



Luxembourg newsflash 12 March 2018

Cross-border distribution of investment funds: a proposal for harmonisation

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Reducing barriers for cross-border distribution of investment funds within the EU, thus reducing the costs of going cross-border, while deepening the single marketing procedure for investment funds is the proclaimed purpose of the two legislative proposals published by the EU Commission today, on 12 March 2018. According to the EU Commission proposal, the envisaged harmonisation of rules for cross-border distribution should occur through a new directive amending both the UCITS and AIFM Directives with regard to the cross-border distribution of collective investment funds, and through a new regulation on facilitating cross-border distribution of collective investment funds and amending the EuVECA Regulation (Regulation on European venture capital funds) and the EuSEF Regulation (Regulation on European social entrepreneurship funds).

The proposed legislative pack suggests the following amendments:

> Definition of pre-marketing and addition of transparency

The EU Commission proposes to introduce a harmonised definition of pre-marketing and to lay down the conditions under which an EU AIFM may engage in pre-marketing activities. The AIFM Directive as well as the EuVECA and EuSEF Regulations will be amended in this respect. Furthermore, with respect to the cross-border distribution of AIFs and UCITS, the proposed Regulation will introduce more transparency as to marketing requirements at national and EU level.

> Regulatory fees

The legislative proposals call for more transparency of regulatory fees at national and EU level. High-level principles are proposed in order to ensure more consistency in the way regulatory fees are determined.

> Local facilities

The EU Commission, while supporting that facilities should be available in each Member State where marketing activities are carried out, proposes rules that modernise the requirements for providing facilities to retail investors at the same time ensuring that investors have access to the information they are entitled to. Considering the limited added value of local

facilities, given the use of digital technology, the Commission's proposal bans the imposition of a physical presence.

> Notification requirements

Further harmonisation of the procedures and requirements for updating notifications of the use of the marketing passport (or for de-registrations as the case may be) are suggested to be introduced for both UCITS and AIF environments.

The proposed legislative pack published today is the result of several consultations undertaken by the EU Commission among NCAs, industry and investor associations and other stakeholders. It forms part of the EU Commission's Capital Market Union (CMU) initiative. The CMU Action Plan, published in September 2015, aims to address fragmentation in the capital markets, remove regulatory barriers to the financing of the economy and increase the supply of capital to businesses by establishing a genuinely internal capital market. The EU Parliament and the Council of the EU are now asked to review the legislative proposals.

To see the [Proposal for a Directive amending the UCITS Directive and the AIFM Directive with regard to cross-border distribution of collective investment funds, please click here](#).

To see the [Proposal for a Regulation on facilitating cross-border distribution of collective investment funds and amending Regulations EuVECA and EuSEF, please click here](#).

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