

## Summaries of national provisions governing the marketing requirements for AIFs

[8 June 2023]

### I. Marketing procedures with a passport under the AIFM Law

- i) *Luxembourg AIFMs marketing EU AIFs to professional investors in Luxembourg (Art.29 of the AIFM Law)*
- A Luxembourg-based AIFM which intends to market to professional investors in Luxembourg the units or shares of an AIF which is managed by that AIFM and is established in another Member State, must submit a notification file to the CSSF via the eDesk portal;
  - the notification file shall comprise the documentation as set out in Annex III of the AIFM Law;
  - this notification procedure does not apply to Luxembourg AIFMs which intend to market AIFs that they manage to professional investors in Luxembourg, where these AIFs are subject to authorisation and prudential supervision by the CSSF;
  - within 20 working days following receipt of a complete notification file, the CSSF shall inform the AIFM whether it may start marketing the AIF identified in the notification file;
  - in the event of a material change to the original notification file, the AIFM must give written notice of that change to the CSSF at least one month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred;
  - an AIFM may withdraw the notification of arrangements for marketing units in a Member State in respect of which it has made a notification in accordance with Article 29-1 of the AIFM Law. The AIFM shall submit a de-notification letter to the CSSF, containing the information in respect of compliance with the conditions referred to in the Article 29-1 of the AIFM Law;
  - information on changes and de-notification letters can be sent to the CSSF via the eDesk portal;

- Luxembourg-based authorised AIFMs shall ensure that all marketing communications addressed to investors are identifiable as such and describe the risks and rewards of purchasing units of an AIF in an equally prominent manner, and that all information included in marketing communications is fair, clear and not misleading<sup>1</sup>.
- ii) *Luxembourg AIFMs marketing EU AIFs to professional investors in other Member States (Art.30 of the AIFM Law)*
- a Luxembourg-based AIFM which intends to market to professional investors in another Member State the units or shares of an EU AIF which is managed by that AIFM must submit a notification file to the CSSF [via](#) the eDesk portal;
  - the notification file shall comprise the documentation as set out in Annex IV of the AIFM Law;
  - within 20 working days following receipt of a complete notification file, the CSSF shall transmit the complete notification file to the authorities of the Member State where marketing shall take place and inform the AIFM whether it may start marketing the AIF identified in the notification file;
  - in the event of a material change to the original notification file, the AIFM must give written notice of that change to the CSSF at least one month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred;
  - an AIFM may withdraw the notification of arrangements for marketing units in a Member State in respect of which it has made a notification in accordance with Article 30-1 of the AIFM Law. The AIFM shall submit a de-notification letter to the CSSF, containing the information in respect of compliance with the conditions referred to in the Article 30-1 of the AIFM Law (which shall be transmitted to the authorities of the relevant Member State);

<sup>1</sup> Apart from the legal and regulatory documentation to be notified under the AIFMD notification procedure for marketing, the CSSF does not verify any marketing communications for the time being either on an ex-ante or ex-post basis.

- information on changes and de-notification letters can be sent to the CSSF via the eDesk portal;
- Luxembourg-based authorised AIFMs shall ensure that all marketing communications addressed to investors are identifiable as such and describe the risks and rewards of purchasing units of an AIF in an equally prominent manner, and that all information included in marketing communications is fair, clear and not misleading<sup>1</sup>.

## **II. Other marketing procedures without a passport under the AIFM Law**

- a) *Marketing to professional investors under Article 37 of the AIFM Law;*
  - every authorised EU AIFM which intends to market non-EU AIFs to professional investors in Luxembourg and which complies with the conditions under Article 37 of the AIFM Law must send an information form (to be found on the CSSF's web-site as indicated below) to the CSSF using the email address [aifm@cssf.lu](mailto:aifm@cssf.lu), before starting its marketing activity in Luxembourg;
  - if such AIFM intends to cease the marketing of its AIF/sub-fund in Luxembourg, it must inform the CSSF whether Luxembourgish investors are still invested in the fund/sub-fund and de-register the AIF/sub-fund per e-mail to [aifm@cssf.lu](mailto:aifm@cssf.lu).
- b) *Marketing to professional investors under Article 45 of the AIFM Law;*
  - every non-EU AIFM which intends to market shares or units of the AIF(s) it manages to professional investors in Luxembourg and which complies with the conditions under Article 45 of the AIFM Law must send an information form (to be found on the CSSF's web-site as indicated below) to the CSSF, using the email address [aifm@cssf.lu](mailto:aifm@cssf.lu), before starting its marketing activity in Luxembourg;
  - if such AIFM intends to cease the marketing of its AIF/sub-fund in Luxembourg, it must inform the CSSF whether Luxembourgish investors are still invested in the fund/sub-fund and de-register the AIF/sub-fund per e-mail to [aifm@cssf.lu](mailto:aifm@cssf.lu);

<sup>1</sup> Apart from the legal and regulatory documentation to be notified under the AIFMD notification procedure for marketing, the CSSF does not systematically verify any marketing communications for the time being either on an ex-ante or ex-post basis.

- 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.
- c) *Marketing to retail investors under Article 46 of the AIFM Law*
  - the rules for the application of Article 46 of the AIFM Law for marketing of regulated AIFs to retail investors in Luxembourg are laid down in CSSF Regulation N° 15-03 [CSSF Regulation No 15-03 – CSSF](#);
  - prior to marketing an AIF's units or shares to retail investors in Luxembourg, any authorised EU AIFM that complies with the conditions under Article 46 of the AIFM Law must have obtained a prior authorisation for such marketing from the CSSF;
  - the application form (to be found on the CSSF's web-site as indicated below) as well as any changes to the initial application form must be sent to [opc@cssf.lu](mailto:opc@cssf.lu);
  - if such AIFM intends to cease the marketing of its AIF/sub-fund in Luxembourg, it must inform the CSSF whether Luxembourgish investors are still invested in the fund/sub-fund and de-register the AIF/sub-fund per e-mail to [opc@cssf.lu](mailto:opc@cssf.lu).

### **III. Other national requirements**

- the AIFM shall provide the required documents and information to the CSSF and to investors in Luxembourg in one of the languages Luxembourgish, French, German or English;
- for more details regarding the requirements for marketing units or shares of AIFs by AIFMs to investors in Luxembourg, please consult the CSSF's [website](#).