

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 9 January 2007

To all Luxembourg undertakings for collective investment and to all those that take part in the functioning and the control of these undertakings

CIRCULAR CSSF 07/277

Re: New notification procedure in line with the guidelines of the Committee of European Securities Regulators (CESR) regarding the simplification of the UCITS notification procedure

Ladies and Gentlemen,

The purpose of this circular is to draw the attention of UCITS subject to Part I of the law of 30 March 1988 relating to UCIs or to Part I of the law of 20 December 2002 relating to UCIs on the new notification procedure in line with the guidelines of the Committee of European Securities Regulators (CESR) regarding the simplification of the UCITS notification procedure.

This document, released by CESR on 29 June 2006 (Ref.: CESR/06-120b) is available on CESR's website at www.cesr-eu.org.

The purpose of CESR's guidelines is to present a common approach to the administration, by host authorities, of the notification procedures set out in article 46 of the amended Directive 85/611/EEC. The guidelines seek to bring greater simplicity, transparency and certainty to the notification procedure and strive to accelerate the processing of notifications.

The circular also sets out the approach adopted by the CSSF as regards European passports for UCITS following the adoption of the new CESR guidelines.

A. The following sections of the document CESR/06-120b, relating to the notification procedure of UCITS and to the modifications and ongoing process of UCITS, can be pointed out:

1. Notification procedure

(a) The notification procedure requires UCITS to provide a certain number of documents to the host State authority. The document CESR/06-120b introduces a standardised attestation of the home State authority (Annex I to the document) and a standardised notification letter (Annex II of the document) which shall be submitted to the host State authority.

The UCITS shall, among other things, provide the documents listed of Annex II to the CESR document to the host State authority. This list is set out in detail Annexe 1 of this circular.

(b) The host authorities shall not request certification by the home State authority of the documents listed in Annex II of the CESR document and provided with the notification letter. The authorities will have to accept that the notifying UCITS or a third party duly empowered by the UCITS self-certify the documents. The certification must state that the documents that have been attached to the notification letter are the latest ones that have been issued or approved by home State authority (self-certification).

(c) Authorities shall issue an attestation drafted according to the standard model letter in Annex I of the CESR document. For the notification procedure with the other Member State authorities, a copy of the original attestation, certified by the UCITS or a third party duly empowered by the UCITS, shall be used.

2. Modifications and on-going process

(a) The UCITS shall request its authority to issue a new attestation solely where the information on the UCITS provided in the original attestation issued by the authority has been subject to changes. These modifications may relate, *inter alia*, to the change of the management company or the creation of a new sub-fund in an existing UCITS.

(b) UCITS shall keep all their documents up-to-date. UCITS shall thus submit any modifications to the instruments of incorporation or management rules, as well as any addition of new units/share classes and the new (full and simplified) prospectuses to the host State authority. The same rule applies to the latest published annual reports and any subsequent half-yearly reports. Submission of these documents is requested without delay after the documents have been made available the first time in the home Member State.

The documents that are not modifications of the information included in the original attestation of the authority should be certified by the UCITS or a third party duly empowered by the UCITS (self-certification).

B. Practice adopted by the CSSF as regards the European passport for UCITS

I. Luxembourg UCITS that market their units/shares in another EU Member State

UCITS that propose to market their units/shares in another EU Member State shall submit to the host State authority all the documents listed in Annex 1 to this circular, and, where applicable, any other specific documents required by the host State authority.

UCITS that market their units/shares in another EU Member State should take into account the following points:

1. Attestation

The CSSF provides every UCITS with an attestation as referred to in Annex I of the document CESR/06-120b together with the letter confirming its registration on the official list. The CSSF's attestation for UCITS will be issued in the official languages German and French. In addition, an attestation in English will be sent to the UCITS. On request, the CSSF provides the attestation in electronic form.

The attestation lists all UCITS sub-funds approved by the CSSF. The sub-funds listed in the attestation must be same as those mentioned in the full prospectus of the UCITS.

The UCITS shall request a new attestation from the CSSF solely where the information on the UCITS provided in the original attestation issued by the CSSF has been subject to changes, such as a change of management company or the creation of a new sub-fund in an existing UCITS.

In any other cases, the self-certification referred to in point A.2.(b) above applies.

2. Notification letter

UCITS shall use the standardised notification letter presented in Annex II of the CESR document when proposing to market their units/shares in another EU Member State. The model notification letter is available in French, German and English on the CSSF's website at <http://www.cssf.lu>, under section "Marketing of UCITS > Marketing of units/shares of Luxembourg UCITS in the EU".

Nevertheless, the CSSF recommends that UCITS visit the Internet websites of the host Member State authorities for any further information.

3. Visa of prospectuses

Luxembourg UCITS shall submit **three** copies of their (full and simplified) prospectuses in their final form and presentation to the CSSF. One copy, bearing the

visa, will be returned to the person that has submitted the file.

With respect to the notification procedure with the host State authorities, the UCITS shall, pursuant to point A.1.(b) above, attach to the notification letter a copy of the authorised prospectus, certified by the UCITS or a third person duly empowered by the UCITS.

4. Electronic filing

The CSSF accepts that the applicants submit their requests for attestation and their documents electronically to the address opc@cssf.lu. Moreover, applicants that have an e-file connection may also submit their application or documents *via* the e-file communication platform at <http://www.e-file.lu>.

II. Foreign UCITS established in another EU Member State that contemplate to market their units/shares in Luxembourg

1) The notification procedure requires UCITS to provide the CSSF with the documents listed in Annex 2 of this circular.

Furthermore, the UCITS must submit specific information that relates to the marketing of units/shares in Luxembourg to the CSSF. To this end, the UCITS shall use the form presented in Annex 3. This form is available on the CSSF's website at <http://www.cssf.lu>, under section "Marketing of UCITS > Marketing of units/shares of European UCITS in Luxembourg".

2) Only those sub-funds that the UCITS proposes to market actively in Luxembourg must be notified in the notification letter to be submitted to the CSSF by an umbrella UCITS. The model notification letter is available in French, German and English on the CSSF's website at the same address and section as stated above.

3) The UCITS or a third party duly empowered by the UCITS may self-certify the documents listed in Annex 2 in this circular and that must be attached to the notification letter. The certification must state that the documents that have been attached to the notification letter are the latest ones that have been issued or approved by the home State authority. For the notification procedure, a certified copy of the original attestation in French, German or English, certified by the UCITS or a third party duly empowered by the UCITS shall be submitted to the CSSF.

The UCITS shall submit a new attestation to the CSSF solely where the information on the UCITS provided in the original attestation issued by the authority has been amended. These modifications may relate, *inter alia*, to the change of management company or the creation of a new sub-fund in an existing UCITS.

The required documents may be filed with the CSSF electronically to opc@cssf.lu. Moreover, applicants that have an e-file connection may also submit their documents *via* the e-file communication platform at <http://www.e-file.lu>.

4) Within one week after receiving the file, the CSSF informs the UCITS of any

missing information or documents. Within one week after the notification is deemed to be complete, the CSSF informs the UCITS that the marketing of units/shares may commence without any further delay.

In the case of an umbrella UCITS that markets sub-funds in Luxembourg and proposes to market new or additional sub-funds in Luxembourg, the CSSF applies the same procedure as that described in the previous paragraph.

C. National marketing rules and other specific national regulations

Pursuant to document CESR/06-120b, the EU Member States are requested to publish their national marketing rules in a standardised form specified in Annex III of the document in force.

The rules applicable in Luxembourg are available on the CSSF's website at <http://www.cssf.lu>, under section "Marketing of UCITS > Marketing of units/shares of European UCITS in Luxembourg".

Please contact Mr Jean-Paul Heger (tel.: +352 26 25 1 527, e-mail : opc@cssf.lu) for any additional question on the marketing of units/shares of UCITS in Luxembourg.

This circular comes into force with immediate effect.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Simone DELCOURT
Director

Jean-Nicolas SCHAUS
Director General

Annexes

Annex 1.

List of documents that a UCITS marketing its units/shares in the European Union must provide to the host State authority

The UCITS shall provide the host State authority with the documents listed in Annex II to the CESR document, i.e.:

- the attestation granted by the home State authority drafted according to the model letter in Annex I of the CESR document;
- the notification letter drafted according to the model in Annex II of the CESR document; the notification letter may be submitted to the host authority in a language common in the sphere of finance or in the official language(s) of the host Member State provided that this is not against the national rules and regulations of the host State;
- the latest version of the management rules and instruments of incorporation of the investment company;
- the latest version of the full and simplified prospectuses;
- the latest published annual report and any subsequent half-yearly report and, as regards umbrella funds, the latest versions of the annual report and the half-yearly report covering all sub-funds;
- details of the arrangements made for the marketing of the units/shares of the UCITS in the host Member State.

The documents listed above, except for the attestation, must be attached to the notification letter in their original version as well as in a translated version in the official language(s) of the host State. The host State may also allow the use of a non-official language.

The attestation is submitted in its original version, together, where applicable, with an English version.

Annex 2.

List of documents that foreign UCITS established in another EU Member State must submit to the CSSF

The foreign UCITS established in another EU Member State that proposes to market its units/shares in Luxembourg must submit to the CSSF the documents listed in Annex II of the CESR document, i.e.:

- the attestation granted by the home Member State authority drafted according to the model letter in Annex I of the CESR document;
- the notification letter drafted according to the model in Annex II of the CESR document; the notification letter may be submitted to the CSSF in French, German and English and can be downloaded from the CSSF's website at <http://www.cssf.lu>, under section "Marketing of UCITS > Marketing of units/shares of European UCITS in Luxembourg";
- the latest version of the management rules and instruments of incorporation of the investment company;
- the latest version of the full and simplified prospectuses;
- the latest published annual report and any subsequent half-yearly report and, as regards umbrella funds, the latest versions of the annual report and the half-yearly report covering all sub-funds;
- details of the arrangements made for the marketing of the units/shares of the UCITS in Luxembourg.

In addition, the foreign UCITS fill in the form in Annex 3 of this circular and submit it to the CSSF. The form is available for download on the CSSF website at the same address and section as mentioned above.

The documents listed above shall be attached to the notification letter in French, German or English.

Annex 3.

Specific information for the marketing in Luxembourg of units/shares of a UCITS established in another Member State of the European Union

1)	Name of the UCITS	
2)	Home Member State	
3)	Registered office	
4)	Name and address of the financial service (paying agent) in Luxembourg	
5)	Name and address of the primary contact in Luxembourg in charge of the notification to the CSSF	
6)	Name of the person(s) empowered by mandate to certify documents on behalf of the UCITS	

Name, first name, position, date and signature:

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