registering the public offer of units in UCITS in Estonia. [IFS § 408 subsection 4](#) requires that the fund manager of the home country of a UCITS or a UCITS of another EEA Member State which manages its own assets shall notify the Financial Supervision Authority of amendments to the documents 1-6 specified above and indicate where the updated documents can be examined.

Marketing requirements for AIFs

Requirements for offers of funds of other EEA Member States in Estonia is set out in the **§ 413 and § 413¹** of the [Investment Funds Act](#) (hereafter IFA). A public offer of a fund that was founded in another member state and that is not a closed-end fund may be commenced only after receipt of an approval of the Finantsinspektsioon. A fund manager shall submit an application to the Finantsinspektsioon either in the Estonian or English language, which will include:

- 1) statement of the financial supervision authority of the home state that the operation of the fund and the fund manager complies with the requirements established in the home state, and the public offer thereof is permitted;
- 2) public offer prospectus.

A processing fee of 600 euros shall be paid upon application for the registration of the public offering of the units or shares of a foreign fund. The decision to give or refuse to give a consent shall be made by the Finantsinspektsioon within six months after receipt of a respective application but at the latest two months after receipt of all the required data and documents. The Finantsinspektsioon may refuse to give a consent for public offer of a fund on the grounds specified in the [IFA § 413¹ subsection 4](#).

If an alternative investment fund wants to offer units non-publicly in Estonia, it must submit a letter notifying the financial supervisory authority of its home country of this. The notification process is supported by the principles in the alternative investment funds directive ([AIFMD; 2011/61/EC](#)). Offer notices shall be submitted to the Finantsinspektsioon in the English language and include the data and information mentioned in IFA § 413.

After Finantsinspektsioon has been informed, the financial supervisory authority of the home country of the AIF immediately informs the AIF fund that the documents have been sent. Units in the AIF may be non-publicly offered in Estonia once this information has been received. Finantsinspektsioon does not charge a one-off or an annual fee for the information concerning registering the non-public offer of units in the alternative investment fund in Estonia. However, a fund manager shall promptly inform the Finantsinspektsioon of any changes in the facts stated in the information through the financial supervision authority of the home country and also indicate the place where it is possible to examine the updated documents.

The notification letter of non-public offering of AIF must contain information on the arrangements for ensuring the non-public marketing of the units of the AIF. An offer is not deemed to be public if it meet at least one of the requirements set out in the [IFA § 10 subsection 4](#). Therefore, an offer of securities with a total consideration of less than 2,500,000 euros per all the Contracting States calculated in a one-year period constitutes to a non-public offer and can be marketed to also retail investors. Both closed-ended and open-ended AIF may be offered non-publicly to professional investors, but only open-ended AIF may be offered publicly. While there are no formal requirements for de-notification of arrangements made for marketing, the market practice is to inform the Finantsinspektsioon once the fund has ceased the offering, which in turn will notify other member states, were offering has previously been in effect.

Requirements for the distribution of funds established in a non-EU Member State under the national private placement regime is set out in [IFA § 432](#). The FSA shall inform the fund manager within 20 working days after receipt of proper information whether the fund offer in Estonia is permitted or not. As of the day of receipt of an authorising notice, the fund manager may commence the offer of the units of the fund in Estonia. Submission of

information prohibiting the offer of the fund is acceptable only in the case the activities of the fund manager do not comply with the requirements provided for in the act.

- EL - Επιτροπή Κεφαλαιαγοράς (HCMC)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

For all marketing requirement for UCITS, please refer to **Circular 55 UCITS authorized in another Member State intending to market units/shares in Greece** of the Hellenic Capital Market Commission, available at [HCMC's Circulars - HCMC](#)

- 1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;
Article 90 of L. 4099/2012.

Any UCITS authorized in another Member State intending to market units/shares in Greece must be previously notified to the HCMC by the competent authority of UCITS home member state.

Competent authorities of the UCITS home Member State shall transmit the complete documentation referred to in the first and the second subparagraph of Article 93(3) of Directive 2009/65/EC to the HCMC in case the UCITS intends to market its units/shares, by e-mail.

The complete documentation should contain the following:

1. The notification letter containing information about the proposed arrangements for marketing shares or units/shares in Greece, including details of each category of units/shares, where such is the case.
2. The latest version of the Key Investor Information Document (KIID), translated into Greek.
3. The latest version of the fund rules or instruments of incorporation, translated in Greek or English
4. The latest version of the prospectus, translated in Greek or English
5. The latest published annual report and any subsequent half-yearly report, translated in Greek or English.
6. The attestation from the supervisory authority.
7. Proof that the HCMC filing fee has been paid.

2) Verification of marketing communications by the authority;

3) Reporting obligations in relation to marketing;

Article 26 of Decision of the Board of Directors of HCMC 16/633/20.12.2012.

A UCITS must give written notice to the HCMC in the event of a change in the information regarding the notification file, before that change takes place. Any amendments should be addressed to the HCMC at the relevant for updated documents e-mail address: UCITSupdate@cmc.gov.gr.

4) Passporting rules;

Fees payable to HCMC

Articles 11 (3, 7) and 21 of the Ministerial Decision 0000532/2016 (Government Gazette B'999/11.4.2016).

UCITS authorized by the competent supervisory authority of another Member State, regarding their intention to market units/shares in Greece are subject to a set filing fee. The amount per compartment or per UCITS with no compartments is €1,000.00 plus a 2.4% duty stamp. The fee is payable on the day the notification application is filed with the HCMC.

UCITS of which units/shares are marketed in Greece on June 30 th of each year are subject to a set annual fee. The amount per compartment or per UCITS with no compartments is €1,000.00 plus a 2.4% duty stamp. The fee is payable in July of each year

Advertising

Articles 79, 89 of L. 4099/2012.

Article 46 of Decision of the Board of Directors of HCMC 15/633/20.12.2012.

A UCITS may be advertised in Greece provided that it complies with provisions of Article 79 relating to the advertising of UCITS [Article 89 (9)].

Regulatory provisions

Articles 7 and 89 of L. 4099/2012

Article 2 of Decision of the Board of Directors of HCMC 1/756/18.5.2016. The UCITS authorized in another Member State intending to market units/shares in Greece appoints a Paying Agent and a Distributor that will be responsible for the marketing. The appointment shall be evidenced by written contract.

The Paying Agent is a credit institution domiciled either in Greece or in another country with a branch located in Greece. The Paying Agent is responsible for fulfilling the monetary elements of the subscription and redemption orders and other transactions that are a necessary complement to the marketing activities.

According to Article 7 (4) of L. 4099/2012, Distributors may take the form of a credit institution, management company, insurance company or investment firm. The aforementioned entities are domiciled either in Greece or in another country with a branch located in Greece.

The Distributor reports to the HCMC the statistical data of the UCITS marketed in Greece, as it is displayed in Annex 2. In particular, the Distributor provides information regarding the Management Company, the UCITS, the Compartment, ISIN of the Share Class, the number of Greek unit-holders, the number of outstanding Units/Shares that Distributor's clients hold, their Net Asset Value (NAV) and the NAV publication link.

5) De-notification of arrangements made for marketing;

Article 3 of Decision of the Board of Directors of HCMC 1/756/18.05.2016.

In general, an active UCITS may request the deregistration from the HCMC list only when the number of the unit-holders is less than or equal to one hundred (100), as

this is calculated per compartment with all related share classes or per UCITS with no compartments with all related share classes in Greece. The Management Company is required to provide, free of charge, the unit-holders with the following options: a) to redeem their units/shares, or b) to exchange them with unit/shares of other UCITS or other compartments of the same UCITS marketed in Greece by the same Management Company.

The procedure above does not apply when a foreign UCITS ceases to exist because of a liquidation or restructuring. In these cases, the UCITS must submit an update of the draft announcement to the HCMC requesting its deregistration from HCMC's list of UCITS authorized in another Member State.

6) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

There are no other rules.

Marketing requirements for AIFs

1) Prior authorisation for marketing;

There is no requirement for prior authorisation for marketing of passported EU AIFs to professional investors in Greece. Marketing starts as long as the notification letter for the marketing of units or shares of an EU AIFs in Member States other than the home Member State of the AIFM under Article 32 of the AIFMD, is received by the HCMC. With regard to retail investors please see answer to question 4.

2) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

There are no additional national requirements further to those of the Directive (AIFMD)

3) Verification of marketing communications by the authority;

4) Marketing to retail investors or to professional investors;

Marketing to retail investors is regulated by article 41 of L. 4209/2013 (incorporating AIFMD into national legislation). According to such article:

“1. Only AIFMs authorized by the HCMC or AIFMs having a passport in Greece according to articles 1-53, may market units or shares of AIFs they manage to retail investors in Greece, provided that:

(a) the said AIFMs will market share/units of an AIF either directly or through credit institutions, investment firms or investment intermediaries;

(b) the AIF is authorized and supervised by the HCMC or by the competent authority of its home Member State;

(c) the marketing of units or shares of AIFs to retail investors is provided for in the regulation applicable to the AIF and in the AIF rules or instruments of incorporation

d) the amount of the investment per unit/share holder and per AIF/or per AIF investment compartment, if applicable, may not be less than one hundred thousand (100,000) euros;

(e) the AIFM shall collect from the potential unit/share holder information with regard to the knowledge, experience and risk he is willing to take by investing in a specific AIF in order to assess whether the AIF is suitable for the potential unit/share holder. If the AIFM

considers, on the basis of the information received, that the AIF in question is not suitable for the potential unit/share holder, it shall warn him accordingly. This warning may be provided in a standardized form. If the potential unit/share holder does not provide the requested information or if he provides insufficient information, the AIFM shall warn him that it is not possible to assess whether the AIF in question is appropriate for him. This warning may be provided in a standardized form. The same applies to existing AIF unit/share holders who wish to make new investments, if all or part of the already provided information has changed."

5) Reporting obligations in relation to marketing;
There are no such obligations on a national level.

6) Passporting rules;
Please note that as of the end of February 2021 the reception of the notification letter will activate an automatic reply providing information about financial obligations of the AIFM marketing AIFs in Greece as well as about the relevant national legislation concerning marketing to retail investors.

Fees payable to HCMC

Articles 7(7, 12) and 21 of the Ministerial Decision 0000532/2016 (Government Gazette B'999/11.4.2016) provide for a set filing fee that amounts to €1,000.00 plus a 2.4% duty stamp per AIF. Also AIFs of which units/shares are marketed in Greece on June 30 of each year, are subject to a set annual fee which amounts to €1,000.00 per AIF plus a 2.4% duty stamp.

7) Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);
According to article 92 L. 4099/2012 and Decision 21/530/2009 of the BoD of HCMC, distribution of third country AIFs is subject to prior authorization by the HCMC and is permitted only to professional investors.

8) Distribution of open-ended AIFs and of closed-ended AIFs;

There are not distinguished marketing rules with respect to open-ended AIFs versus closed-ended AIFs.

9) De-notification of arrangements made for marketing;
De-notification of EU AIFs is notified via a relevant letter together with information on the number of remaining investors in Greece.

10) Any other rules governing marketing of AIFs applicable within the jurisdiction of the NCA.
There are no other rules.

- ES - Comisión Nacional del Mercado de Valores (CNMV)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

The rules on the format and content of marketing communications are Orden EHA/717/2010 and Circular CNMV 2/2020. According to these rules, the marketing communications should be clear, balanced, impartial and non-misleading. It will use simple and easy-to-understand language and prevent the omission of relevant information or the inclusion of misleading information.

In addition, the information shall be consistent and may not contradict the information or warnings that entities are required to provide to customers in the marketing of UCITS. It should also refer to the existence of the prospectus, last annual report and KIID and indicate where these documents can be obtained. Relevant information or warnings about the UCITS will have a format and position that guarantees its relevance within the marketing material, not to be included as secondary information or in footnotes.

With regard to information on costs and performance of the UCITS, it shall expressly indicate the period of time to which it relates. It shall include the performance of the last five preceding years or of the entire marketing period if it is lower, in full periods of 12 months and shall be expressed in terms of returns.

Returns on periods of time less than twelve months or periods greater than the year may be provided if certain requirements are met. In the case of newly created UCITS, information on the performance of the current year may be provided.

Historical performance may not be the highlight of the communication and it should be noted prominently that past performance are not a reliable indicator of future returns.

More information about format and content of marketing communications (UCITS and AIF): [Disposición 14107 del BOE núm. 299 de 2020](#)

[Orden EHA/1717/2010, de 11 de junio, de regulación y control de la publicidad de servicios y productos de inversión. \(boe.es\)](#)

Please note that several Spanish laws, regulations and administrative provisions will undergo an amendment process to adapt to the cross-border marketing Directive and Regulation. In particular, Circular 2/2011 <http://www.cnmv.es/DocPortal/Legislacion/ModelosNormalizados/IIC/Circular211.pdf>

1. Marketing definition: Article 2 of Law 35/2003

2. Information required to be disclosed to investors:

-A marketing memorandum for subscribers in Spain

<http://www.cnmv.es/DocPortal/Legislacion/ModelosNormalizados/IIC/Marketingmemorandum.doc>

-KII shall be translated into Spanish.

3. Termination of marketing: Norma primera.3 e) of Circular 2/2011, plus a notification which includes a declaration that there are no investors in Spain.

4. Information to be included in Part B of the notification letter:

- The notifying UCITS must appoint a person to act on its behalf

- For those UCITS which have a legal form of “investment company”: Designation of a distributor (established in Spain) responsible for submitting the required information according to article 52 of the Spanish personal income tax regulation

- UCITS must appoint a person, domiciled in Spain, responsible for the payment to CNMV of any applicable fees

5. Updates and amendments to the documents: ucits.updates@cnmv.es

In relation to marketing material, we do not register it prior the commencement of marketing.

Marketing requirements for AIFs

We do not require the marketing material prior the commencement of marketing.

Regarding the format and content of marketing material is the same as that mentioned for UCITS in the previous section.

Please note that several Spanish laws, regulations and administrative provisions will undergo an amendment process to adapt to the cross-border marketing Directive and Regulation.

Marketing to professional investors with a passport of a EU AIF managed by an EU AIFM: Article 15 bis of Law 35/2003 on CIS or Article 79 of Law 22/2014 on private equity

Marketing of AIF to retail investors and marketing of:

- non-EU AIFs managed by an EU AIFM or
- AIFs managed by a non-EU AIFM

is subject to prior authorisation from the CNMV, in accordance with the regime established in Articles 15 ter, quater and 15 quinquies of Law 35/2003 on CIS or Articles 77, 78 and 79 of Law 22/2014 on private equity, which establish the requirements that must be accredited.

The CNMV may require a legal opinion from an independent expert to confirm compliance with all requirements and for the corresponding supervisor to confirm the equivalent treatment of Spanish CISs in the corresponding home country.

BOE.es - Documento consolidado BOE-A-2003-20331 Law 35/2003 on CIS

BOE.es - Documento consolidado BOE-A-2014-11714 Law 22/2014 on private equity

- FI - Finansssivalvonta (FIVA)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

1-3. According to EU regulation / No specific national regulation

<https://www.finanssivalvonta.fi/en/capital-markets/authorisations-registrations-and-notifications/fund-management-companies/>

4. Passporting rules according to EU regulation.

The fund rules of the investment fund, its prospectus and, where appropriate, its latest annual report and any subsequent half-year report translated in the official language or one of the official languages of the host country, a language approved by the competent authority of the host country, or a language customary in the sphere of international finance (English).

The Key Investor Information Document (KIID), translated into the official language or one of the official languages (Finnish/Swedish) or a language approved by the competent authority of the host country.

An attestation granted by FIN-FSA to the effect that the collective investment undertaking fulfils the conditions imposed by the UCITS Directive (2009/65/EC) (UCITS attestation).

The attestation referred to in paragraph 3 is prepared by the FIN-FSA and it is provided in English. The notification letter, the annex documents and any translations must be in an electronic format. The email message must list the annex documents, which must be in a commonly used format (pdf) that can be opened and printed. The maximum size of the email message is 19 MB.

The FIN-FSA charges a fee in accordance with its schedule of specific fees for processing a notification letter and the annexes and for submitting them to the competent authority of the host country. The UCITS attestation is also subject to a fee in accordance with the FIN-FSA's schedule of specific fees.

5. Before terminating the marketing of units, the fund management company must inform the competent authority of its decision. The announcement must also be published in a newspaper when marketing of a UCITS is terminated and it has Finnish investors. Newspaper publication requirement does not apply when marketing of a sub-fund or a share class is terminated. The announcement is to provide information on

- the manner in which payments will be made to unit holders in the future
- how and where the redemption claims concerning the units are to be presented and
- how and where the documents and information which the fund management company is required to publish are kept available.

6. General rules on marketing to consumers is stipulated in the Consumer Protection Act ((38/1978)

https://www.finlex.fi/en/laki/kaannokset/1978/en19780038_20050029.pdf

The Securities Markets Act further regulates the marketing of securities (including UCITS). (only available in Finnish).

The FIN-FSA has further issued guidelines and recommendation regarding marketing of investment services and investment products (15/2013) covering the marketing of UCITS. (only available in Finnish)

Marketing requirements for AIFs

1. In accordance with the Finnish Act on Alternative Investment Fund Managers (AIFM Act, 162/2014), the operations of a company managing AIFs can only be pursued by entities that have been granted authorisation. A written application is submitted to the Financial Supervisory Authority (FIN-FSA), with supporting documents attached. Application for authorisation must be made either in Finnish or Swedish.

<https://www.finanssivalvonta.fi/en/capital-markets/authorisations-registrations-and-notifications/alternative-investment-fund-managers/>

2-3. According to EU regulation / No specific national regulation

4. As a rule, AIFs are only marketed to professional customers. If an AIF is marketed to non-professional customers, the AIFM must have an authorisation as referred to in the Act on Alternative Investment Fund Managers or a similar authorisation granted in another EEA state. Further a KIID must be provided if the AIF is marketed to non-professional customers. On special grounds and on application, the FIN-FSA may grant a registered AIFM the right to market an AIF that it manages to non-professional customers in Finland.

If EEA AIFMs intend to market AIFs under their management also to non-professional investors in Finland, they must also observe the provisions of chapter 13 of the AIFM Act in their marketing. In this case the notification is submitted to FIN-FSA directly. The marketing of an AIF may begin when the manager has received an announcement to that effect from FIN-FSA.

5. The Securities Markets Act further regulates the marketing of securities (including AIFs). (only available in Finnish). Also general rules on marketing to consumers is stipulated in the Consumer Protection Act ((38/1978) https://www.finlex.fi/en/laki/kaannokset/1978/en19780038_20050029.pdf)

6. According to EU regulation / No specific national regulation

7. An authorised EEA or Non-EEA AIFM may market units in an AIF that has been established in a third country to professional investors in Finland, after submitting a written notification to the FIN-FSA. In the marketing of AIFs according to AIFM directive article 36, the manager of AIFs will comply with the provisions of chapter 12 of the AIFM Act. When marketing AIFs according to AIFM directive article 42 the third-country AIFM complies with the provisions laid down in chapter 7, section 3, chapter 11, sections 1 and 2, chapter 12, section 2-8, chapter 17, section 3 of the AIFM Act with respect to each AIF under its management, and, with respect to each AIF referred to in chapter 1, section 8, subsection 1, the provisions of chapter 18;

8. AIFMs authorised in Finland may market AIFs to professional investors only in accordance with the notification procedure provided for in chapter 12 of the AIFM Act. Marketing to non-professional investors in Finland is provided for in chapter 13 of the AIFM Act. The notification should be made either in Finnish or in Swedish.

9. According to EU regulation / No specific national regulation.

10. The FIN-FSA charges a fee in accordance with its schedule of specific fees for processing a notification letter and the annexes.

- FR – Autorité des marchés financiers (AMF)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

The Autorité des Marchés Financiers (AMF) published a Catalogue of French statutory and regulatory measures applicable to the marketing in France of shares or units of **foreign UCITS** (“the catalogue”, available [here](#)) which sets out France’s main financial law provisions on this topic stemming from the Monetary and Financial Code (MFC), the General Regulation (GR) of the AMF, and the AMF’s instructions, positions and recommendations.

Documents to be notified prior the commencement of marketing

The above-mentioned Catalogue tackles the information and documents to be notified to the authority prior to the commencement of marketing, in accordance with article 93 of the UCITS Directive. No information other than the provisions of Annex 1 of European Regulation 584/2010 of 1 July 2010 is required, apart from proof of payment of the AMF’s fee in accordance with Article L. 621-5-3 of the MFC.

Format and content of marketing materials

Marketing documents are subject to some formal requirements of the provisions listed in page 6 of the Catalogue. In particular, they must be clearly identifiable, fair, clear and not misleading and mention the existence of the prospectus and the availability of the KIID.

Details on the content of marketing documents are available [here](#).

Verification of marketing communications

AMF has a risk-based approach combining non-systematic ex-ante review and sample-based ex-post review. For ex-ante review, the AMF primarily focuses innovative strategies or strategies identified as bearing a high risk of inappropriate marketing (more details available [here](#)).

Reporting obligations in relation to marketing

Foreign UCITS marketed in France, must send to the AMF the information referred to in page 5 of the Catalogue: i.e. the annual and half-yearly reports, changes affecting the fund and amendments to its KIID and prospectus, and post-filing changes to the UCITS that will affect its marketing in France.

Rules applying to the solicitation and information of investors in France and the establishment of a relationship with them are the same for all foreign or French UCITS and are summarised in pages 5 to 7 of the Catalogue.

Passporting rules

The Catalogue sums up the notification procedure for marketing foreign UCITS in France according to the UCITS Directive provisions. It also recalls that a foreign UCITS marketed in France has to appoint a centralising correspondent, pay a 2,000 euros annual fee to the AMF.

De-notification

A formal de-notification procedure does not exist yet. The AMF settles on a case-by-case basis, requiring evidence that the UCITS no longer has any investors who subscribed through an act of marketing in France.

Other rules governing marketing of UCITS

Remuneration of UCITS distributors - page 9 of the catalogue

Rebates of management fees or subscription/redemption fees to the benefit of funds of funds managers or distributors are prohibited or regulated in accordance with provisions of the RG-AMF (Articles 411-129-1, 411-130 and 411-132).

Specific provisions for some collective schemes - page 9 to 10 of the catalogue

Specific provisions on marketing are set out for complex collective investment schemes, collective investment schemes offering a guarantee, the admission to trading on a regulated market of shares or units in a UCITS.

Specific provisions relating to information on sustainability-related aspects

AMF Position Recommendation – DOC 2020-03 sets out requirements applicable to the provision of information on sustainability-related aspects in the marketing documents. The main requirements, which are detailed in the document, are:

- The information provided regarding the consideration of non-financial criteria must be proportionate to the objective and effective impact of the consideration of non-financial criteria in the management of collective investment products.
- Non-financial characteristics that are mentioned in the marketing material must be mentioned in the regulatory document of the fund.
- Foreign UCITS not complying with the requirements in the legal documentation must include a warning in their marketing material (see section 6 of the document)

Marketing requirements for AIFs

Although the AMF has not yet published a Catalogue for AIFs as for UCITS, the marketing of foreign AIFs in France follows similar rules. A summary of French laws, regulations and administrative provisions governing AIFs marketing requirements in France is provided below.

Prior authorisation for marketing

The notification procedure for marketing foreign AIFs in France is required by Article L. 214-24-1 of the MFC in line with AIFMD provisions for the marketing of funds to professional clients and article 421-13 of the AMF GR for the authorization for marketing

to retail clients) and described in AMF Instruction [DOC – 2014-03](#) and Position [DOC – 2014-04](#).

[Article 421-27 of the AMF GR](#) requires AIFs established in an EU Member State other than France to name a centralising correspondent when they are marketed to non-professional investors. This provision should no longer be mandatory after the publication and entry into force of national provision transposing CBDF Directive.

Format and content of marketing material

The marketing regime described for UCITS also applies to AIFs including the rules on content and dissemination of advertisements that must be clearly identifiable as advertisements, be fair, clear and not misleading and mention the existence of the prospectus and the availability of the KIID when it exists.

Regardless of the attachments required within the framework of the passport marketing procedure, in accordance with the AIFMD, proof of payment of the AMF's fee must be transmitted to the AMF for marketing in France.

An AMF guide for writing marketing material is available: [hyperlink](#) (same as for UCITS).

[Article 421-34 of the AMF GR](#) and article 24 of the AMF Instruction – DOC 2014-03 describe the rules regarding the information available to the public in France.

Verification of marketing communications by the authority

Same provisions as for UCITS.

Marketing to retail investors or to professional investors

As stated above (section Prior authorisation for marketing), the procedure for marketing AIFs to retail or professional investors is described in AMF Instruction DOC – 2014-04. A schematic overview of the marketing in France of units or shares in AIFs to professional and retail clients is provided in pages 12 and 15.

Reporting obligations in relation to marketing

Several information about AIFs shall be provided to the AMF when marketed in France such as the annual report ([Articles 421-36 and 421-37 of the AMF GR](#)). In the event of a material change to any of the particulars transmitted in the marketing authorisation application, the management company shall give written notice of that change to the AMF ([Article 421-3 of the AMF GR](#) and articles 6, 15 and 20 of the AMF Instruction - DOC 2014-03).

Passporting rules

AIFs marketed to professional investor follow the rules of the AIFM directive and those marketed to retail investors are subject to AMF authorisation.

Foreign AIFs are subject to a 2,000 euros annual fee payable to AMF.

Distribution of funds established in a non-EU member State under the national private placement regime

When the AIF is established in a third country, its marketing regime in France to professional clients is (Point 4.2 of the AMF Position DOC 2014-04):

- Compliance with the three conditions referred to in Article D. 214-32 of the MFC;
- The asset management company transmits a prior authorisation application file to the AMF;
- The AMF issues its decision within two months (Article 19 of the AMF Instruction DOC 2014-03).

When the AIF is established in a third country, its marketing regime in France to retail clients is described at Point 6.2. of the AMF Position DOC 2014-04.

Distribution of open-ended AIFs and of closed-ended AIFs

There is no difference between distribution of open-ended and closed-ended AIFs in France.

De-notification

Same provisions as for UCITS.

Other rules governing marketing of AIFs.

Specific provisions for some collective schemes

The AMF Positions summarized in the UCITS Catalogue apply to foreign AIFs.

Article D. 214-32-31 of the MFC and articles 421-27-1 to 421-27-2 of the AMF GR tackle the admission to trading on a regulated market of shares or units of some AIFs.

The distributor must ensure that the investor fulfils the subscription requirements (articles 421-26, II and 421-24 of the AMF GR).

The information of investors after they have made an investment in foreign AIFs in France

Some changes occurring during the life of an AIF must be brought to the attention of shareholders or unitholders (article 24 of the AMF Instruction DOC 2014-03).

Specific provisions relating to information on sustainability-related aspects

The same provisions applicable to UCITS apply to AIFs authorized for marketing to retail investors.

- HR - Hrvatska agencija za nadzor financijskih usluga (HANFA)

Overview of national rules governing marketing requirements_HANFA

Marketing requirements for UCITS

- 1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

In accordance with Article 156. of the Act on Open-Ended Investment Funds with Public Offering (Official Gazette no 44/16, 126/19; hereinafter: UCITS Act), advertising of UCITS includes all marketing materials in the print or electronic media, intended for investors or potential investors in UCITS, the purpose of which is raising capital from the public (promotional material) and it should be clearly identifiable as such. In the Republic of Croatia, it is permitted to advertise those UCITS funds the units of which may be offered within the territory of the Republic of Croatia. UCITS management company is responsible for the accuracy of the marketing materials and it has to ensure that all information included in marketing communications is fair, clear and not misleading. Furthermore, the management company must ensure that the marketing materials do not contradict the information disclosed in prospectus of KIID.

The non-exhaustive list of marketing materials and promotional information about UCITS and their management company made available by print or electronic media is specified in Article 158 of the UCITS Act and includes:

- brochures,
- advertisements in newspapers, magazines, on the radio and television and on the Internet,
- communications sent by regular or electronic mail, facsimile or by any other means,
- telemarketing, which includes use of a specialised provider of telemarketing services on the basis of an agreement concluded with a management company,
- letters, telephone communication or personal contacts,
- means of offering promotion with the characteristics of financial promotion,
- investment or other publications offering impersonal recommendations concerning offering, holding or redemption of units,
- presentations to a large group of people,
- other promotional methods or means which entities from the Republic of Croatia may read, see or receive.

Any mentioning of a name, yield, manner of investing in a UCITS or mentioning financial products related to a UCITS in the case of advertising carried out by a financial group or a person related in any other way to the management company with its registered office in a Member State or with its branch, irrespective of the

manner and media used to distribute the marketing material to the public is also considered to be a marketing material.

Further requirements for the marketing materials are stipulated in Article 160 of the UCITS Act which states that when publishing marketing materials about UCITS funds and their management companies:

1. there shall be no disguising or misrepresentation of its promotional purpose;
2. a complete, accurate and truthful description shall be provided of the investment fund being promoted and of the imposed obligations and any associated risks;
3. the company shall make sure that the facts and statements given therein are integral, clear, accurate, true and unambiguous on the date when they are presented and that they are not misleading, whereby all statements must be substantiated;
4. it shall be ensured that each given opinion is accurate, complete and unambiguous and that approval of the management company is obtained for any further use thereof;
5. it shall be ensured that any use of comparisons is based on facts are accurate and up-to date or that their key assumptions are clearly stated, and that any such comparisons is presented in a fair and balanced way which is not misleading and which includes all factors important for such comparison;
6. no false indicators shall be provided, in particular as regards skill and competence of the responsible persons, resources and the scope of activities of investment funds and the management company and as regards the rights arising from the fact that somebody is a unit-holder in an investment fund;
7. it shall be ensured that the design, the contents or the form of promotional materials do not distort, disguise or diminish the significance of any statement, warning or any other information which must be disclosed in accordance with the UCITS Act or any regulation adopted on the basis of that Act;
8. it shall be ensured that no mention is made of any approval granted by a competent authority without approval of Hanfa or other competent authority and no third parties should be led to a conclusion that approval granted by Hanfa has any meaning other than the meaning of an attestation providing that the concerned company has satisfied the requirements for acquisition of the legal status indicated in the approval;
9. no information shall be omitted if absence of such information would result in the marketing material being inaccurate, untruthful, vague or misleading.

Also in addition, Article 161 - A presentation of an investment fund's operating results:

1. shall not be subject to any warranty, guarantee or promise;
2. shall not be prepared in the form of estimate of any kind;
3. shall reflect the investment fund's operating results at least from the date of its establishment to the date of release of the presentation or its performance in the last five years, whichever of the two periods is shorter;
4. shall contain up-to-date information available at the time of presentation of the investment fund's operating results;
5. shall be drawn up on a consistent basis in terms of the periods covered, with inclusion or exclusion of specific factors which have impact on such results;
6. shall not be given in a manner that might be construed as a forecast of the possible future operating results of the investment fund concerned;

The following communications are exempted from application of the provisions of the UCITS Act on the conditions for advertising of investment funds:

1. communications between a management company and any other person in possession of a permission to provide financial services and perform financial activities in the Republic of Croatia;
2. short, exclusively factual announcements on the radio, television, on the Internet, in newspapers, magazines or electronic media, which relate to an investment fund and/or management company, and indications as to basic contact information;
3. letters and written communications individually addressed to third parties about their respective requests which do not fall under mass-mailing advertising;
4. annual management reports and financial reports of an investment fund or its management company.

The promotion/marketing material must be written in Croatian language.
There is no obligation for the management company to notify Hanfa on marketing communication prior to the commencement of marketing.

- 2) Verification of marketing communications by the authority;
There is no legal requirement for ex-ante verification of marketing communications by Hanfa. However, as part of its supervisory activities, Hanfa

supervise the management company's marketing communication to check its compliance with the legal requirements that we mentioned.

- 3) Reporting obligations in relation to marketing;
There are no legal requirements for management company to make and send reports to Hanfa in relation to marketing communication.
- 4) Passporting rules;
Regarding the passporting rules, the relevant provisions of UCITS directive and Commission Regulation no. 584/2010 are implemented in UCITS Act. Management company from other Member State must submit the notification letter with its annexes concerning the commencement of marketing in the Republic of Croatia to the competent authority of UCITS home Member State. The notification letter must be prepared in accordance with the standard model prescribed by Commission Regulation (EU) No 584/2010 in the English language and sent to the designated e-mail address published on the website of the competent authority of the UCITS home Member State.

The content of Part A and Part C of Annex I to the Commission Regulation (EU) No 584/2010 is provided as a standard text and there is no Croatian regulation stipulating that content in any other manner, whereas the additional content of Part B of Annex I to the mentioned Regulation is prescribed separately and provides as follows under Notification procedure, point 1., 2. And 3. :

<https://www.hanfa.hr/investment-funds/marketing-of-ucits-in-the-republic-of-croatia/>.

The abovementioned notification letter must be accompanied by the following documents as annexes:

- fund rules, its prospectus, latest annual report and where appropriate, any subsequent half-yearly reports. The documents submitted must be translated into Croatian or English.
- key investor information document (KIID) in Croatian.
- an attestation granted by the competent authority that the UCITS fulfils the conditions imposed by the UCITS Directive (2009/65/EC) (so-called UCITS attestation). The attestation must be submitted in the English language.

Competent authority of the UCITS home Member State shall forward notification letter and its annexes to Hanfa in accordance with the rules set out in the Commission Regulation (EU) No 584/2010.

Management company may commence marketing of units of UCITS established in another Member State on the territory of the Republic of Croatia as of the date when the competent authority of UCITS home Member State informs management company that the documents referred to above have been forwarded to Hanfa.

Management company must notify Hanfa when it starts marketing activity in the Republic of Croatia without delay.

With regard to marketing materials, management companies from other MS that market the units or shares of UCITS they manage within the territory of the Republic of Croatia, must comply with the relevant provision of the UCITS Act regarding the requirements for marketing communication.

- 5) De-notification of arrangements made for marketing;
Currently, there are no legal requirements for de-notification of arrangements made for marketing in Croatia. However, in practise, it is allowed for management companies from other MS to de-notify arrangements made for marketing in respect of which it has made a notification in accordance with Article 93. of the UCITS directive.

For the sake of clarity, Croatia is currently in the process of implementing CBFDD directive into UCITS Act, where all requirements for de-notifican will be prescribed.

- 6) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.
More information can be found on link: <https://www.hanfa.hr/investment-funds/marketing-of-ucits-in-the-republic-of-croatia/#section1>.

Marketing requirements for AIFs

- 1) Prior authorisation for marketing;
There is no legal requirement for prior authorisation for marketing communication.
- 2) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

Accordingly to Article 144 paragraph 1 of the Alternative Investment Funds Act (Official Gazette 21/18, 126/19; hereinafter: AIF Act) any promotional/marketing material on printed or electronic media which is intended for the investors or potential investors in AIFs, the purpose of which is to collect funds (promotional material), must be clearly identifiable as such. In the Republic of Croatia, it is permitted to advertise those AIFs the units or shares of which may be offered within the territory of the Republic of Croatia. AIFM is responsible for the accuracy of the marketing materials and it has to ensure that all information included in marketing communications is fair, clear and not misleading. Furthermore, the AIFM must ensure that the marketing materials do not contradict the information disclosed in the AIF rules.

There is no legal requirement for AIFM to notify Hanfa on marketing communication prior to the commencement of marketing.

3) Verification of marketing communications by the authority

There is no legal requirement on ex-ante verification of marketing communications by Hanfa. However, as part of its supervisory activities, Hanfa supervise the AIFM's marketing communication to check its compliance with the legal requirements that we mentioned.

4) Marketing to retail investors or to professional investors;

A Croatian or EU AIFM wishing to market units of AIFs to retail investors in the Republic of Croatia must acquire prior authorisation by Hanfa. Hanfa shall establish, on a case-by-case basis, whether the relevant AIF may be considered as the type of AIF which may be marketed to retail investors in the Republic of Croatia. Hanfa has issued an Ordinance on issuing authorisation to offer units in AIFs to retail investors in the Republic of Croatia (Official Gazette 105/13 and 41/17), which proscribes the conditions for granting the authorization.

Regarding the requirements for marketing communication for AIFs that are marketed to retail investors, AIFM must comply with the same requirement prescribed for UCITS management companies in UCITS Act.

5) Reporting obligations in relation to marketing;

There are no legal requirements for AIFM to make and send reports to Hanfa in relation to marketing communication.

6) Passporting rules;

EU AIFM wishing to market units of AIFs to retail investors in the Republic of Croatia needs to acquire prior authorisation from Hanfa, in accordance with Article 151 of the AIF act. As previously stated, Hanfa shall establish, on a case-by-case basis, whether the relevant AIF may be considered as the type of AIF which may be marketed to retail investors in the Republic of Croatia, according to the conditions laid down in Ordinance on issuing authorisation to offer units in AIFs to retail investors in the Republic of Croatia (Official Gazette 105/13 and 41/17).

If EU AIFM wishes to market an EU AIF to professional investors in the Republic of Croatia under the AIFMD marketing passport regime, it is necessary to appoint a paying agent in Croatia. Payment of the units of an AIF established in another Member State and marketed on the territory of the Republic of Croatia is possible through one or several banks established within the Republic of Croatia and holding an authorisation of the Croatian National Bank to provide bank services, or subsidiaries of the banks from another Member States or third countries established within the Republic of Croatia in accordance with the banking regulations. Paying Agent can also be from the EU (a bank from another EU Member State that provides services in Croatia on a cross-border basis).

7) Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);

Articles 36 and 42 of the AIFMD which regulate the national private placement regime are not implemented in Croatian AIF Act, therefore it is not possible for authorised EU AIFMs to market the units of AIFs from the third country they manage without a passport in Croatia or for AIFMs from third countries to market units of funds they manage without a passport in Croatia.

8) Distribution of open-ended AIFs and of closed-ended AIFs;

Both open-ended and closed-ended AIFs can be distributed to professional investor in Croatia, but to retail investors only open-ended AIFs with public offering that fulfils the requirement from the Ordinance on issuing authorisation to offer units in AIFs to retail investors in the Republic of Croatia can be distributed.

9) De-notification of arrangements made for marketing;

Currently, there are no legal requirements for de-notification of arrangements made for marketing in Croatia. However, in practise, it is allowed for AIFMs from other MS to de-notify arrangements made for marketing in respect of which it has made a notification in accordance with Article 32. of the AIFMD.

For the sake of clarity, Croatia is currently in the process of implementing CBFD directive into AIF Act, where all requirements for de-notifican will be prescribed.

10) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

More information can be found on link: <https://www.hanfa.hr/investment-funds/marketing-of-ucits-in-the-republic-of-croatia/#section1> under the section Cross-border marketing FAQ.

- HU – Magyar Nemzeti Bank (MNB)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

[1] Commercial communication shall mean any form of communication - except for prospectuses, management policies and public notices - made for the purposes of informing investors, and directly connected to information conveyed in advertising or by some other means in connection with the public offering of collective investment instruments. All marketing communications to investors shall be fair, clear and not misleading, and shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information. Marketing communications shall indicate that a prospectus exists and that the key investor information relating to the marketing and distribution of investment units is available. It shall specify where the prospectus and such marketing communications may be obtained by investors, and in which language they may obtain them in the case of collective investment trusts established in other EEA Member States. The Authority may ban the publication of a marketing communications if it contains any information that is in contrast with the draft version of the prospectus submitted and approved for publication, as well as any information that is misleading, or that falls within the scope of the Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices.

Following the notification procedure performed by the UCITS home Member State covering the adequacy of arrangements made for marketing, the UCITS shall send to the Authority before the commencement of marketing operations the distribution agreement between the UCITS and the distributor, where marketing is carried out by a contractor other than the investment fund management company. If an intermediary established in Hungary is also involved, the contract with such intermediary shall also be submitted. In

the absence of a distributor established in Hungary, an intermediary established in Hungary must be involved.

Further specific rules applicable as described in the attached hyperlink below.

2) There is no prior verification by the CBH.

3) In the event of a change in the information regarding the arrangements made for marketing communicated in the notification letter, or a change regarding share classes to be marketed, the UCITS shall give written notice thereof to CBH before implementing the change. The UCITS shall notify any amendments to the fund rules or its instruments of incorporation, its prospectus and, where appropriate, its latest annual report, subsequent half-yearly report and the key investor information to CBH and shall indicate where those documents can be obtained electronically.

4) As it is fully described in Article 93 of DIRECTIVE 2009/65/EC, Article 4-5 of Regulation 584/2010/EU.

5) In the event of a change in the information regarding the arrangements made for marketing, or a change regarding share classes to be marketed, the UCITS shall give written notice thereof to the CBH before implementing the change. Taking into consideration that CBH registers securities series, the notification of termination marketing in Hungary shall be performed by series.

6) Detailed information in the publication regarding the requirements of **Article 30 of Directive 2010/42/EU**: [national-rules-for-marketing-of-units-of-ucits-units-1.pdf \(mnb.hu\)](#).]

Marketing requirements for AIFs

[1] EU AIFM may market units or shares without prior authorisation for marketing of an EU AIF that it manages to professional investors in another Member State than the home Member State of the AIFM as soon as the conditions laid down in Article 32 of AIFMD are met. Regarding Section 120(6) of [Act XVI of 2014](#) CBH shall authorize the marketing in Hungary of collective investment instruments of an EU AIF authorized in another EEA Member State and managed by an AIFM to retail investors as well, if the following conditions are met:

a) the EU AIF is considered by the Authority equivalent to the type of AIF established in Hungary, that may be offered to retail investors;

b) the EU AIF complies with the provisions of Chapter XVII in marketing its collective investment instruments.

2) Commercial communication shall mean any form of communication - except for prospectuses, management policies and public notices - made for the purposes of informing investors, and directly connected to information conveyed in advertising or by some other means in connection with the public offering of collective investment instruments. All marketing communications to investors shall be fair, clear and not

misleading, and shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information. Marketing communications shall indicate that a prospectus exists and that the key investor information relating to the marketing and distribution of investment units is available. It shall specify where the prospectus and such marketing communications may be obtained by investors, and in which language they may obtain them in the case of collective investment trusts established in other EEA Member States. The Authority may ban the publication of a marketing communications if it contains any information that is in contrast with the draft version of the prospectus submitted and approved for publication, as well as any information that is misleading, or that falls within the scope of the Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices.

For marketing to professional investors there is no information and documents to be notified to CBH prior to the commencement of marketing except those submitted during the passport.

3) There is no prior verification by the CBH.

4) See previous points

5) N/A

6) As it is described in Article 32 of AIFMD

7) An AIFM shall be allowed to market collective investment instruments of non-EU AIFs it manages to professional investors, but there is no opportunity to market AIF managed by a non-AIFM (third country) fund manager.

8) Distribution of open-ended AIFs and of closed-ended AIFs;

Public closed-ended AIFs fall within the scope of Prospectus regulation. For the open-ended AIFs and for the private closed-ended AIFs the abovementioned rules are applicable.

9) N/A

10) N/A

- IE – Central Bank of Ireland

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

Schedule 6 of the of the [Central Bank UCITS Regulations](#) sets out advertising standards for certain UCITS.

Other relevant provisions from the Central Bank UCITS Regulations include:

Regulation 54(5):

(5) Without prejudice to Regulation 97, a responsible person shall comply with the advertising standards set out in Schedule 6 where the relevant UCITS is:

- a. authorised in a Member State other than the State and is marketing its units in the State, or
- b. authorised in the State and is marketing its units in the State or in a state that does not have any statutory regulation of marketing.

Regulation 97(2):

(2) The responsible person of a UCITS that is authorised in another Member State and which markets its units in the State, shall ensure that the prospectus of the relevant UCITS provides the following information for Irish investors:

- a. details of the facilities agent and of the facilities that are being maintained;
- b. relevant provisions of Irish tax laws.
- c. Details of any exemptions from rules or requirements governing arrangements made for marketing applicable in that Member State for certain UCITS , certain share classes of UCITS or certain categories of investors:
- d. Requirements for any reporting or transmission of information to the Central Bank and the procedure for lodging updated versions of required documents:

Regulation 97:

(1) A responsible person of a UCITS that is authorised in another Member State and which proposes to market its units in the State shall provide to the Bank written confirmation from the relevant facilities agent that the facilities agent has agreed to act for the UCITS.

A facilities agent should have all of the documents which a UCITS is required to provide to investors available for Irish resident investors. The agent should also provide information to investors on how a redemption request can be made and how redemption proceeds will be paid. A facilities agent is not required to receive and transmit the redemption order to the UCITS or the redemption proceeds to the investor.

The name of the UCITS and the name and address of the facilities agent will be placed on a list of UCITS marketing in Ireland, which will be made available to the public on request.

Conditions for the termination of marketing of units of UCITS in Ireland:

Regulation 97:

(3) Where:

- o a UCITS that is authorised in another Member State and which markets its units in the State ceases such marketing to investors in the State, or
- o an umbrella UCITS ceases marketing any sub-fund to investors in the State,

the responsible person of the relevant UCITS or umbrella UCITS shall, in writing, inform the Bank promptly of that fact.

2. Contents of the information which must be included in Part B of the notification letter, is set out [here](#):

Part B of the notification letter sets out additional information requirements with regard to the marketing of UCITS in Ireland.

A full summary of UCITS Inward Marketing Requirements is available [here](#) and information on the authorisation process for UCITS is available [here](#).

Marketing requirements for AIFs

National rules for AIFs, including those related to marketing requirements, are set out in the Central Bank of Ireland's [AIF Rulebook](#).

Chapter 1, Part III of the AIF Rulebook sets out:

1. Where the AIF has received approval from the Central Bank to market its units in Ireland to retail investors, it shall include the following statement, in a prominent position, in each copy of its prospectus and in any marketing material distributed in Ireland for the purposes of promoting the AIF to retail investors

“While this AIF has been approved to market its units to the public in Ireland by the Central Bank, the scheme is not supervised or authorised in Ireland. It is incorporated/established in _____ and is supervised by _____.”

2. The AIF shall include the following information for Irish unitholders in its prospectus:

- (a) details of the facilities agent and the facilities maintained;
- (b) provisions of Irish tax laws, if applicable; and
- (c) details of the places where issue and repurchase prices can be obtained or are published.

3. Where the AIF is constituted as an umbrella fund, it shall only market sub-funds for which it has received specific approval from the Central Bank.

4. The AIF, in marketing its units in Ireland to retail investors, shall comply with the Consumer Protection Code of the Central Bank.

5. The AIF shall submit to the Central Bank a copy of its annual and half-yearly reports, as soon as they are available.

A list of the information/documentation an AIF situated in another jurisdiction which proposes to market its units in Ireland to retail investors must submit to the Central Bank of Ireland is available [here](#). Information on the authorisation process for AIFs is available [here](#).

- IS - Fjármálaeftirlitið (FME)

Marketing requirements for UCITS

- 1) Only those that stem from the UCITS directive. For foreign UCITS funds that are marketed in Iceland, their KIID needs to be available in Icelandic.
- 2) There is no verification on marketing communications by the authority.
- 3) Only those that stem from the UCITS directive. The Icelandic NCA receives updated prospectuses and KIIDs from funds on a yearly basis.
- 4) Only those that stem from the UCITS directive.
- 5) De-notifications are only accepted if there are no domestic investors left in the fund.
- 6) UCITS market communications must fulfil conditions set out in Article 28 of Regulation No. 995/2007 on investor protection and the business conduct of financial undertakings as well as Rules No. 1001/2018 on good business practices and customs.

Marketing requirements for AIFs

The AIFMD was implemented in Iceland with Act on alternative investment fund managers, No 45/2020 (Icelandic AIFM law):
<https://www.althingi.is/lagas/nuna/2020045.html>

Rules on marketing within the EEA are in chapter VIII of Icelandic AIFM law.

- 1) AIFMD rules apply for EU AIFs to professional investors. Prior authorisation is required for non-EU AIFs, EU AIFs marketed by registered AIFMs and EU AIFs marketed to retail investors.
- 2) AIFMD rules apply except for EU AIFs that wish to market to retail investors. In those circumstances the same rules apply as for UCITS funds in Iceland.
- 3) There is no verification of marketing communication by the authority.
- 4) EU-AIFs can, pending prior approval, market to retail investors if they fulfil the conditions of Article 65 and the Icelandic AIFM law.
- 5) AIFMD reporting obligations, although EU AIFs marketing to retail investors are subject to stricter reporting requirements.
- 6) AIFMD passporting rules apply. Passporting rules are in Articles 57-61 of Icelandic AIFM law. They regard marketing of EEA funds to and from Iceland cross-border within the EEA.
- 7) Subject to prior authorisation. Article No 63 regards marketing by EEA managers of funds outside of the EEA in Iceland. Prior notification and acceptance required by the Central Bank of Iceland. https://www.fme.is/media/utgefid-efni/SI_5.1.4_AIFMD-Notifiation-to-Iceland.pdf.
- 8) AIFMD rules apply.
- 9) De-notifications are only accepted if there are no domestic investors left in the fund.

- IT – Commissione Nazionale per le Società et la Borsa (CONSOB)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

A UCITS fund, in order to market in Italy its units or shares, shall comply with the provisions laid down in the CONSOB Issuers's Regulation n. 11971 (henceforth IR). Specifically:

- artt. 15-bis-19 define the obligations to be complied by Italian UCITS;
- artt. 19-bis–22 define the obligations to be complied by an EU UCITS (domiciled in a MS other than Italy) intending to market its units or shares in Italy.

The English version of the Issuer regulation is published on the CONSOB website.

Before starting the marketing:

- Speaking about **EU UCITS**, the notification procedure laid down in the art. 19-bis IR shall be carried out, transmitting to CONSOB the relevant documentation through a dedicated e-mail address: Ucits-notification@consob.it;
- The offering documents (Prospectus, KIID, subscription form) of **Italian and EU UCITS**, marketing their units/shares in Italy to retail investors, shall be published filing them through a dedicated system called DEPROF (artt. 16 and 20 IR); the operational instructions of DEPROF are published on the CONSOB website.

The **updated versions** (art. 18 and 19-ter IR) of the documentation initially transmitted shall be always filed with CONSOB. Updates regarding UCITS marketed to retail investors shall be sent using the above mentioned DEPROF system, whereas for EU funds targeted to professional investors updates shall be sent to CONSOB to the following e-mail: ucits-update@consob.it.

In case of EU UCITS marketed to **retail investors**, the UCITS shall provide investors with the **facilities** envisaged in art. 19-quarter IR.

In view of the **listing on a secondary market**, the EU UCITS shall provide a listing document pursuant to the procedure laid down in the art. 60 of IR.

UCITS marketing in Italy their units/share shall transmit to CONSOB the **periodic reporting** envisaged by:

- CONSOB Resolution n. 17297 (database Teleraccolta);
- CONSOB Communication n. 12094970 as of 5 december 2012 (Contributi database).

Login and access password for both systems are assigned and communicated by CONSOB immediately after it has received and successfully processed the notification pursuant to art. 19-bis IR, or in case of Italian ManCo, when the authorization process has been completed.

Pursuant to art. 101 of Italian Financial Consolidated Act (TUF), UCITS carrying out in Italy **advertisement campaign** targeted to retail investors shall transmit to CONSOB the documentation relating such campaign at the time of advertising (advertisement activity prior to the prospectus publication is forbidden). The advertisement communication shall comply with art. 34-octies and art. 34-novies of IR and with CONSOB Communication n. DIN/1031371, of the 26th april 2001 (concerning open-ended funds).

When UCITS intends to **cease marketing**, such information shall be transmitted, as far as retail UCITS are concerned, through DEPROF database and as far as UCITS marketed to professional investors with an ad hoc message to be sent to ucits-update@consob.it.

Marketing requirements for AIFs

The marketing of AIFs in Italy is regulated by the art. 43 of Italian Financial Consolidated Act (TUF) in case of **reserved AIFs** (AIFs marketed to professional investors and other investors identified by art. 14 of DM n. 30/2015) and the art. 44 of TUF in case of **AIFs marketed to retail investors**; both provisions are further detailed in artt. 27-28-*novies* of CONSOB Issuers Regulation (IR).

Specifically, **before starting the marketing**, the notification procedure laid down in the art. 28-bis (for reserved AIFs managed by an Italian AIFM) or art. 28-quarter (for reserved AIFs managed by an EU AIFM) or art. 28-quinquies (for Italian closed-end retail AIF) or art. 28-sexies (for Italian open-end retail AIF) or art. 28-septies (for Italian retail AIF managed by an EU AIFM) or art. 28-octies (for EU retail AIF managed by an Italian AIFM) or art. 28-*novies* (for EU retail AIF managed by an EU AIFM) shall be carried out.

The following documents are required:

- a) reserved AIFs → an **offering document** compliant with scheme n. 1D of the IR;
- b) open-end retail AIFs → a **prospectus (where)** compliant with scheme n. 1 of Annex 1 of IR;
- c) closed-end retail AIFs → a **prospectus** compliant with schemes laid in the Delegated Regulation (EU) 2019/980;
- d) close-end retail AIF or reserved AIF marketed to investors other than professional investors, identified by the art. 14 of DM n. 30/2015 → **KID PRIIP**.

In case sub b) and c) – where exemptions for prospectus are not applicable - the documents shall be filed with CONSOB through the DEPROF. In case sub d), the KID PRIIP shall be transmitted to CONSOB through a dedicated mail address (priips@pec.consob.it) or the new transmission system envisaged by CONSOB resolutions n. 21639 and n. 21640 of the 15th December 2020 (the last is the only system to be used since the 1th January 2022).

Pursuant to art. 101 of TUF, an AIFM carrying out in Italy **advertisement campaign** targeted to retail investors shall transmit to CONSOB the documentation relating such campaign at the time of advertising. The advertisement communication shall comply with art. 34-octies and 34-*novies* IR and with CONSOB Communication n. DIN/1031371 (concerning open-ended funds) and with CONSOB Communication n. DIN/4014197 (concerning closed-ended funds).

Pursuant to art. 27 of IR, the **facilities for retail investors** envisaged in art. 19-quarter IR shall be provided.

In view of the **listing of an open-ended AIF on a secondary market**, the AIFM shall carry out the procedure laid in the art. 59 and 60 of IR, providing a listing document where relevant.

AIFs marketing in Italy their units/share shall transmit to CONSOB the **periodic reporting** envisaged by:

- CONSOB Resolution n. 17297 (db Teleraccolta);
- CONSOB Communication n. 12094970 (db Contributi);
- AIFMD reporting, pursuant to art. 3 and 24 of AIFMD.

When the AIF intends to **cease marketing**, such information shall be transmitted through DEPROF database, where relevant.

The Italian legal framework does not envisage a NPPR for the marketing in Italy of non-EU AIF or EU AIF managed by non-EU AIFM.

- LI - Finanzmarktaufsicht Liechtenstein (FMA)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

A management company shall publish the following documentation for each UCITS: (i) a prospectus, (ii) four months after the end of the period under review, an annual report, (iii) two month after the end of the period under review, a semi-annual report covering the first six month of the financial year, (iv) the subscription, sales, repurchase, and redemption price; and (v) the key investor information document (KIID). Advertising shall be clearly identifiable as such. It shall be honest, clear and not misleading. In particular, any advertising comprising an invitation to purchase of units of UCITS that contains specific information about a UCITS shall not make a statement that contradicts or diminishes the significance of the information contained in the prospectus and the KIID. Advertising shall indicate that a prospectus exists and that the KIID is available. It shall specify where and in which language such information or documents may be obtained or what options there are for access to them.

Liechtenstein has not specified at national level the general marketing requirements contained in Art. 77 of the UCITS Directive. But according to Art. 79(2) of the Liechtenstein Act on Certain Undertakings for Collective Investment in Transferable Securities (UCITSG) the FMA may prepare a model of the notes required.

Advertising shall be clearly identifiable as such. It shall be honest, clear and not misleading. In particular, any advertising comprising an invitation to purchase units of UCITS that contains specific information about a UCITS shall not make a statement that contradicts or diminishes the significance of the information contained in the prospectus and the KIID. Advertising shall indicate that a prospectus exists and that the KIID is available. It shall specify where and in which language such information or documents may be obtained or what options there are for access to them.

Other information or documents shall be translated, at the choice of the UCITS, into a language approved by the FMA or into English. The information and/or documents shall be translated under the responsibility of the UCITS and shall faithfully reflect the content of the original information.

The FMA monitors marketing communications actively through the following activities:

a) Checking internet-based communications

The FMA does screen the websites of the supervised entities: the management company website, promotor website, asset manager. The websites are regularly checked by the competent supervisors during their regular supervisory work.

b) Newspapers and magazines.

The FMA monitors national and international media on a daily basis.

c) Information received from complaints.

Customer complaints represent an important source of information and serve as starting point for active search and monitoring activities.

d) Information from firms, associations, etc.

The FMA is in regular contact with the supervised entities and especially the industry associations. This interaction has proven to be a good source of information for investigations and enforcement cases.

e) Surfing Day

The most important monitoring activity is the yearly "surfing day", which the FMA exclusively dedicates to marketing communications. The term "day" is misleading though. In reality this focused exercise lasts several days and involves the entire supervision staff.

f) Audit reports

Foreign UCITS need a notification (EU-passport). The UCITS management company (ManCo) shall ensure that: (i) the investors can receive payments in Liechtenstein, effect the repurchase and redemption of units or shares and receive the information provided by the ManCo in relation to the UCITS; complaints lodged by investors shall be received and duly handled in German at the least; (ii) the investors' rights shall not be limited by the fact that only the ManCo, but not the UCITS, is authorised in Liechtenstein; and (iii) upon request, the FMA, the investors or the authorities of the home Member State of the UCITS are provided with information in Liechtenstein. In accordance with the latter the ManCo shall provide the following information: a) the meaning of the term 'marketing of UCITS units or shares' or equivalent legal terms under Liechtenstein law or general practice; b) requirements as to the content, format and presentation of marketing notifications, inclusive of all obligatory warnings and restrictions in respect of use of certain words or sentences; c) without prejudice to the provisions on investor information, details on all additional information which must be provided to the investors; d) details on all exemptions from provisions and requirements in respect of marketing agreements which apply in Liechtenstein to certain UCITS, certain classes of units or shares of UCITS or certain categories of investors; e) requirements in respect of reporting or transmission of information to the FMA and the procedure for transmitting updated versions of the documentation required; f) requirements in respect of fees or other sums which must be paid in Liechtenstein to the FMA or another public body either upon commencement of marketing or thereafter at regular intervals; g) requirements in respect of the options which must be made available to the investors under (i) above; h) the conditions in respect of a stay of marketing in Liechtenstein of units or shares of an UCITS which is established in another EEA Member State; i) detailed information on the notifications and the procedure for verification and investigations on-the-spot and the exchange of information between competent authorities; and j) the e-mail address provided by the FMA for the purposes of updating investor information.

The information stated above shall be provided in the form of an explanatory description or a combination of an explanatory description and references or links to the source documents.

The ManCo shall in accordance with national law provide investors in Liechtenstein with all information and documentation which it is required to provide to investors in its home Member State. For performance of these duties the 'key investor information' shall be translated into German. Other information or documentation shall be translated, at the choice of the UCITS, into a language approved by the FMA or into English. The information and/or documentation shall be translated under the responsibility of the UCITS and shall faithfully reflect the content of the original information. The above provisions shall apply mutatis mutandis to changes. The frequency of the publication of the issue, sale, repurchase or redemption price of units of an UCITS shall be subject to the laws of the UCITS home Member State.

Marketing requirements for AIFs

I. Professional investors:

The AIFM shall submit, in electronic form in German, English or in another language recognised by the FMA, a marketing notification to the FMA for each EEA AIF which it intends to market. Insofar as it is intended to market the units or shares in the AIF exclusively to professional investors, a description of the arrangements established to prevent marketing of the AIF to private investors, which also takes into consideration

reliance on companies independent of the AIFM. With regard to disclosure to investors Art. 23 AIFMD will apply.

The Marketing of a non-EEA AIF by an EEA AIFM in Liechtenstein is permitted on the basis of an authorization by the FMA (Art. 36 AIFMD). Similarly, the marketing of an AIF managed by a non-EEA AIFM is permitted in Liechtenstein on the basis of Art. 42 AIFMD.

II. Retail investors:

1. EEA AIFMs and non-EEA AIFMs may market units or shares of AIFs managed by them in accordance with the provisions of this Act or Directive 2011/61/EU to retail investors in Liechtenstein if the following conditions are met:

(a) a marketing notification:

b) a "key investor information document" (KIID) in accordance with Art. 78 et seq. of Directive 2009/65/EU or a key information document in accordance with Art. 5 et seq. of Regulation (EU) No. 1286/2014;

c) a prospectus in accordance with the provisions of the Securities Prospectus Act, insofar as it is an AIF of the closed-ended form; if this prospectus additionally contains investor information to be provided in the context of a distribution notice in accordance with subparagraph a or key investor information in accordance with subparagraph b, this no longer has to be attached; and

d) the leverage listed in the constituent documents may not exceed three times the net asset value (NAV) calculated according to the commitment method.

2. For foreign EEA AIFs an EU-passport is not applicable if they are marketed to retail investors. In this respect they are treated like domestic AIFs. Under national law foreign AIFs either need to be notified or seek approval from the FMA, if the units or shares of the AIF are marketed to professional and private investors.

3. EEA AIFMs and non-EEA AIFMs shall ensure that: (i) the investors can receive payments in Liechtenstein, effect the repurchase and redemption of units or shares and receive the information provided by the AIFM in relation to the AIF; complaints lodged by investors shall be received and duly handled in German at the least. In accordance with the latter the AIFM shall provide the following information: a) the meaning of the term 'marketing of AIF units or shares' or equivalent legal terms under Liechtenstein law or general practice; b) requirements as to the content, format and presentation of marketing notifications, inclusive of all obligatory warnings and restrictions in respect of use of certain words or sentences; c) without prejudice to the provisions on investor information, details on all additional information which must be provided to the investors; d) details on all exemptions from provisions and requirements in respect of marketing agreements which apply in Liechtenstein to certain AIFs, certain classes of units or shares of AIFs or certain categories of investors; e) requirements in respect of reporting or transmission of information to the FMA and the procedure for transmitting updated versions of the documentation required; f) requirements in respect of fees or other sums which must be paid in Liechtenstein to the FMA or another public body either upon commencement of marketing or thereafter at regular intervals; g) requirements in respect of the options which must be made available to the investors under (i) above; h) the conditions in respect of a stay of marketing in Liechtenstein of units or shares of an AIF which is established in another EEA Member State; i) detailed information on the notifications and the procedure for verification and investigations on-the-spot and the exchange of information between competent authorities; and j) the e-mail address provided by the FMA for the purposes of updating investor information.

The information stated above shall be provided in the form of an explanatory description or a combination of an explanatory description and references or links to the source documents.

III. The FMA monitors marketing communications actively (see above UCITS).

- LT - Lietuvos bankas (LB)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

[Marketing requirements for UCITS authorised by the Bank of Lithuania (LT UCITS)]

In accordance with Article 7 of the Law on Collective Investment Undertakings (Law on CIUs), which transposed into LT law the UCITS Directive, LT UCITS may commence its activities and be marketed to investors in Lithuania (LT) after Bank of Lithuania (BoL) grants the relevant authorization. In order to receive such an authorization, LT UCITS manager (i.e. management company) have to provide UCITS rules or articles of incorporation, prospectus, KIID and other documents stipulated in BoL regulations No 03-151 as of 12 July 2012. Other marketing materials apart of mentioned previously are not provided to BoL for *ex-ante* verification and their compliance is verified during onsite inspections or taking any other supervisory actions.

Article 34 of the Law on CIUs all marketing communications to investors shall be clearly identifiable as such. They shall be fair, clear and not misleading. Any marketing communication comprising an invitation to purchase units/shares of a UCITS that contains specific information about a UCITS shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information referred. It shall indicate that a prospectus exists and that the key investor information is available. It shall specify where and in which language such information or documents may be obtained by investors or potential investors or how they may obtain access to them. The operating results of a UCITS presented in marketing communications of the UCITS must be compared to a benchmark of such collective investment undertaking. This requirement shall not apply to UCITS that are not obligated by the Law on CIUs to use the benchmark.

In accordance with Article 48 of the Law on CIUs LT UCITS manager, before offering to an investor to acquire units/shares of a UCITS, shall propose to the investor to provide information about his investment knowledge and experience relating to units/shares of the particular UCITS. Considering the information provided by an investor, UCITS manager shall assess whether units/shares of a particular UCITS are suitable for such investor. Having considered the information provided by an investor and found that units/shares of a UCITS are unsuitable for the given investor, the manager must warn the investor about that. The warning may also be provided in a standardised form. The investor may acquire the units/shares of a particular UCITS despite having received such a warning.

Article 28 of the Law on CIUs stipulates that annual activity report shall contain the information specified by the BoL for investors to be able to make an informed judgement on the activities of a UCITS and their results. The details on the practical specifications in relation to the annual and interim reporting including the provision of information on marketing are described in BoL regulations No 03-154 of 12 July 2012.

In accordance with Article 119 of the Law on CIUs the notification by a LT UCITS to the competent authority of a host MS is to be completed via BoL by means of a notification

file that the LT UCITS manager has to submit to BoL. The notification file must include a standardised notification letter, information on the arrangements made for marketing the LT UCITS in the host MS as well as the latest versions of all documents specified in Article 119 (1) and (2) of the Law on CIUs. The details on the practical specifications in relation to the notification procedure are described in BoL regulations No 03-146 as of 12 July 2012.

In accordance with Article 119 of the Law on CIUs, in the event of a change in the information regarding the arrangements made for marketing communicated in the notification letter, or a change regarding unit/share classes to be marketed, the UCITS shall give written notice thereof to the competent authorities of the host MS before implementing the change.

The aforementioned notification file and any changes thereof have to be transmitted by sending a written notice to the following address: ukis-lb@lb.lt

Marketing requirements for UCITS authorised by EU/EEA MS competent authority

If a UCITS established in another EU/EEA MS intends to market units/shares in LT, UCITS manager must ensure that the BoL receives the documentation referred to in Article 124 of the Law on CIUs as well as an attestation that the UCITS fulfils the conditions imposed by the UCITS Directive from the competent authority of the home MS. The initial notification requests are transmitted directly to the BoL by the authority of the home MS of the UCITS. The UCITS is obliged to distribute the aforementioned documentation in English or Lithuanian and include all the necessary information that has to be provided to investors in the MS in which it is situated. UCITS KIID has to be drawn in Lithuanian. The UCITS shall take the necessary measures in order to ensure that the information which it is obliged to provide, is made available to unit/shareholders in LT. Translations are deemed to be made under the responsibility of the UCITS and shall faithfully reflect the content of the original information. The UCITS shall take the measures necessary to ensure that the information, which it is obliged to provide, is made available to unit/shareholders in LT.

In the event of a change in the information regarding the arrangements made for marketing as communicated in the notification letter or a change regarding share classes to be marketed, the UCITS situated in another MS shall transmit a written notice thereof directly to the BoL before implementing the change.

The aforementioned notification file have to be transmitted by sending a written notice to the following address: ucits@lb.lt, and any changes thereof have to be transmitted by sending a written notice to the following address: ucits-lb@lb.lt

BoL has to be informed in the event of an EU/EEA UCITS ceasing its marketing. BoL should receive information (statement) on de-notification from the competitive authorities of the home MS of the UCITS. The information should be received not later than the day the UCITS ceases to market units/shares in LT and should include information on UCITS Management Company, UCITS and the foreseen changes (de-notification and the date it comes into force). The aforementioned information has to be submitted by sending a written notice to the following address: ucits-lb@lb.lt

Marketing requirements for AIFs

[AIF may be marketed to investors in Lithuania (LT) after

- 1) it has been authorised in accordance with the Law on alternative investment fund managers (Law on AIFMs), Law on CIUs and (or) Law on CIUs intended to informed investors (applicable to national AIFs marketed to retail and (or) professional investors in LT)
- 2) it has been notified in accordance with the Law on AIFMs (applicable to foreign AIFs marketed to professional investors in LT)

3) it has been authorised in accordance with the Law on AIFMs (applicable to foreign AIFs marketed to retail investors in AIF's home MS and LT)

If an AIF is to be marketed only in LT to so called informed investors (professional investors and/or semi-professional investors) it may be marketed without BoL authorisation if the AIF complies with strict requirements regarding its investors and marketing arrangements provided in Article 7 (5) of the Law on CIUs intended to informed investors. In such cases the AIFM shall be registered by sending required information to BoL (Article 12 of the Law on AIFMs).

LT law distinguishes two types of AIFs:

- special CIUs (SCIUs) – marketed to all kinds of investors, regulated by the Law on CIUs
- CIUs intended to informed investors – marketed to professional investors and (or) other groups of sophisticated investors, regulated by the Law on CIUs intended to informed investors. Please note that CIUs intended to professional investors is a subtype of CIUs intended to informed investors

Activities of an AIFM are regulated by EU regulations, the Law on AIFMs and the relevant product (AIF) legislation.

The legislation applied to SCIUs regarding marketing (points 1-5 of the required information) is similar to that applied to UCITS funds (please see previous section on UCITS).

In cases of CIUs intended to informed investors, the documents to be notified to the BoL prior to the commencement of marketing are those to be submitted to BoL for authorization of an AIF and are stipulated in the Law on CIUs intended to informed investors and comprise AIF rules or articles of incorporation, prospectus, information on custodian, manager of accounts, a person who will provide administration services and other service providers whose services will have essential influence on the management of the AIF, the statement to the effect that the AIF manager has prepared and approved a description of the investment risk management policy of the AIF; the statement to the effect that the AIF manager has developed the key investor information, excluding the cases when the AIF rules or articles of incorporation and the prospectus specify that units/shares of the AIF may be acquired only by professional investors.

BoL do not verify AIF marketing material *ex ante* and check its compliance during onsite inspections and by the way of taking other supervisory actions.

Manager of CIU intended to informed investors must inform BoL in relation to marketing every six months by providing information on groups of investors of the CIU intended to informed investors. (BoL regulations No 03-181 as of 8 December 2020)

Please note that both SCIUs and CIUs intended to informed investors may be open ended and closed ended. Marketing requirements are the same for both types (open ended or closed ended) of CIUs

Marketing of units/shares of AIFs by AIFMs licenced in LT (LT AIFMs) to professional investors in LT

According to Article 40 of the Law on AIFMs, which transposed into national legislation the provisions of the AIFMD, LT AIFM which intends to market only to professional investors in LT the units/shares of an AIF which is managed by that AIFM and is established in LT or another MS, must submit to the BoL:

- a programme of operations identifying the AIFs the AIFM intends to market and information on where the AIFs are established;
- the AIF rules or instruments of incorporation;
- identification of the depositary of the AIF;
- a description of, or any information on, the AIF available to investors;
- information on where the master AIF is established if the AIF is a feeder AIF;

- any additional information referred to in Article 18 of the Law on AIFMs for each AIF the AIFM intends to market;
- where relevant, information on the arrangements established to prevent units/shares of the AIF from being marketed to retail investors, including in the case where the AIFM relies on activities of independent entities to provide investment services in respect of the AIF.

Please note, that respective LT AIFs must be authorized in accordance with the procedure set in the Law on CIUs intended to informed investors. When informing the BoL about the AIF whose the units/shares the AIF manager intends to market to professional to investors in the LT the manager shall not need to submit to the BoL for the second time the documents and/or the information already submitted when applying for the authorization of that AIF according to the Law on CIUS intended to informed investors, provided that the manager informs the BoL in writing that the content of such documents and/or information is up-to-date. The documentation file must be sent to the BoL using the e-mail address: frpt@lb.it

Within 20 working days following receipt of a complete documentation, BoL shall inform the AIFM whether it may start marketing the relevant AIF. BoL shall prevent the marketing of the AIF only if the AIFM's management of the AIF does not or will not comply with the Law on AIFMs or the AIFM otherwise does not or will not comply with the Law on AIFMs. According to Article 40 of the Law on AIFMs, in the event of a material change in the information contained in its original notification file, LT AIFM shall provide written notice of this change to the BoL at least 1 month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred. Changes to the notification file must be sent to the BoL using the e-mail address: frpt@lb.it

Marketing in other Member States of units/shares of EU AIFs by LT AIFM

According to Article 41 of the Law on AIFMs, LT AIFM which intends to market to professional investors in other MS the units/shares of an EU AIF which is managed by that AIFM, must submit a notification file to the BoL. The notification file shall comprise standardised notification letter, as well as documents and information indicated in previous section and the identification of the MS in which it intends to market the units/shares of the AIF to professional investors. The form of the standardised notification letter is set in BoL regulations No 03-42 as of 14 February 2019.

The notification file must be sent to the BoL using the e-mail address: frpt@lb.it

BoL shall, no later than 20 working days after the date of receipt of the complete documentation, transmit the complete notification file and a statement that the AIFM concerned is authorised to manage AIFs with a particular investment strategy to the competent authorities of the MS where it is intended that the AIF be marketed. Such transmission shall occur only if the AIFM's management of the AIF complies with and will continue to comply with the Law on AIFMs and if the AIFM otherwise complies with the Law on AIFMs. Upon transmission of the notification file, BoL shall directly notify the AIFM about the transmission. The AIFM may start marketing the AIF in the host MS as of the date of that notification. In the case where the AIF is established in another MS, BoL shall also inform the competent authorities of the AIF about the MS in which the AIFM may start marketing the units/shares of the AIF.

According to Article 41 of the Law AIFMs, in the event of a material change in the information contained in its original notification file, LT AIFM shall provide written notice of this change to the BoL at least 1 month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred. Changes to the notification file must be sent to BoL using the e-mail address: frpt@lb.it

Marketing of units/shares of AIFs by AIFMs licenced in EU/EEA MS (LT AIFMs) to professional investors in LT

According to Article 42 of the Law on AIFMs, AIFM licensed in another MS has right to market to units/shares of AIF it manages to professional investors in LT after BoL has received from the competent authority of the MS of the AIFM:

- 1) the statement to the effect that AIFM has been authorised to manage an AIF according to a particular investment strategy; and
- 2) the documents and information specified in Article 40(2), (3) and/or (4) of the Law on AIFMs; and
- 3) the information specified in Article 41(2) of the Law on AIFMs.

The aforementioned documents and information must be presented in the English language. Relevant documents and information should be sent to the following e-mail address: aimf@lb.lt

BoL has to be informed in the event of AIF ceasing its marketing in LT – BoL should receive information (statement) on de-notification. The information should be received not later than the day the AIF ceases to market units/shares in LT and should include information on AIFM, AIF and the foreseen changes (de-notification and the date it comes into force). Relevant information should be sent to the following e-mail address: aimf@lb.lt

Marketing of foreign AIFs to retail investors in LT

The Law on AIFMs stipulates that a foreign AIF must obtain an authorisation from the BoL to market its units/shares to retail investors in LT (Article 43 of the Law on AIFMs). This authorisation shall be granted subject to fulfilment of the following key conditions:

- the AIFM shall hold an AIFM licence according to the AIFMD;
- units/shares of the AIF shall be marketed to retail investors in its home MS;
- the AIF shall comply with the requirements applicable to SCIUs:

— if units/shares of the ACIU AIF marketed on a regulated market or a multilateral trading facility registered in the MS, the investment strategy of the AIF must comply with the requirements set out in the Law on CIUs as regards investment objects and diversification;

— the investment strategy of another AIF than referred to above must satisfy the requirements for SCIUs set out in the Law on CIUs as regards investment objects, diversification, leverage (borrowing), information provided to investors and implementation of investors' rights;

- the AIF's KIID must be drawn up in the Lithuanian. Other documents or information shall be provided in the Lithuanian and/or English languages.

The documents proving compliance with the aforementioned requirements must be submitted to the BoL.

These requirements *mutatis mutandis* apply to foreign AIFs intended to investors who satisfy the criteria set out in the Law on CIUs intended to informed investors (i.e. professional investors, semi-professional investors). The authorisation to market such an AIF may be granted if:

- 1) the AIF meets the requirements set out in the Law on CIUs intended to informed investors, and its units/shares may be marketed only to a strictly defined group of investors who satisfy the criteria set out in the Law on CIUs intended to informed investors in the home MS and
- 2) licenced AIFM submits to BoL the supporting documents and information referred to in Article 43 of the Law on AIFMs.

Foreign AIF must inform BoL of any changes related to aforementioned documents and information in accordance with Article 43(9) and Article 43(10) of the Law on AIFMs, i.e. at least 1 month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred..

The application or any changes must be sent to the following e-mail address: aimf@lb.lt

- LU – Commission de Surveillance du Secteur Financier (CSSF)

Overview of national rules governing marketing requirements (LUXEMBOURG)

Marketing requirements for UCITS

1)The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

If an EU UCITS intends to market units/shares in Luxembourg, the UCITS must ensure that the CSSF receives the following documentation:

- The documents under Article 93(1) and (2) of the UCITS Directive;
- an attestation that the UCITS fulfils the conditions imposed by the UCITS Directive from the NCA of the home Member State;³⁹
- a public mandatory document called “Addendum for Luxembourg investors” (to be consulted together with the UCITS prospectus), mentioning a set date, the full address of the paying agent in addition to all the information related to the dividends received by the investors, and the place where the investors may present subscription, redemption or conversion requests.

The notification letter under Art.93(1) to the CSSF must provide:

- The name and address of the paying agent in Luxembourg that may make dividend payments and payments in relation to subscription and redemption of units/shares of the UCITS in Luxembourg⁴⁰;
- The place where the investors may present subscription, redemption or conversion requests;
- The place where Luxembourg investors may obtain the net asset values, issue and redemption prices, the latest prospectus, the latest financial reports, the fund rules/articles of incorporation and, as far as possible, access to the contracts.

2)Verification of marketing communications by the authority;

Apart from the legal and regulatory documentation mentioned under point 1), the CSSF does not verify any UCITS marketing communications either on an ex-ante or ex-post basis.

Prior to transmission to the CSSF, the competent authorities of the UCITS home Member State shall verify whether the documentation referred to under point 1) is complete. The UCITS home Member State will inform the UCITS once the transmission to the CSSF has been completed. The UCITS can have access to the Luxembourg market as from the date of such notification.⁴¹

3)Reporting obligations in relation to marketing;

³⁹ Article 60(1) of the UCI Law.

⁴⁰ Article 59 of the UCI Law.

⁴¹ Article 60(1), par.2 of the UCI Law.

-In case of a change in the information relating to the arrangements made for marketing communicated in the notification letter, or a change regarding unit classes to be marketed, the UCITS shall give written notice thereof to the CSSF before implementing the change (this includes any up-dates of documents that were submitted in the original notification, such as prospectus, annual reports, KIIDs etc);⁴²

- Investors in Luxembourg should be provided with all information and documents that the UCITS is required to provide in its home Member State in accordance with Chapter IX of Directive 2009/65/EC⁴³.

4)Passporting rules;

The legal framework for the marketing passport procedure for EU UCITS proposing to market their units in another Member State as provided by Chapter XI of UCITS Directive has been implemented into Luxembourg law by Chapter 6 and 7 of the Luxembourg law of 17 December 2010 regarding undertakings for collective investment (the “UCI Law”) : [Law of 17 December 2010 \(cssf.lu\)](#). Directive 2010/44/EU implementing the UCITS Directive as regards certain provisions (including the UCITS notification procedure) has been transposed by CSSF Regulation No 10-05: [CSSF Regulation No 10-05 \(coordinated version\) – CSSF](#)

5)De-notification of arrangements made for marketing;

An EU UCITS which intends to cease the marketing of its units/shares in Luxembourg, must provide the following information to the CSSF in order to proceed with the deregistration of the UCITS:

- whether Luxemburgish investors are still invested in the fund/sub-fund/share class;
- whether the fund/sub-fund/share class is closed for any new subscriptions;
- whether a notice to the shareholders has been published. If so, a copy of the document has to be provided to the CSSF.

If Luxembourg resident investors remain subscribed to the UCITS that is marketed in Luxembourg, the UCITS must comply with all applicable Luxembourg legal provisions, i.e. with the provisions of Chapter 7 of the UCI Law.

6) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

For more information regarding the marketing rules applicable to EU UCITS that market in Luxembourg, we refer to the following link on our website:

[Marketing of shares/units of UCITS – CSSF](#)

Marketing requirements for AIFs (LUXEMBOURG)

1)Prior authorisation for marketing;

The marketing of units of EU AIFs by EU AIFMs to professional investors in Luxembourg is subject to the AIFMD notification procedure and is not subject to any additional requirements than those mentioned in the AIFMD. The marketing of units of non-EU AIFs by EU AIFMs to professional investors in Luxembourg requires the CSSF’s prior authorisation since it is only allowed if the applicable requirements are

⁴² Art.60(2) UCI Law.

⁴³ Art.61 UCI Law.

met. The same principle applies to the marketing of EU or non-EU AIFs by non-EU AIFMs, as well as to the marketing of AIFs to retail investors. Luxembourg AIFs that are subject to authorisation and prudential supervision by the CSSF are automatically authorised for marketing in the territory of Luxembourg and do not require prior marketing authorisation. The notification procedures for marketing of AIFs to investors in Luxembourg are governed by Chapters 6, 7 and 8 of the Luxembourg law of 12 July 2013 regarding alternative investment fund managers (the “AIFM Law”)⁴⁴ as well as Article 100(1) of the UCI Law (see below).

2)The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

- *For the marketing of EU AIFs by Luxembourg AIFMs to professional investors in Luxembourg (Art.29 AIFM Law):* the information as set out in Annex III of the AIFM Law;
- *For the marketing of EU AIFs by EU AIFMs to professional investors in Luxembourg (Art.31 AIFM Law);* the information as set out in Annex IV of the AIFMD;
- *For the marketing of non-EU AIFs by EU AIFMs to professional investors in Luxembourg (Art.37 AIFM Law);* the AIFM must submit an Information Form⁴⁵ to the CSSF before *starting its marketing activity in Luxembourg;*
- *For the marketing of EU or non-EU AIFs by non-EU AIFMs to professional investors in Luxembourg (Art.45 AIFM Law);* the AIFM must submit an Information Form⁴⁶ to the CSSF before starting its marketing activity in Luxembourg;
- *For the marketing of AIFs by EU AIFMs to retail investors in Luxembourg (Art. 46 AIFM Law):* the AIFM must submit an Application Form⁴⁷ to the CSSF before starting its marketing activity in Luxembourg
- For the marketing of AIFs by non-EU AIFMs to retail investors in Luxembourg (Art.100(1) UCI Law):* the AIFM must submit an application form to the CSSF before starting its marketing activity in Luxembourg (to be published shortly).

3)Verification of marketing communications by the authority;

Apart from the legal and regulatory documentation required under the procedures mentioned under point 2) above, the CSSF does not verify any marketing communications either on an ex-ante or ex-post basis.

4)Marketing to retail investors or to professional investors;

The marketing of AIFs to professional investors in Luxembourg is governed by Chapter 6 and 7 of the AIFM Law, more specifically by Articles 29, 31, 37 and 45.

The possibility to allow for marketing of AIFs by EU (authorized) AIFMs to retail investors in Luxembourg has been implemented by Article 46 of the AIFM Law. The rules for the application of such article 46 are laid down in CSSF Regulation N° 15-03: [CSSF Regulation No 15-03 – CSSF](#)

Non-EU AIFMs may market AIFs to retail investors in Luxembourg under Art.100(1) of the UCI Law, subject to conditions. The rules for the application of such Art. 100(1) are

⁴⁴ [L_120713_AIFM_eng_upd_060618.pdf \(cssf.lu\)](#)

⁴⁵ [Marketing of non-EU AIFs managed by AIFMs established in an EU Member State to professional investors in Luxembourg \(Article 37 of the AIFM Law\) – CSSF](#)

⁴⁶ [Marketing of AIFs managed by a non-EU AIFM to professional investors in Luxembourg \(Article 45 of the AIFM Law\) – CSSF](#)

⁴⁷ [Marketing foreign AIFs to retail investors in LU \(Article 46 of the AIFM Law\) – CSSF](#)

laid down in CSSF Regulation N°20-10: [CSSF Regulation No 20-10 of 21 December 2020 – CSSF](#)

5)Reporting obligations in relation to marketing;

Under art.29 UCI Law: In the event of a material change to any of the particulars communicated in accordance with 29(2), the AIFM must give written notice of that change to the CSSF at least one month before implementing a planned change, or immediately after an unplanned change has occurred.

Under art.31 UCI Law: the CSSF shall be informed by the home MS of the AIFM in case of any change in the marketing documentation that was submitted.

Under art.45 and art.100(1) UCI Law: Non-EU AIFMs that are authorised to market AIFs to professional and retail investors in Luxembourg must, on their own initiative, comply with the reporting requirements under Annex IV of the AIFMD.

6)Passporting rules;

The marketing passport procedures applicable to EU AIFMs proposing to market the units of the EU AIFs they manage as provided under Articles 31 and 32 of AIFM Directive 2011/61/EU have been implemented into Luxembourg law by Articles 29, 30 and 31 of the AIFM Law.

7)Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);

The possibility to market non-EU AIFs by EU AIFMs (Art.36 AIFMD) and to market AIFs (including non-EU AIFs) by non-EU AIFMs (Art.42 AIFMD) to professional investors in Luxembourg without a passport has been implemented by Articles 37 and 45 respectively of the AIFM Law. Further guidance for these procedures can be found on our website.⁴⁸

8)Distribution of open-ended AIFs and of closed-ended AIFs;

For the marketing of units of AIFs by AIFMs to investors in Luxembourg under the AIFM Law, no distinction is made between open-ended or closed-ended AIFs. For the marketing of AIFs in Luxembourg under Article 100(1) of the UCI Law, the AIF must be open-ended.

9)De-notification of arrangements made for marketing;

An AIFM intending to cease the marketing of its AIF/sub-fund in Luxembourg and to deregister the AIF/sub-fund, must inform the CSSF whether Luxembourgish investors remain invested in the AIF. A non-EU AIFM shall be required to fulfil its reporting obligations under Annex IV of the AIFMD towards the CSSF, even after sending the cessation notification, for as long as Luxembourg investors are invested in the relevant AIF.

10)Any other rules governing marketing of AIFs applicable within the jurisdiction of the NCA.

For more information regarding the marketing rules applicable to AIFs in Luxembourg, we refer to the following link on our website:

[Marketing of Alternative Investment Funds – CSSF](#)

⁴⁸ [Guidance for the use of the Information Form related to Article 37 of the AIFM Law – CSSF](#), [Guidance for the use of the Information Form related to Article 45 of the AIFM Law – CSSF](#)

- LV - Finanšu un kapitāla tirgus komisija (FKTK)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

Latvia has transposed provisions of Directive 2009/65 regarding marketing into the national legislation and there are no additional national rules regarding marketing and marketing communications.

Managers of UCITS must register the prospectus, fund rules and KIID and their amendments with FCMC and must ensure that all information required by the Law on Investment Management Companies is available to investors and meet the requirements of the Law. Also, in case of cross border activities the manager of UCITS must submit to FCMC notification, fund documents and also information on procedure for marketing of fund certificates in host member state and must ensure that investors in host member state are provided with the same information as investors of home member state and shall notify FCMC on changes in information submitted.

Regarding marketing communications other than the ones provided by the Directive 2009/65, the national legislation of Latvia does not provide any additional rules for the format and content of marketing communication materials, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing and the marketing materials should not be submitted or approved for the use before starting the marketing by FCMC. Also, there are no reporting obligations in relation to marketing communication for UCITS registered with FCMC as well as special rules with regard to cross-border distribution of UCITS and its deregistration.

The marketing communications of UCITS addressed to investors in Latvia other than provided by the Directive 2009/65 are supervised by FCMC during on site and off site supervision but there are no special rules in national legislation regarding marketing communication carried out by UCITS and its supervision.

Please find link to the Law on Investment Management Companies here:
<https://likumi.lv/ta/en/en/id/52953-on-investment-management-companies>

Information in accordance with the Article 91(3) of Directive 2009/65/EC :
<https://www.fktk.lv/en/law/investment-management-companies/>

Marketing requirements for AIFs

Latvia has transposed provisions of Directive 2011/61 regarding marketing into the national legislation and there are no additional national rules regarding marketing and marketing communications.

Licensed managers of AIFs must register the prospectus and PRIIPs and their amendments with FCMC and must ensure that all information required by the Law on Alternative Investment Funds and Their Managers Thereof is available to investors and should meet the requirements of the Law. Also, in case of cross-border activities licensed managers of AIFs must together with the notification submit to FCMC information on procedure for marketing of fund certificates in host member state and ensure that investors in host member state are provided with the same information as investors of home member state and notify FCMC on changes in information submitted.

Regarding marketing communications other than the ones provided by the Directive 2011/61, the national legislation of Latvia does not provide any additional rules for the format and content of marketing communication material, including the identification of the information and documents to be notified to FCMC prior to the commencement of marketing and also marketing materials should not be submitted to FCMC or approved for the use before starting the marketing. Also, there are no reporting obligations in relation to marketing communication for AIFs registered with FCMC as well as special rules with regard to cross-border distribution of AIFs and its deregistration.

The marketing communications of AIFs addressed to investors in Latvia other than provided by the Directive 2011/65 are supervised by FCMC during on site and off site supervision but there are no special rules in national legislation regarding marketing communications carried out by AIFs and its supervision.

On marketing to retail or to professional investors

Licensed EU alternative investment fund manager (EU AIFM) can market units or shares of EU AIF it manages to professional investors and also to such non-professional investor if this non-professional investor submits a written statement that he/she can make an independent decision on investing in the fund and is aware of all risks, and the minimum amount of investment is 100 000 euro.

If EU AIFM intends to market units or shares of EU AIF it manages and the fund rules or instruments of incorporation provide for use of leverage in the amount of 50 per cent of net asset value of the fund, the shares or units of such fund can be also marketed to the investor that submits a written statement that he/she can make an independent decision on investing in the fund and is aware of all risks. Please see paragraphs 1 and 2 of Section 9 and Section 41 of Law on Alternative Investment Funds and Managers Thereof.

Alternative investment fund manager registered in Latvia may market investment units of its fund to professional investors in Latvia. Investment units of the fund under management of a registered manager may also be marketed to an investor that is not a professional investor if this investor provides the confirmation referred to in Section 41, paragraph eight of Law, and the minimum amount of the investor's purchase of investment units in the relevant fund is EUR 20 000 or more. Please see paragraphs 1 and 2 of Section 9 and Section 41 of Law on Alternative Investment Funds and Managers Thereof.

passporting rules

In overall national legislation of Latvia contains no additional requirements than those laid down in Article 32 of AIFMD. Please see Sections 66, 67 and 68 of Law on Alternative Investment Funds and Managers Thereof

But the alternative investment fund manager from the Member State (except from Latvia) shall pay to FCMC a single payment in amount of EUR 1 209 for the supervision of the each alternative investment fund (AIF), which is registered in the Member State and managed by the respective manager, whose investment units (shares) are marketed in Latvia. Please see paragraph 4 of Sections 82 of Law on Alternative Investment Funds and Managers Thereof.

Distribution of funds established in a non-EU Member State under the private placement regime (if applicable).

No private placement regime had been adopted in Latvia.

Please find link to the Law on Alternative Investment Funds and Their Managers Thereof here: <https://www.fktk.lv/en/law/alternative-investment-fund-managers/laws-en-9/>

- MT - Awtorita' ghas-Servizzi Finanzjari ta' Malta (MSFA)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

- 1) The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

A notification letter (Schedule C) is submitted to the Authority by the UCITS who wishes to market the units of a particular sub-fund in another member state. The [Schedule C](#) is completed in line with the host country's requirements whilst also attaching the (i) Incorporation Certificates; (ii) Latest Prospectus and Offering Supplement; (iii) KIID's (translated if necessary); (iv) Latest yearly and half-yearly reports. The notification is then sent to the host country's NCA within 5 working days, attaching the aforementioned documents and an attestation as per Appendix II of the UCITS Directive outlining that the Scheme is currently licensed and held in good standing by the Authority.

With respect to marketing material, no notification is sent to the Authority before any marketing communication is issued by the regulated entity. The disclosure requirements with respect to marketing communications are media neutral. The format to be used for marketing communication is a decision to be taken by the regulated person.

- 2) Verification of marketing communications by the authority;

The Authority carries out an ex-post review of marketing communications to check that such communication is fair, clear and not misleading. This review is carried out on an ad-hoc basis based on the notifications received from the marketing monitoring tool in place which mainly covers social media posts.

To note that it is the responsibility of the UCITS Management company to review the promotional material before this is issued and ensure that it is compliant with the applicable

requirements. Furthermore, Article 11 of the [Investment Services Act](#) provides for further requirements with respect to investment advertisements and legal documentation of collective investment schemes.

3) Reporting obligations in relation to marketing;

The MFSA does not have any specific reporting requirements in relation to marketing material.

4) Passporting rules;

The Passporting Rules for a Scheme to market its Sub-Fund's units outside/ in Malta are outlined in the [Subsidiary Legislation 370.18 – Investment Services Act \(Marketing of UCITS\) Regulations](#), [Part A of the Investment Services Rules for Retail Collective Investment Schemes](#) and the [Conduct of Business Rulebook](#).

5) De-notification of arrangements made for marketing;

In terms of Article 93(8) of the UCITS IV Directive, in the event of any change in the information regarding the arrangements made for marketing communicated in the notification letter in accordance with paragraph 93(1) of the UCITS IV Directive, or a change regarding share classes to be marketed, the UCITS shall give written notice thereof to the competent authorities of the host Member State before implementing the change.

In light of the above, if a UCITS wants to cease marketing the units of a sub-fund in Malta it is required to submit the notice it sent to shareholders advising them that the sub-fund will cease to market its units in Malta. The UCITS is also required to confirm that there are no Maltese investors left in the Sub-Fund. If any Maltese investors remain in the sub-fund, the Authority requests a confirmation that the arrangements for such investors currently invested in the UCITS will not change as a result of the cessation of marketing. Following such confirmations, the Authority can de-register the sub-fund from the marketing its units in Malta.

6) Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

N/A

Marketing requirements for AIFs

1) Prior authorisation for marketing;

Prior to having the right to marketing, an AIF is required to undergo the authorisation process that leads to the issuance of a licence in terms of the Investment Services Act (Chapter 370 of the Laws of Malta) and Part A of the Rules for Alternative Investment Funds. During the said authorisation process, the MFSA reviews the Offering Documentation and the Instruments of Incorporation of the AIF. When reviewing and approving the Offering Documentation, it is ensured that these contain the information listed in Article 23(1) of the AIFMD. Apart from the documentation, the MFSA also reviews the arrangements in place with the AIFM, the depositary and the other service providers.

1. The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

Following the issuance of a licence and prior to the commencement of marketing, the AIFM submits the information and documents as required under Annex IV of the AIFMD, with respect to the AIF. These include the following:

- [Notification Form](#) including details of the AIFM, the AIF and its depositary;
- Copy of the AIF rules or instruments of incorporation; and
- Offering Documentation of the AIF and its sub-funds (if applicable).

2. Verification of marketing communications by the authority;

Marketing communications relating to AIFs and AIFMs are currently not verified or reviewed by the Authority considering that we are here speaking of professional investors, who have the knowledge and/ or expertise to assess a marketing communication.

3. Marketing to retail investors or to professional investors;

In the case of marketing to professional investors, local AIFs need to be authorised and submit the documentation listed in our reply to question 2 above. The only documentation that is reviewed and approved is the Offering Supplement of the relevant sub-fund, that is made available to professional investors prior to making any investment decisions.

In cases whereby local AIFs wish to market their units to retail investors, the MFSA informs the said AIFs to contact directly the host country regulator and apply under their national private placement regime (if possible). No further checks are carried out from our end.

4. Reporting obligations in relation to marketing;

The MFSA does not have any specific reporting requirements in relation to marketing material

5. Passporting rules;

The Passporting rules for an AIF to market its units outside/in Malta are outlined in the [Subsidiary Legislation 370.21 – Investment Services Act \(Marketing of Alternative Investment Funds\) Regulations](#), [Part A of the Investment Services Rules for Alternative Investment Funds](#) and the [Conduct of Business Rulebook](#).

6. Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);

Non-EU AIFs wishing to market their units in Malta are to submit the following documentation:

- NPPR Notification Form;
- Documentation listed in Annex III of the AIFMD;
- Proof of payment of the applicable notification fee;
- A copy of the most recent Audited Financial Statements in respect of the AIF;
- Details in relation to the arrangements established by the Manager to prevent units of the AIF from being marketed to retail investors; and
- AIFM Attestation / Proof of authorization / registration of AIFM.

Following the submission of the complete documentation, the MFSA ensures the following:

- That there is a cooperation arrangement in place between the competent authority of the member state of reference and the supervisory authority of the third country where the non-EU AIF is established.
- that target investors are professional investors.
- That the AIF has adequate safekeeping arrangements.
- That the Offering Documentation has all the required disclosures listed in Article 23 of the AIFMD

Further to the above, should a non-EU AIF wish to market their units to retail investors, in addition to the rules listed in our reply to question 6, it would also need to comply with the additional marketing requirements under [Subsidiary Legislation 370.24 – Investment Services Act \(Alternative Investment Fund Manager\) \(Third Country\) Regulations](#) and [Section 1\[V\] of Part BIII of the Investment Services Rules for Investment Services Providers](#).

7. Distribution of open-ended AIFs and of closed-ended AIFs;
There is no difference in the marketing requirements of open-ended and close-ended AIFs.

8. De-notification of arrangements made for marketing;
An AIF wishing to withdraw its marketing passport is required to notify the MFSA in writing (by email or letter) and provide a confirmation whether there are any investors left in the sub-fund that are domiciled in the host country where it intends to withdraw the marketing passport. If any Maltese investors remain in the sub-fund, the Authority requests a confirmation that the arrangements for such investors currently invested in the AIF will not change as a result of the cessation of marketing. Upon receipt of the withdrawal notification and confirmation, the MFSA proceeds to send an update in terms of Article 32(7) of the AIFMD to the host country regulator.

9. Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

N/A

- NL – Autoriteit Financiële Markten (AFM)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

The AFM assumes in answering the question that the question only relates to the situations where non-Dutch UCITS Management Companies that are authorized in their home Member State to manage UCITS want to market and distribute UCITS to the

Netherlands (**Mancos**). Furthermore, the answers provided below solely relate to additional national requirements on top of the requirements stemming from the European harmonized rules.

Mancos may exercise passporting rights (cross border services) for the marketing and distribution of those units in the Netherlands. The Manco has to notify the home state competent authority of the UCITS of its intention to market units of UCITS in the Netherlands. The notification shall include information on arrangements made for marketing of the units of the UCITS in the Netherlands and an indication that the UCITS is marketed by the Manco. Manco must also enclose the UCITS rules or instruments of incorporation, prospectus, KIID and any annual reports or biannual accounts where applicable. The complete notification will be send to the AFM accompanied by the attestation that the UCITS and Manco fulfils all the conditions for passporting under the UCITS regulation. When the Manco has received the notification from the home state competent authority, the Manco may be permitted to market and distribute the UCITS in the Netherlands (art. 2:71 jo. 2:72 Wft). The AFM maintains set criteria to indicate if an Manco is active in the Netherlands ([Beleidsregel Actief in Nederland 2013](#)).

A Manco is only after permission of the AFM allowed to market or distribute a Dutch UCITS (art. 2:72 Wft). The application of the Manco should include is information regarding the contract with the depositary and agreements made regarding outsourcing. If a Dutch UCITS is managed or marketed by a Manco, the Dutch UCITS will need a license of the AFM (art. 2:72 Wft jo. 2:69b Wft). Legislation is being amended to this point.

If any party other than the Manco markets the UCITS in the Netherlands, it is likely that this party would be deemed to provide investment services in the Netherlands. In that event, a license to perform investment services in the Netherlands is required. Investment services include (amongst others) placing financial instruments, underwriting financial instruments on a firm commitment basis, providing advice in respect of such financial instruments, and receiving orders from clients relating to financial instruments and passing on those orders.

In the Netherlands there is no obligation for UCTIS management companies to notify the AFM of marketing material prior to the commencement of marketing. Therefore, there is also no verification of marketing communications by the AFM. In addition, requirements regarding conduct supervision under Dutch law apply. It concerns requirements with respect to transparency, the provision of information and due care. These requirements state that marketing material shall not contain any non-permissible, false or misleading information, marketing materials must include Dutch compliant disclaimers, and the commercial objective of the information made available is recognizable as such (Wet op de oneerlijke handelspraktijken).

Marketing requirements for AIFs

The AFM assume in answering the question that the question only relates to the situation where non-Dutch AIFM managers (who are licensed in their home state that has implemented the AIFMD) want to market and distribute AIFS to the Netherlands (**Manco**). Furthermore, the answers provided below solely relate to additional national requirements on top of the requirements stemming from the European harmonized rules.

Mancos may exercise passport rights for management and marketing of AIFs to professional investors (professionele beleggers) in the Netherlands on a services basis. To obtain a passport, the Manco must notify its competent authority, which will then send the passport notification to the AFM. Once the Manco has received the notification from its competent authority that it has sent the passport notification to the AFM, the Manco can manage a Dutch AIF and / or offer units in an EEA AIF that it manages in the Netherlands.

In the event that a Manco manages a Dutch AIF, it must comply with certain Dutch law provisions regarding conduct supervision. It concerns requirements with respect to transparency, the provision of information and due care. These requirements state that marketing material shall not contain any non-permissible, false or misleading information, marketing materials must include Dutch compliant disclaimers, and the commercial objective of the information made available is recognizable as such (Wet op de oneerlijke handelspraktijken).

It is also possible for a Manco to manage a Dutch AIF that offers units to non-professional investors (niet-professionele beleggers) in the Netherlands and / or offer units in an EU AIF that it manages to non-professional investors in the Netherlands by means of its passport. The Manco is obliged to notify the AFM of its intention to perform the aforementioned services (art. 2:66, lid 3, Wft). If a Manco offers units in an AIF to non-professional investors in the Netherlands, the Dutch 'top-up' rules will apply. The Manco needs to comply with specific criteria for offering investment units to non-professional investors (the 'retail top-up') (art. 4:37p Wft). These are rules concerning the business operations, the information to investors and supervisory authorities, the powers of supervisory authorities, the depository and the proper treatment of investors.

The Dutch 'top-up' rules do not apply to a Dutch Manco that offers units to non-professional investors in the Netherlands if the units have a nominal value of at least EUR 100,000 or can only be acquired for an equivalent value of at least EUR 100,000 per investor (art. 2:66, lid 1, Wft). In addition, the Manco needs to inform its investors that it is not under any supervision of the AFM (art. 2:66, lid 6, Wft, 'wildwestbordje'). This 'light regime' is only available for Dutch Mancos. Legislation is being amended to this point.

In the Netherlands there is no obligation for a Manco to notify the AFM of marketing materials prior to the commencement of marketing. Therefore, there is also no verification of marketing communications by the AFM. AIFs do have the obligation to provide the key investor information ([KIID](#)). The AFM maintains set criteria to indicate if a Manco is active in the Netherlands ([Beleidsregel Actief in Nederland 2013](#)).

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

UCITS established in another EEA State may be notified to market its units to retail and professional investors in Norway pursuant to national legislation implementing Directive 2009/65/EC Article 93.

The competent authority of the UCITS home state must submit a notification to Finanstilsynet which shall include the following:

- Standard notification letter to be completed by the fund/management company (Annex I to Commission Regulation No 584/2010);
- UCITS attestation issued by the home state's supervisory authority (Annex II to Commission Regulation No 584/2010)
- Articles of association
- Prospectus
- Key Investor Information Document (KIID)
- Latest annual report and, if applicable, half-yearly report

The above documentation may be submitted in Norwegian, English, Swedish or Danish, with the exception of KIID, which shall be submitted in Norwegian. The KIID may be submitted in English provided that the fund has a minimum subscription amount corresponding to NOK 5 million, or if the fund will be marketed to institutional investors on an individual basis only and without use of advertising or the like.

All marketing in Norway offering sales of units of the UCITS shall make reference to the availability of the prospectus and the KIID, and point out where these documents are available. The part B of the notification letter shall include a statement thereof.

All funds notified for marketing and their managers should be identified with a Legal Entity Identifier code (LEI) if applicable.

The competent authority of the home Member State of the UCITS will receive a confirmation letter from Finanstilsynet if the application is complete.

Sales in Norway of units of the UCITS must take place directly from the head office of the manager of the securities fund, through a representative office in Norway or through a management company holding a licence under the Securities Funds Act sections 2-1, 3-3 or 3-4, a credit institution entitled to engage in financing activity in Norway, an insurance company entitled to engage in insurance activity in Norway or an investment firm entitled to provide investment services in Norway.

The UCITS shall make such arrangements as are necessary for the purpose of making payments to the unit holders, redeeming units and providing such information as is required in the fund's home state as regards prospectuses, KIID, annual and interim reports and the making public of the value of units.

The fund's articles of association, prospectus, KIID, annual report and half-yearly report shall be made available to Finanstilsynet on the management company's website in a format in common use.

Finanstilsynet shall be notified of any changes made to the above documents and before any changes are made in the marketing of the funds or in the event of changes regarding the fund's share classes.

A fund may be de-notified for marketing. The de-notification must clearly identify the fund and the manager with a Legal Entity LEI-code when applicable.

Standard notification letters and notification letters regarding changes or cessation of marketing shall be sent electronically to ucits.notifications@finansstilsynet.no. The competent authority of the UCITS home state will receive a confirmation letter from Finanstilsynet if the application is complete.

There are no fees or charges connected to the marketing of foreign UCITS in Norway.

For more information please follow the link:

<https://www.finanstilsynet.no/en/licensing/securities-market/>

Please be advised that marketing of financial instruments in Norway may be subject to general rules regarding marketing as well as general principles of contract law.

Marketing requirements for AIFs

AIFs may be notified for marketing to professional investors pursuant to national legislation implementing Directive 2011/61/EU. The notification should be in English, and must include information and documentation as required by Article 32 of the AIFMD.

The notification shall include the following, cf. Annex IV to the AIFMD:

- A notification letter, including a program of operations identifying the AIFs the AIFM intends to market and information on where the AIFs are established
- AIF rules or instruments of incorporation
- Identification of the depositary of the AIF
- A description of, or any information on, the AIF available to investors
- Information on where the master AIF is established if the AIF is a feeder AIF
- Any additional information referred to in Article 23 (1) of the AIFMD for each AIF the AIFM intends to market

- The indication of the Member State in which it intends to market the units or shares of the AIF to professional investors
- Information about arrangements made for the marketing of AIFs and, where relevant, information on the arrangements established to prevent units or shares of the AIF from being marketed to retail investors, including in the case where the AIFM relies on activities of independent entities to provide investment services in respect of the AIF

In addition, the notification shall include:

- AIFM attestation

The competent authority of the home Member State of the AIFM will receive a confirmation letter from Finanstilsynet if the application is complete.

Standard notification letters and notice letters regarding material changes pursuant to Article 32(7) or regarding cessation of marketing shall be sent electronically to AIFMD@finansstilsynet.no.

Under the national private placement regime non-EEA AIFs and EEA AIFs managed by AIFMs established outside the EEA may market that AIF to professional investors subject to authorisation from Finanstilsynet (AIFMD Article 36 and 42). Finanstilsynet requires the use of specific application forms when applying under the national private placement regime. Please refer to the following for more detailed information as well as the application forms. <https://www.finanstilsynet.no/en/licensing/securities-market/>

Application forms under the private placement regime and notices regarding material changes or regarding cessation of marketing shall be sent electronically to post@finansstilsynet.no.

There are reporting obligations when marketing a fund pursuant to the Norwegian private placement regime (Annex IV-reporting). If an AIFM intends to cease the marketing and deregister an AIF that has been marketed under the private placement regime, it must inform Finanstilsynet whether Norwegian investors are still invested in the AIF and submit a final Annex IV report. A non-EU AIFM is required to fulfil its reporting obligations under Annex IV, even after sending a cessation notice, for as long as Norwegian investors are invested in the relevant AIF.

Norway has implemented national rules allowing EEA AIFMs to market AIFs towards retail investors in Norway, after receiving authorisation for such marketing from Finanstilsynet. There are also national rules in place allowing the marketing of foreign securities funds that are not UCITS to retail investors. Authorisation of marketing may be granted provided that certain requirements as listed in the Securities Funds Act section 9-4 with corresponding regulations are fulfilled.

There are no fees or charges connected to cross border marketing of AIFs in Norway.

Please be advised that marketing of financial instruments in Norway may be subject to general rules regarding marketing as well as general principles of contract law.

- PL - Komisja Nadzoru Finansowego (KNF)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

With the exception of the regulations transposing the EU Law (in particular article 77 of the UCITS Directive) Polish law do not provide for specific requirements on marketing communications.

On 3rd July 2007 the Polish Financial Supervision Authority issued a public statement on the forms of advertising messages regarding investment funds

The statement provided for requirements on, inter alia,

- care for the interests of investors, honesty, compliance with applicable laws and respect for good practices,
- prevention of misleading information,
- information on investment risk,
- prevention of presenting advertising information as neutral information,
- form (e.g. graphic) that makes easy to acquaint with the content of the advertising message and any individual elements of this message,
- adjusting the content to the capabilities of the typical addressee, taking into account the characteristics of the target group,
- adapting the message to the specificity of the medium in order to ensure its honesty,
- warnings, that the presented investment results were achieved in a specific historical period and thus there is no guarantee of achieving similar results in the future,
- information about existence of fees and costs (including income taxes) that affect the return,
- presenting results at least in fixed time intervals (1, 3, 5, 10 years),
- information of transformations that could have an impact on the funds return,
- approach to the portfolio adjustment period after the establishment of funds or after a significant change in investment policy,
- sources of financial information,
- comparative advertising.

Marketing requirements for AIFs

The same as for UCITS.

Rules based on the article 77 of UCITS Directive and PFSA statement of 3rd July 2007 also applies to the alternative investment funds.

- PT - Comissão do Mercado de Valores Mobiliários (CMVM)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

- UCITS marketing material, which encompass its legal documents and any marketing communication, should comply with the applicable legal requirements foreseen in the General Framework for Collective Investment Undertakings (hereafter “RGOIC”)⁽¹⁾ and CMVM Regulation n.º 2/2015 (hereafter “CMVM Regulation”)⁽²⁾. The UCITS legal documents should comply with articles 153 to 159 of RGOIC and articles 63 to 65 of CMVM Regulation and specific templates and content are foreseen in Annexes 7 and 8.1 of the CMVM Regulation. Prior to the commencement of marketing, a draft marketing agreement, an acceptance confirmation from the appointed marketing entity and updated versions of the UCITS legal documents must be communicated by the UCITS management company to the CMVM and are subject to its non-opposition decision. Any change to the UCITS legal documents and to the marketing agreement must be communicated by the UCITS management company to the CMVM and are subject to its non-opposition decision.
- Marketing communications shall only be used after the authorization issued by CMVM and it shall not contain statements which contradict or diminish the importance of the information included, where required, in the UCITS legal documents [article 152 of RGOIC]. Mandatory mentions, foreseen in article 72 of CMVM Regulation, must be included. Information on UCITS risk and past returns shall comply with articles 70, 71, 73 and 74 of CMVM Regulation. Marketing communications are not subject to pre-approval from the CMVM. The CMVM may require any amendment or take decisions based on its ex-post supervisory activity.
- The marketing of UCITS in Portugal, on a cross-border basis, should be preceded of a notification file sent from the NCA of the UCITS home Member State to the CMVM, with the documentation listed in article 196(1) of RGOIC and, if applicable, indication that the Management Company is the responsible entity to market the units as established in article 196(2) of RGOIC. It should be highlighted that the notification file encompasses the document with the specific conditions for the marketing of the EU UCITS in Portugal.
- Both the UCITS KIID and the document with the specific conditions for the marketing of the EU UCITS in Portugal should be translated to Portuguese. All mechanisms should be in place in order to ensure the equal treatment of investors from UCITS management companies.
- The appointed marketing entity of the UCITS marketed on a cross-border basis shall report to CMVM, on a monthly basis, information regarding the marketing activity of the UCITS in accordance with CMVM Instructions No. 10/2012 or No. 05/2011⁽³⁾, if UCITS or UCITS-ETF, respectively.
- For UCITS marketed in Portugal on a cross-border basis the UCITS Management Company must notify the CMVM of any change to the information contained in the documents listed in article 196(1) of RGOIC, prior to their effectiveness.
- The de-registration procedure of an UCITS marketed in Portugal on a cross-border basis consists of a communication sent by the management company and the appointed marketing entity to the CMVM. This communication should provide clear and complete information on the reasons for the decision taken, number of

investors in Portugal and a statement from the appointed marketing entity that will ensure all current legal duties to existing investors.

- Relevant tax information may be consulted [here](#).

Legislation and weblinks:

(1) Approved by Law No. 16/2015, of 24th February, as amended to date ([English version](#) and [Portuguese version](#)).

(2) CMVM Regulation No. [2/2015](#), as amended to date

(3) CMVM Instructions No. [10/2012](#) and [5/2011](#)

Marketing requirements for AIFs

- AIFs marketing material, which encompass its legal documents and any marketing communication, should comply with the applicable legal requirements foreseen in the General Framework for Collective Investment Undertakings (hereafter “RGOIC”)⁽¹⁾ and CMVM Regulation n.º 2/2015 (hereafter “CMVM Regulation”)⁽²⁾. The AIFs legal documents should comply with articles 153 to 159 and 221 of RGOIC and articles 63 to 65 of CMVM Regulation and specific templates and content are foreseen in Annexes 7 and 8.2 and 8.3 of CMVM Regulation. Prior to the commencement of marketing, a draft marketing agreement, an acceptance confirmation from the appointed marketing entity and updated versions of open-ended and closed-ended (marketed to the public) AIFs legal documents must be communicated by the AIFM to the CMVM and are subject to its non-opposition decision. AIFs marketed exclusively to professional investors must solely communicate the same set of documents to CMVM.

Any change to the open-ended and closed-ended (marketed to the public) AIFs legal documents and to the marketing agreement must be communicated by the AIFM to the CMVM and are subject to its non-opposition decision. AIF marketed exclusively to professional investors must solely communicate the same set of documents to CMVM.

- Marketing communications shall only be used after the authorization issued by CMVM and it shall not contain statements which contradict or diminish the importance of the information included, where required, in the AIFs legal documents [article 152 of RGOIC]. Mandatory mentions, foreseen in article 72 of CMVM Regulation, must be included. Information on AIFs risk and past returns shall comply with articles 70, 71, 73 and 74 of CMVM Regulation. Marketing communications are not subject to pre-approval from the CMVM. The CMVM may require any amendment or take decisions based on its ex-post supervisory activity.
- The marketing of EU AIFs to professional investors in Portugal, on a cross-border basis, should be preceded of a notification file sent from the NCA of the AIF home Member State to the CMVM, with the documentation listed in article 230(3) and 233(1) of RGOIC. It should be highlighted that the AIFM must have in place procedures to prevent that any units from the EU AIF are marketed to retail investors.
- The marketing of non-EU AIFs to professional investors and the marketing of non-EU AIFs and EU AIFs to retail investors are subject to prior authorization from

CMVM. For further information, consult the applicable authorization application forms [[professional investors](#) | [retail investors](#)].

- Any material changes to the information provided to the CMVM must be communicated by the UE-AIF Home NCA, in case of an UE-AIF marketed in Portugal to professional investors on a cross-border basis, or the AIFM, according to articles 233 and 237.^o-A of RGOIC, respectively.
- The de-registration procedure of an AIFs marketed in Portugal on a cross-border basis consists of a communication sent by the UE-AIF Home NCA, in case of an UE-AIF marketed in Portugal to professional investors on a cross-border basis, and the AIFM to the CMVM. Information may be requested on the reasons for the decision taken, number of investors in Portugal and a statement from the appointed marketing entity that will ensure all current legal duties to existing investors.
- Relevant tax information may be consulted [here](#).

Legislation and weblinks:

⁽¹⁾ Approved by Law No. 16/2015, of 24th February, as amended to date ([English version](#) and [Portuguese version](#)).

⁽²⁾ CMVM Regulation No. [2/2015](#), as amended to date

⁽³⁾ CMVM Instructions No. [10/2012](#) and [5/2011](#)

- RO - Autoritatea de Supraveghere Financiara (ASF)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

The legal framework applicable for the marketing of UCITS in Romania is represented by GEO no. 32/2012 and RO FSA Regulation no. 9/2014 issued for the application of this emergency ordinance.

According to art. 97 of GEO no. 32/2012 all the marketing materials addressed to investors must be clearly identifiable as such, correct, clear and not misleading and must not contain messages that contradict or diminish the significance of the information contained in the prospectus and of the KID. They must indicate the existence of a prospectus and the KID and must specify where and in which language investors and potential investors can obtain this information or how they can access it. The dissemination of any marketing material is allowed only according to RO FSA regulations regarding the content and structure of the marketing materials, namely in accordance with art. 188-193 of RO FSA Regulation no. 9/2014. The marketing communications are not subject to prior authorisation by the RO FSA.

According to the above-mentioned articles of RO FSA Regulation no. 9/2014, the management company of an UCITS has the obligation to make available to RO FSA at its request, all the marketing materials. If any marketing materials or information published

or disseminated are not observing the provisions of RO FSA Regulation no. 9/2014, RO FSA requests the management company of an UCITS the withdrawal of the published material or prohibits the continuation of its dissemination until it is revised in order to comply with the legal provisions.

With regard to the passporting rules, UCITS authorized in other Member States may distribute their units in Romania based on the notification procedure provided by the up mentioned emergency ordinance, respectively at art. 173-177. The UCITS notified for distribution in Romania have the obligation to provide to Romanian investors all the information and documents that UCITS has the obligation to provide to investors from its home member state, according to the provisions of chap. IV section 5 "Rules on transparency and marketing" of GEO nr. 32/2012.

The Romanian legal framework does not contain provisions with regard to the de-notification of arrangements made for marketing, such provisions will be in place after the publication and entry into force of the draft law transposing CBDF Directive.

Specific information for marketing in Romania of units or shares issued by UCITS from other EU Member States, in compliance with the provisions of Art. 175 (1) of G.E.O. 2012/32 as subsequently amended and supplemented can be found on the RO FSA website at the following link: <https://asfromania.ro/en/legislation/sectorial-legislation/capital-market/secondary-legislation-cnvm/single-passport-2> . The information will be updated following the entry into force of the draft law transposing CBDF Directive.

Marketing requirements for AIFs

The legal framework applicable for cross-border distribution and marketing of AIFs in Romania is represented by Law no. 74/2015 and RO FSA Regulation no. 10/2015 issued for the application of this law. Also, Law no. 243/2019 and RO FSA Regulation no. 7/2020 contain provisions with respect to marketing communications rules for AIFs distributed to retail investors. Therefore, according to art. 53 of RO FSA Regulation no. 7/2020 marketing communications of AIFs distributed to retail investors must be accurate, clear, identifiable as such and fairly describe the risks and benefits of investing in the respective AIF, in accordance with the transparency requirements set out in Regulation (EU) no. 2019/1156 on facilitating the cross-border distribution of collective investment undertakings and amending Regulations (EU) no. 345/2013, (EU) no. 346/2013 and (EU) no. 1.286/2014.

The AIFMs that manage the AIF distributed to retail investors apply accordingly the provisions of art. 188-190 and art. 192 of the RO FSA Regulation no. 9/2014 regarding marketing communications of the AIFs distributed to retail investors whose assets they manage. Moreover, according to art. 54 of RO FSA Regulation no. 7/2020 the AIFM exercises at least annually an ex-post check-up regarding the monitoring of the "target markets" and the distribution channels of the units/ shares of retail AIFs they manage, in order to identify marketing activities that do not comply with the provisions of the

incorporation documents or marketing materials of the respective retail AIF. The marketing communications are not subject to prior authorisation by the RO FSA.

As a general rule for the cross-border distribution of EU AIFs in Romania, EU AIFMs can distribute the EU AIFs they manage in Romania only to professional investors based on the notification procedure provided in art. 32 of Law no. 74/2015 and in art. 37-39 of RO FSA Regulation no. 10/2015 issued in its application. Moreover, according to art. 38 of RO FSA Regulation no. 10/2015 for the application of the provisions of letter g) of Annex no. 2 of Law no. 74/2015 (which transposes AIFMD), written or audiovisual advertising, as well as direct contact of Romanian investors via telephone or internet, at the initiative of AIFM, are strictly prohibited.

By derogation from art. 32 of Law no. 74/2015, AIFs may be distributed to Romanian retail investors only if they meet certain conditions provided in RO FSA Regulation no. 10/2015, namely if the respective AIF complies with the conditions regarding investment limits and the reporting, transparency and marketing requirements currently applicable to AIFs established in Romania which publicly raise financial resources (e.g.: AIF distributed to retail investors) and if the entities that distribute the units/ shares of the respective AIF (mentioned in art. 37 para. (3) of the same regulation) are authorized to provide the MiFID investment advice activity.

The Romanian legal framework does not contain provisions with regard to the de-notification of arrangements made for marketing, such provisions will be in place after the publication and entry into force of the draft law transposing CBDF Directive.

- SE - Finansinspektionen (FI)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

The passporting regime, art. 93 UCITS, has been implemented (incoming) through ch. 1 sec. 7 of the Swedish UCITS act (2004:46) and (outgoing) ch. 2 sec 15 c (2004:46). Only the forms prescribed by 584/2010 are used. No particular form for the communications is prescribed by Swedish law and no verification of the marketing communications is made by Finansinspektionen in the incoming passporting process. Sweden does not require any additional information under art 91 (3) UCITS for the purposes of passporting. De-notification is carried out informally by means of a simple e-mail communication from the UCITS/management company.

Supervision of marketing materials is handled on an ongoing basis.

Other than the above, Swedish law only demands that UCITS supply Swedish investors with the same information that it is required to supply to investors in its home member state. No reporting to Finansinspektionen is necessary.

Foreign management companies managing Swedish UCITS (“värdepappersfonder”) must comply fully with Swedish rules on such management.

The Swedish Marketing Act (2008:486) is applicable in relation to in principle all marketing of products and services and contains, in addition to an incorporation of Annex I 2005/29/EG, rules on aggressive and/or misleading marketing, warranties, electronic marketing et.al.

Entities that establish a branch in Sweden must comply with the law (1992:160) on foreign branches.

Foreign companies, including UCITS/management companies, and AIFMs either managing a Swedish special fund (ch. 5 sec. 2 [2013:561] or with a permit to market foreign funds analogous to such funds (ch. 5 sec 6 first para. 2 or ch 5 sec 11 first para 2 [2013:561]), conducting business in Sweden, without establishing a branch or similar establishment here, must before starting the business, according to Chapter 23, Section 5, of the Tax Procedure Act (2011:1244) submit to the Financial Supervisory Authority (Finansinspektionen) an undertaking to file Income Statements to the Swedish Tax Agency.

Marketing requirements for AIFs

Passporting of AIF:s is carried out according to art 32 AIFMD, implemented by ch. 5. Sec. 3 of the Swedish AIFM act (2013:561) (incoming) and ch.6 sec. 3 (outgoing).

A summary of provisions related to authorisation necessary for marketing of AIFs in Sweden as well as formal requirements for the application can be found on [our website](#) under Markets/Apply for authorisation/Alternative investment fund managers. This includes information on marketing to retail and professional investors, PPR, closed/open ended funds, as well as formal requirements for the application. Verification of the marketing material is carried out as part of the authorisation process.

In short, the following permits are available.

EEA AIFMs

- (1) Marketing of a non-EEA AIF to professional investors
- (2) Management of a Swedish “special fund” (includes marketing)
- (3) Marketing of a foreign fund comparable to a Swedish special fund to non-professionals
- (4) Marketing of a foreign listed fund to non-professionals
- (5) Marketing of a private equity fund to semi-professionals

Non-EEA AIFMs

- (6) Marketing of AIFs to professional investors
- Permits analogous to (3)-(5) above are also available.

All AIF:s that are marketed to non-professional investors must have a UCITS KIID (ch. 10, sec. 2 the Swedish AIFM law [2013:561] and ch. 14, 15 FFFS 2013:9).

All third country AIFM:s that market funds in Sweden must comply with articles 22-24, 26-30 AIFMD.

All managers of Swedish "Special funds" must publish tracking error for each fund online, in the prospectus and in the annual report. (ch. 10, sec. 13-16 [2013:561]) Such managers must also include additional information in the prospectus (ch. 13 FFFS 2013:9) and report additional information to Finansinspektionen quarterly (ch. 16 FFFS 2013:9)

All third country AIFMs using the PPR must report on acquisitions of non-listed companies (ch. 11 FFFS 2013:10) and include additional information in the prospectus (ch. 13 FFFS 2013:10).

All AIF:s that are marketed to non-professional investors must currently disclose ESG information for each fund online, in the prospectus and in the annual report. (ch 10, sec 11). However, this national regulation will presumably be supplanted by (EU) 2019/2088 Q1 2021.

Swedish law does not formally separate between open- and closed-ended AIFMs under the definition of (EU) 694/2014. However, permit (5) above requires that the fund be "closed-ended" in the formerly recognized meaning of the term, i.e. lacking the possibility of redemption for a period of five years.

The Swedish Marketing Act (2008:486) is applicable in relation to in principle all marketing of products and services and contains, in addition to an incorporation of Annex I 2005/29/EG, rules on aggressive and/or misleading marketing, warranties, electronic marketing et.al.

Entities that establish a branch in Sweden must comply with the law (1992:160) on foreign branches.

Foreign companies, including UCITS/management companies and AIFMs, conducting business in Sweden, without establishing a branch or similar establishment here, must before starting the business, according to Chapter 23, Section 5, of the Tax Procedure Act (2011:1244) submit to the Financial Supervisory Authority (Finansinspektionen) an undertaking to file Income Statements to the Swedish Tax Agency.

De-notification of arrangements made for marketing is done informally by means of a simple e-mail communication from the AIFM

Overview of national rules governing marketing requirements

Slovak republic

Marketing requirements for UCITS

Relevant regulation:

- Act Nr. 203/2011 Coll. on collective investments (“ACI”)
Key provisions: Articles 3, 60, 64, 138, 142-144, 151

<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/203/20190701>

- Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, as amended („the UCITS Directive“)
- Commission regulation (EU) No. 584/2010 as regards the form and content of the standard notification letter and UCITS attestation (“Notification regulation”)

The distribution of UCITS in the territory of the Slovak republic can be provided by the management company licensed under the UCITS Directive on the basis of:

- (a) the notification referred to in Article 64 of the ACI and in Article 142 in case of the intention to distribute the UCITS through the establishment of a branch (Article 17 of the UCITS Directive);
- (b) the notification referred to in Article 142 and Art. 143 of the ACI in case of the intention just to distribute the UCITS (not creation and management of the Slovak UCITS) on the basis of the freedom to provide services, without the establishment of the branch (Article 16 and Article 93 of the UCITS Directive).

The notification referred to in Article 64 and in Article 142 and Art. 143 of the ACI is not required in case that the distribution of UCITS is to be performed in a manner other than a public offering of UCITS (Article 138 point 6 of the ACI).

The changes of the notification and denotification of the distribution of UCITS shall be delivered electronically to the following address: ucitsiv@nbs.sk

There are no special rules or obligations required by the National Bank of Slovakia other than those under Article 93 of the UCITS Directive (§ 142 and 143 of the ACI) and Notification regulation for the notification of the distribution of the UCITS in the territory of the Slovak republic.

No special procedure or conditions for denotification of the distribution of UCITS in the Slovak republic is set, except the obligation under the Article 144 of the ACI to publish the information on the termination of the UCITS distribution in the territory of the Slovak Republic in the manner referred to in Section 161(1) of the ACI and within at least 30

calendar days before the distribution of UCITS is terminated in the territory of the Slovak Republic.

Public marketing of UCITS in the Slovak republic is allowed only if the National Bank of Slovakia was duly notified under the ACI. Such UCITS shall ensure the fulfilment of the conditions for the public offering of UCITS according to the Article 144 of the ACI (Article 94 of the UCITS Directive).

All marketing communication shall be in line with Article 151 of the ACI. No special reporting obligations are required. NBS does not carry ex-ante verification of marketing communications.

General regulation regarding advertising to the consumers:

- Act Nr. 250/2007 Coll. on consumer protection
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/250/20160201>
- Act no. 147/2001 Coll. about advertising
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/147/20190101>

Marketing requirements for AIFs

Cross border marketing of AIF in Slovakia:

Relevant regulation:

- Act Nr. 203/2011 Coll. on collective investments (“ACI”)
Key provisions: Articles 3, 63a -66a, 136, 147- 150a, 150d, 151

Articles 3, 63a -66a, 136, 147- 150a, 150d, 151
- Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 („the AIFMD“)

The distribution of EU AIF in the territory of the Slovak republic for professional investors and qualified investors defined in the Article 136 (1) of the ACI (hereinafter „eligible investors“) can be provided by the AIF manager licensed under the Article 6 of the AIFMD on the basis of:

(a) the notification referred to in Article 150d of the ACI (Article 32 of the AIFMD).
The notification shall state:

- a) identification of the AIF and AIFM including contact details,
- b) the list of Member States in which the AIFM intends to market the units of the AIF to professional investors

- c) information and documents referred to in Article 150b(1)(a) to (f) of the ACI (Art. 31 of the AIFMD),
- d) information on the manner of distributing EU AIF,
- e) information on the mechanisms created for preventing the securities or shareholdings in that fund from being distributed to retail investors, and
- f) information on disclosure requirements under the Article 159a of the ACI (Article 23 of the AIFMD).

The changes of the notification and denotification of the distribution of EU AIF shall be delivered electronically to the following address: AIFMD.notifications@nbs.sk

No special procedure or conditions for denotification of the distribution of EU AIF in the Slovak republic is set.

Public marketing of EU AIF in the Slovak republic is allowed to eligible investors only if the National Bank of Slovakia was duly notified under the ACI. Such EU AIF/AIFM shall ensure the fulfilment of the conditions for the public offering according to the Article 159a of the ACI (Article 23 of the AIFM). Public marketing shall be addressed only to eligible investors, it shall be clearly stated in all marketing materials (Art. 136(1) of the ACI). There is no prior authorisation for marketing communication required. No special reporting obligations are required, only on request.

Distribution and public marketing of the EU AIF to the retail investors in the Slovak republic is allowed only on the basis of an authorisation granted by National bank of Slovakia according to the Article 148 of the ACI. Such EU AIF/AIFM shall ensure the fulfilment of the conditions for the public offering according to the Articles 149 and 150 of the ACI.

All marketing communication shall be in line with Article 151 of the ACI. Articles 3, 63a-66a, 136, 147- 150a, 150d, 151

General regulation regarding advertising to the consumers:

- Act Nr. 250/2007 Coll. on consumer protection
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/250/20160201>
- Act no. 147/2001 Coll. about advertising
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/147/20190101>

- SL - Agencija za trg Vrednostnih Papirjev (ATVP)

Overview of national rules governing marketing requirements

Marketing requirements for UCITS

1. The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

N/A; according to the national rules there is no marketing communications notification or verification procedure by the authority

2. Verification of marketing communications by the authority;

N/A; according to the national rules there is no marketing communications notification or verification procedure by the authority

3. Reporting obligations in relation to marketing;

According to the national rules there are the following reporting obligations in relation to marketing in the Republic of Slovenia as a host member state:

1. on updates to the notification document by e-mail: updates.ucits@a-tvp.si;
2. reporting on operations of the subsidiary of the management company in the Republic of Slovenia:
 - aggregated data on net payments of residents of the Republic of Slovenia in the previous month and data on investments of residents of the Republic of Slovenia in units of UCITS marketed in the Republic of Slovenia as at the last accounting day of the previous month.

4. Passporting rules;

In Part A and Part C of the Standard Model Notification Letter, no special provisions specific to Slovenia are required. For Part B, the following shall apply:

1. Under the description of arrangements made for marketing of units of UCITS in the Republic of Slovenia the information on all intended marketing channels shall be provided.
2. Under the description of arrangements for the provision of facilities to unit-holders the following information shall be provided:
 - details of paying agent (in the Republic of Slovenia local paying agent is mandatory);
 - details of any other person from whom investors may obtain information and documents: all the legal and natural persons (entrepreneurs) who conduct marketing of units of UCITS in the Republic of Slovenia on behalf of the management company shall be listed; also the link to the up-to-date list of all persons from whom investors may obtain information and documents should be provided;
 - manner in which the issue, sale, repurchase or redemption prices of units of UCITS will be made public including the name of the newspaper in the Republic of Slovenia and the name/address of other media where the price of units of UCITS will be published.

3. Other information which shall include:

- a precise description of the division of functions and responsibilities between the paying agent and the primary depository of the investment fund, in particular in connection with the administration of the register of unit holders;
- a precise description of the manner in which the register of unit holders who invested in Slovenia is administered (how data confidentiality and security will be assured);
- a precise description of the legal consequences for investor in the event of a rescission of the contract between the paying agent in Slovenia and the UCITS;
- in case it differs from one described in UCITS's prospectus a precise description of the procedure of subscription and redemption of units of UCITS in Slovenia, in particular an indication of the time period and unit price at which subscription payments for units will be charged, and of the time period within which units will be redeemed, counted from the day a request for redemption is received. An indication of the deadline by which and the manner in which unit holders are notified of their unit balance

5. De-notification of arrangements made for marketing;

Where the UCITS ceases marketing of units in the Republic of Slovenia, or in the case of an umbrella UCITS ceases marketing some compartments, the UCITS must inform the SMA by e-mail: notification.ucits@a-tvp.si.

6. Any other rules governing marketing of UCITS applicable within the jurisdiction of the NCA.

The following documents and information must be published in the Republic of Slovenia:

- the key investor information;
- the annual report for the end of each financial year;
- the half-yearly report;
- the prospectus;
- the fund rules or articles of association;
- the issue and redemption prices of the units; and
- other documents and information which are required to be published in the UCITS's home Member State.

Additional information is available in [Guidance Notice on marketing of units of UCITS in the Republic of Slovenia](#).

Marketing requirements for AIFs

1. Prior authorisation for marketing;

N/A; according to the national rules there is no marketing communications notification or verification procedure by the authority

2. The format and content of marketing material, including the identification of the information and documents to be notified to the authority prior to the commencement of marketing;

N/A; according to the national rules there is no marketing communications notification or verification procedure by the authority

3. Verification of marketing communications by the authority;

N/A; according to the national rules there is no marketing communications notification or verification procedure by the authority

4. Marketing to retail investors or to professional investors;

The units of AIFs and EU AIFs may be marketed in the Republic of Slovenia only to professional investors.

The professional investor shall be:

- a professional client under AIFMD (i.e. MiFID II regime);
- a qualified professional investor under national AIF regime: natural persons, legal persons and other entities governed by private or public law that:
 1. undertake, by a contract concluded with the AIFM, to invest at least EUR 150,000, (or EUR 50,000 when making an investment in a Special Investment Fund "SIF", i.e. AIF holding national license without EU passport), a venture capital company referred to in the Act governing venture capital companies, or an EU AIF that meets at least the conditions applicable to the aforementioned AIFs in the Republic of Slovenia and
 2. state in writing, in a separate document from the contract referred to in the preceding point, that they are aware of the risks associated with the envisaged commitment or investment.

Notwithstanding the preceding paragraphs, units of AIFs and EU AIFs may also be marketed to all other (retail) investors provided that the terms and conditions of the Investment Funds and Management Companies Act (hereinafter: ZISDU-3) have been satisfied.

More detailed information on cross-border marketing requirements for retail investors from the perspective of an open-ended or closed-ended fund can be found in the section 8) below and in [Guidance Notice on marketing of units of AIFs to the non-professional investors in the Republic of Slovenia](#).

5. Reporting obligations in relation to marketing;

N/A; according to the national rules there are no reporting obligations in relation to marketing in the Republic of Slovenia as a host member state

6. Passporting rules;

The notification shall include the following:

1. a business plan identifying the AIFs and EU AIFs the EU AIFM intends to market and information on where the EU AIFs are established;
2. the rules or instruments of incorporation of the AIFs or EU AIFs;
3. information on the depositaries of the AIFs or EU AIFs;
4. information on the AIFs or EU AIFs available to investors;
5. information on where the master AIF is established if the AIF is a feeder AIF;
6. information included in disclosure to investors as defined in Article 23 of Directive 2011/61/EU;
7. a list of the Member States in which it intends to market AIF and EU AIF units;
8. information on arrangements made for the marketing of AIFs.

7. Distribution of funds established in a non-EU Member State under the national private placement regime (if applicable);

N/A

8. Distribution of open-ended AIFs and of closed-ended AIFs;
(in relation to cross-border marketing requirements for retail investors)

Conditions specific for open-ended AIFs

1. Minimum first subscription

When marketing units of EU AIFs to *retail investors* in the Republic of Slovenia the AIFM shall take into consideration the restrictions concerning the minimum first subscription no of less than EUR 25,000, except for AIFs whose rules provide for at least 80% of exposure to the investments in units of alternative investment funds, that are managed by managers authorized in compliance with the provisions adopted for the transposition of Directive 2009/65/EC, or possessing authorization from the competent authority of a Member State.

2. Paying agent

When marketing units of open-ended EU AIFs to the *retail investors* in the Republic of Slovenia the AIFM shall ensure that in the Republic of Slovenia all the facilities are available that are necessary to smoothly make payments to holders of units of EU AIFs and to carry out the sale, re-purchase and redemption of units of EU AIFs.

Regarding marketing of units of open ended AIFs to the public (*retail investors*) in the Republic of Slovenia, ZISDU-3 and the Decision on the Terms and Conditions for

Marketing of Investment Fund Units (hereinafter: the Decision) shall be respected in addition to the requirements of Alternative Investment Fund Managers Act.

According to the Decision, the payment of units and other receivables from the title of the units of an investment fund formed and established in another EU Member State and marketed on the territory of the Republic of Slovenia is only possible through one or several banks established within the Republic of Slovenia and holding an authorization of the Bank of Slovenia to provide bank services, or subsidiaries of the banks from EU Member States established within the Republic of Slovenia in accordance with the banking regulations.

Conditions specific for closed-ended AIFs

The marketing of closed-ended alternative funds to *retail investors* in the Republic of Slovenia is subject to the provisions of the Market in Financial Instruments Act (hereinafter ZTFI-1) on the first and subsequent sales of securities to the public.

Consequently the units of close-ended AIFs, which are not deemed to be securities, cannot be marketed to *retail investors*. Units of closed-ended AIFs, which are issued as securities, can be marketed to the retail investors in accordance with the provisions of ZTFI-1 and Regulation (EU) 2017/1129.

9. De-notification of arrangements made for marketing;
Where the AIF ceases marketing of units in the Republic of Slovenia, or in the case of an umbrella AIF ceases marketing some compartments, the AIFM must inform the Agency in writing and by e-mail: notification.aif@a-tvp.si.

10. Any other rules governing marketing of AIFs applicable within the jurisdiction of the NCA.

N/A