



Commission de Surveillance  
du Secteur Financier

## Circular CSSF 22/795

Application of the Guidelines of the European Securities and Market Authority on marketing communications (ESMA34-45-1272) under Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014 (the “CBDF Regulation”)



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**Re:** Application of the Guidelines of the European Securities and Market Authority on marketing communications (ESMA34-45-1272) under Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014 (the “CBDF Regulation”)

Luxembourg, 31 January 2022

**To all Luxembourg investment  
fund managers**

Ladies and Gentlemen,

The purpose of this Circular is to inform you that the CSSF, in its capacity as competent authority, applies the Guidelines of ESMA on marketing communications (ESMA34-45-1272) under the CBDF Regulation (the “Guidelines”), published on 2 August 2021. Consequently, the CSSF has integrated the Guidelines into its administrative practices and regulatory approach with a view to promote supervisory convergence in this field at European level.

All Luxembourg investment fund managers that are in the scope of application of this Circular, as specified below, shall duly comply with the Guidelines.

### TABLE OF CONTENTS

1.	The Guidelines	3
2.	Scope of application	3
3.	Information to be provided on marketing communications	4
4.	Date of application	4

## 1. The Guidelines

The Guidelines are issued by ESMA in accordance with Article 4(6) of the CBDF Regulation.

The Guidelines apply in relation to the application of the requirements for marketing communications referred to in Article 4(1) of the CBDF Regulation, including on-line aspects of such marketing communications.

The Guidelines apply as from 2 February 2022, i.e. 6 months after the date of the publication of the Guidelines on ESMA's website in all EU official languages.

The Guidelines specify the application of the requirements for marketing communications set out in Article 4(1) of the CBDF Regulation. In particular they establish common principles on the identification as such of marketing communications, the description of risks and rewards of purchasing units or shares of an AIF or units of a UCITS in an equally prominent manner, and the fair, clear and not-misleading character of marketing communications, taking into account on-line aspects of such marketing communications.

The Guidelines (and any update of those Guidelines) are available on ESMA's website:

[Guidelines on marketing communications under the Regulation on cross-border distribution of funds \(europa.eu\)](#)

## 2. Scope of application

The present Circular shall apply to all investment fund managers incorporated under Luxembourg law (hereinafter "IFMs"). IFMs comprise the following:

- management companies incorporated under Luxembourg law and subject to Chapter 15 of the Law of 17 December 2010 relating to undertakings for collective investment (hereinafter "2010 Law");
- management companies incorporated under Luxembourg law and subject to Article 125-2 of Chapter 16 of the 2010 Law;
- investment companies which did not designate a management company within the meaning of Article 27 of the 2010 Law;
- alternative investment fund managers authorised under Chapter 2 of the Law of 12 July 2013 on alternative investment fund managers (hereafter "the 2013 Law");
- internally managed alternative investment funds ("AIFs") within the meaning of point (b) of Article 4(1) of the 2013 Law;
- managers of European qualifying venture capital funds ("EuVECA") within the meaning of Regulation (EU) No 345/2013;
- managers of European qualifying social entrepreneurship funds ("EuSEF") within the meaning of Regulation (EU) No 346/2013.

This Circular does not apply to IFMs referred to in article 125-1 of the 2010 Law as well as in Chapters 17 and 18 of the 2010 Law. The entities referred to in Article 3 of the 2013 Law and which are not included in the above definition of IFMs are also excluded from the scope of application of this Circular.

The CSSF considers that the IFMs shall assess, on the basis of the examples mentioned in the Guidelines, whether or not a certain message or communication addressed to investors or potential investors qualifies as “marketing communication”.

### **3. Information to be provided on marketing communications**

The CSSF requires IFMs to provide the CSSF with information regarding marketing communications and will conduct testing to verify their compliance with the applicable requirements under Article 4 of the CBDF Regulation and the Guidelines.

The practical and/or technical aspects (including frequency, formats, channel of submission) of the implementation of the collection of information (if any) will be communicated by means of additional Annexes to this Circular and supplemented by a FAQ.

### **4. Date of application**

This Circular will apply as from 2 February 2022.

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