



Commission de Surveillance  
du Secteur Financier

## Circular CSSF 22/810

NOTIFICATION AND DE-NOTIFICATION  
PROCEDURES TO BE OBSERVED BY  
LUXEMBOURG UNDERTAKINGS FOR  
COLLECTIVE INVESTMENT AND  
INVESTMENT FUND MANAGERS FOR  
PRE-MARKETING AND CROSS-BORDER  
MARKETING

## Circular CSSF 22/810

**Subject:** Notification and de-notification procedures to be observed by Luxembourg undertakings for collective investment and investment fund managers for pre-marketing and cross-border marketing

Luxembourg, 12 May 2022

**To all Luxembourg undertakings  
for collective investment and  
investment fund managers**

Ladies and Gentlemen,

Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (“UCITS”) as amended (“the UCITS Directive”), as well as Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (“AIFM” and the “AIFM Directive”) prescribe notification procedures, for UCITS and for AIFMs respectively, intending to market their shares or shares of the alternative investment funds (“AIF”) that they are managing, in a European Union (“EU”) Member State (“Member State”) other than the State they are registered in (or in their home State for the AIFMs). These notification procedures that aim at facilitating the cross-border distribution of UCITS and AIFs in the European Union are performed directly between the supervisory authorities of the Member States based on the information that the UCITS or the AIFM respectively has to provide to the supervisory authority of the home Member State.

The provisions relating to the UCITS Directive have been transposed by chapters 6 and 7 of the Law of 17 December 2010 relating to undertakings for collective investment, as amended (the “2010 Law”), and the provisions relating to the AIFM Directive by chapter 6 of the Law of 12 July 2013 on alternative investment fund managers (the “AIFM Law”).

The UCITS Directive and the AIFM Directive were amended by Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 with regard to cross-border distribution of collective investment undertakings (the “CBDF Directive”). The CBDF Directive introduced, among others, an additional procedure to de-notify UCITS and AIF sub-funds (and UCITS share classes), which is also directly performed between the supervisory authorities of the Member States based on a file that the UCITS or AIFM must submit to the supervisory authority of the home Member State. The CBDF Directive also introduced a harmonised definition of pre-marketing in the context of AIFs and specified conditions for pre-marketing by AIFMs. In this context, each AIFM must submit a pre-marketing notification to the supervisory authority of the home Member State, which in turn informs the competent authorities of the Member States where pre-marketing activities have started or are planned to start.

The purpose of this circular is to inform the Luxembourg UCIs and AIFMs that notification and de-notification procedures for pre-marketing and cross-border

marketing will progressively be made available in the eDesk Portal (<https://edesk.apps.cssf.lu/edesk-dashboard/dashboard/getstarted>).

Consequently, Circular CSSF 11/509<sup>1</sup> will ultimately be repealed. By means of separate communiqués, the CSSF will continue to inform the entities falling under the provision of this circular on the evolution of the procedures available in the eDesk Portal.

### 1. Scope of the circular

This circular applies to the following supervised entities as well as notification and de-notification procedures:

- a. UCITS subject to part I of the 2010 Law that, in accordance to chapter 6 of said law, wish to:
  - market their shares in another Member State; or
  - de-notify arrangements made for marketing their shares in another Member State;
- b. Luxembourg AIFMs engaging in pre-marketing in Luxembourg or another Member State, in accordance with Article 28-1 of the AIFM Law;
- c. Luxembourg AIFMs wishing to:
  - market in Luxembourg units or shares of an EU AIF that they manage in accordance with Article 29 of the AIFM Law;
  - de-notify arrangements made for marketing in Luxembourg units or shares of an EU AIF that they manage in accordance with Article 29-1 of the AIFM Law;
- d. Luxembourg AIFMs wishing to:
  - market in another Member State units or shares of an EU AIF that they manage in accordance with Article 30 of the AIFM Law;
  - de-notify arrangements made for marketing in another Member State units or shares of an EU AIF in accordance with Article 30-1 of the AIFM Law;
- e. Managers of Luxembourg EuVECAs and EuSEFs engaging in pre-marketing in Luxembourg or another Member State in accordance with Article 4a of Regulation (EU) No 345/2013 or Article 4a of Regulation (EU) No 346/2013 respectively;

<sup>1</sup> Circular CSSF 11/509 (as amended by Circular CSSF 21/778) - Notification procedures to be followed by a UCITS governed by Luxembourg law wishing to market its units in another Member State of the European Union and by a UCITS of another Member State of the European Union wishing to market its units in Luxembourg

- f. Managers of Luxembourg EuVECAs or EuSEFs marketing funds in Luxembourg or another Member State in accordance with Article 16(1) of Regulation (EU) No 345/2013 or Article 17(1) of Regulation (EU) No 346/2013 respectively.

## 2. Dematerialised procedures

A number of CSSF procedures (which fall within the scope as explained in section 1 of this circular) for pre-marketing and cross-border marketing will be **exclusively available in the eDesk Portal**.

The ePassporting portal can be accessed at the following address:  
<https://edesk.apps.cssf.lu/edesk-dashboard/dashboard/getstarted>.

The list of procedures concerned is published and updated on the home page of the eDesk Portal and must be regularly checked by the concerned entities.

Complementary information and instructions in the form of user guides will also be provided via the eDesk Portal.

This circular enters into force on 12 May 2022.

For any additional question, please contact our helpdesk at the following email address: [edesk\\_opc@cssf.lu](mailto:edesk_opc@cssf.lu).

Yours faithfully,



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