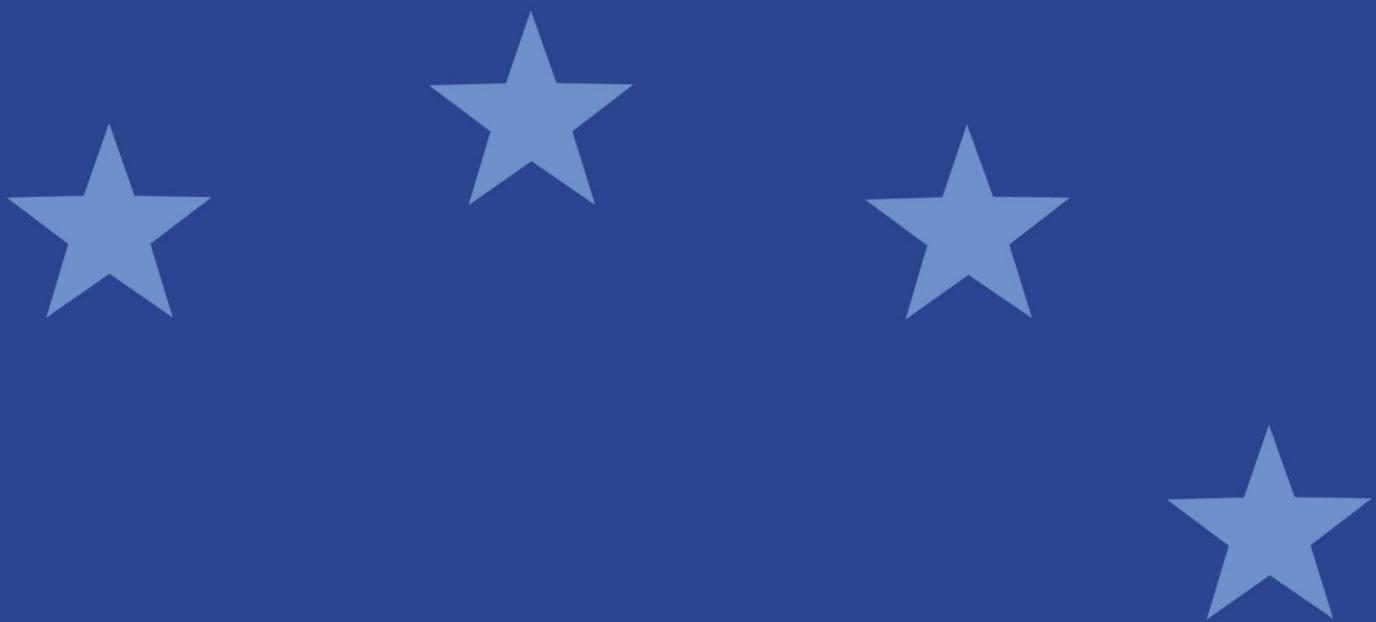


# Consultation Paper

**Draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS**



## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

1. respond to the question stated;
2. indicate the specific question to which the comment relates;
3. contain a clear rationale; and
4. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **9 September 2022**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](#).

### Who should read this paper

This document will be of interest to alternative investment fund managers, internally managed AIFs, UCITS, management companies, internally managed UCITS, and their trade associations, as well as professional and retail investors investing into UCITS and AIFs and their associations.

## Table of Contents

1	Executive Summary .....	2
2	Background.....	3
3	Draft RTS on the information to be notified by managers to carry out their activities in a host Member State .....	4
4	Draft ITS on the form and content of notification letters .....	6
4.1	Notification letter for the cross-border marketing of UCITS.....	7
4.2	Notification letter for the cross-border management of UCITS.....	8
4.3	Notification letter for the marketing of AIFs in the home Member State of the AIFM	9
4.4	Notification letter for the cross-border marketing of AIFs .....	9
4.5	Notification letter for the cross-border management of AIFs .....	10
5	Annexes .....	11
5.1	Annex I: Legislative mandates to develop the ITS and RTS .....	11
5.2	Annex II: Cost-benefit analysis .....	14
5.3	Annex III: Summary of questions.....	24
5.4	Annex IV: Draft RTS.....	26
5.5	Annex V: Draft ITS .....	33

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## 1 Executive Summary

### Reasons for publication

Directive 2009/65/EC (the “UCITS Directive”) and Directive 2011/61/EU (the “AIFMD”) empower ESMA to develop implementing technical standards (“ITS”) and regulatory technical standards (“RTS”) to specify the information to be provided, as well as the content and format of notification letters to be submitted by UCITS, management companies and alternative investment fund managers (“AIFMs”) to the national competent authorities (“NCAs”) to undertake cross-border marketing or cross-border management activities in host Member States, as well as the procedure for the communication of the notification file by the relevant home NCA to the host NCAs of the Member States where these activities are envisaged.

This consultation paper (“CP”) is the first stage in the development of the draft ITS and RTS described above and sets out proposals on those ITS and RTS on which ESMA is seeking the view of stakeholders.

### Contents

Section 2 explains the background to ESMA’s proposals. Sections 3 to 5 give detailed explanations on the content of the proposals and seek stakeholders’ input through specific questions.

Annex I contains the legislative mandates to develop draft ITS and RTS.

Annex II provides for the cost-benefit analysis related to the draft ITS and RTS.

Annex III sets out the list of questions contained in this CP.

Annex IV contains the text of the draft ITS and RTS which are submitted to public consultation.

### Next Steps

ESMA will consider the feedback it received to this consultation and expects to publish a final report by the beginning of 2023.

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## 2 Background

1. In 2015, the European Commission adopted an action plan for building a Capital Markets Union (“CMU”) with the objective of achieving a true single market for capital in Europe. One of the priorities identified by the European Commission consisted in facilitating cross-border investing in the internal market<sup>1</sup>. Following the publication of the initial Action Plan, the Mid-Term Review of the CMU Action Plan further identified the possibility to develop a legislative proposal to facilitate the cross-border distribution and supervision of UCITS and AIFs<sup>2</sup>.
2. In this context, a Directive<sup>3</sup> and a Regulation<sup>4</sup> were published in the *Official Journal* on 12 July 2019 and entered into force on 1<sup>st</sup> August 2019. These texts aim at facilitating the cross-border marketing of UCITS and AIFs, including EuSEFs and EuVECAs, throughout the EU by removing existing barriers and enhancing the protection of investors. These texts were supplemented by an Implementing Regulation based on ITS developed by ESMA<sup>5</sup>, a set of ESMA’s Guidelines on marketing communications<sup>6</sup>, and a Report submitted by ESMA to the European Parliament, the Council and the Commission on national marketing requirements<sup>7</sup>.
3. Further to this work, ESMA exchanged with NCAs to determine whether any action could contribute to further enhance the supervisory and regulatory frameworks for the cross-border activities of funds managers. This included a workshop held in November 2020 on the supervision of cross-border marketing and cross-border management activities. At this occasion, some NCAs made presentations on concrete cases that raised a number of supervisory and policy issues which were further discussed within ESMA. Against this background, ESMA is now undertaking the development of optional ITS and RTS referred to in the UCITS Directive and in the AIFMD in relation to the cross-border marketing and management of funds.
4. On the one hand, this CP sets out the draft RTS under the UCITS Directive and the AIFMD to specify the information to be notified by management companies and AIFMs to the relevant NCAs when notifying their intention to carry out their activities in other Member States<sup>8</sup>.

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<sup>1</sup> COM(2015) 468 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0468>.

<sup>2</sup> COM(2017) 292 final, Priority action 7, available at: [https://ec.europa.eu/info/sites/info/files/communication-cmu-mid-term-review-june2017\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-cmu-mid-term-review-june2017_en.pdf).

<sup>3</sup> Directive (EU) 2019/1160 of the European Parliament and the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border marketing of collective investment undertakings.

<sup>4</sup> Regulation (EU) 2019/1156 of the European Parliament and 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.

<sup>5</sup> Commission Implementing Regulation (EU) 2021/955 of 27 May 2021 laying down implementing technical standards for the application of Regulation (EU) 2019/1156 of the European Parliament and of the Council with regard to the forms, templates, procedures and technical arrangements for the publications and notifications of marketing rules, fees and charges, and specifying the information to be communicated for the creation and maintenance of the central database on cross-border marketing of AIFs and UCITS, as well as the forms, templates and procedures for the communication of such information.

<sup>6</sup> [ESMA34-45-1272 – Guidelines on marketing communications under the Regulation on cross-border distribution of funds](#).

<sup>7</sup> [ESMA34-45-1219 – Report on marketing requirements and marketing communications under the Regulation on cross-border distribution of funds](#).

<sup>8</sup> Cf. Articles 17(10), 18(5) and 20(5) of the UCITS Directive and Article 33(8) of the AIFMD.

5. On the other hand, this CP sets out the draft ITS referred to in the UCITS Directive and the AIFMD to specify the form and content of the notification letters to be submitted:
  - By UCITS to their home NCA to propose to market their units in a host Member State<sup>9</sup>;
  - By AIFMs to their home NCA to notify their intention to market the units or shares of the AIFs they manage in the home Member State or a Member State other than the home Member State of such AIFMs<sup>10</sup>;
  - By management companies and AIFMs to their home NCA to manage UCITS and AIFs established in other Member States<sup>11</sup>.
6. Against this background, ESMA is now consulting stakeholders on the aspects of the ITS and RTS referred to in paragraphs 4 and 5 above. However, the aspects of the ITS relating to the communication of information between NCAs have no direct impact on stakeholders. Hence, ESMA considers that it would be highly disproportionate to seek stakeholders' views on these and the corresponding provisions are not included in the scope of this public consultation. This concerns the following aspects of the ITS:
  - The standards forms, templates and procedure for the transmission of information between NCAs pursuant to Articles 17(3) and (9) and 18(2) and (4) of the UCITS Directive;
  - The form and contents of a standard model attestation to be used by NCAs pursuant to Article 93(2)(b) of the UCITS Directive and of the model statement referred to in Article 32(8)(b) of the AIFMD;
  - The procedure for the exchange of information and the use of electronic communication between competent authorities for the purpose of the notification under Article 93 of the UCITS Directive, pursuant to Article 95(2)(c) of the UCITS Directive; and
  - The form of the transmission and written notice referred to in Article 32(8)(c) and (d) of the AIFMD.

### **3 Draft RTS on the information to be notified by managers to carry out their activities in a host Member State**

7. Pursuant to Articles 17(10), 18(5) and 20(5) of the UCITS Directive, ESMA may develop draft RTS to specify the information to be provided by management companies to carry out their activities in a host Member State, either directly or through a branch. Additionally, pursuant to Article 33(8) of the AIFMD, ESMA may also develop draft RTS to specify the information to be provided by AIFMs to their home NCA to manage AIFs established in

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<sup>9</sup> Article 95(2)(a) of the UCITS Directive.

<sup>10</sup> Articles 31(5)(a) and 32(8) of the AIFMD.

<sup>11</sup> Article 20(5) of the UCITS Directive and Article 33(8) of the AIFMD.

other Member States, either directly or through a branch. The draft RTS set out in Annex IV to this CP aim at specifying the information referred to in the aforementioned provisions.

8. In developing the draft RTS, ESMA took into account the Commission Delegated Regulation (EU) 2017/1018 which specifies the information to be provided by investment firms and credit institutions wishing to provide investment services in host Member States to their home NCA. Nevertheless, the information to be provided by management companies and AIFMs to carry out their activities in a host Member State should be tailored to the specificities of their activities and to the information requirements set out in the UCITS Directive and the AIFMD. Therefore, the information listed in the draft RTS is designed to give information on the specific structure and activities of management companies and AIFMs.
9. The first chapter of the RTS, which specifies the information to be provided by management companies, contains three articles, each one covering the information to be provided under each relevant provision of the UCITS Directive, namely Article 17(2) in case of a management company wishing to carry out its activities through a branch in the host Member State, Article 18(2) in case the management company wishing to carry out its activities directly under the freedom to provide services, and Article 20(2) relating to the information to be provided to the host NCA in the case the UCITS management company wants to manage a UCITS established in another Member State. It should be noted that under Articles 17(2) and 18(2) management companies shall send the information to their home NCAs while under Article 20(2) they shall send it to the NCAs of the host Member States. These articles specify the information to be provided concerning the programme of operations, and, where applicable, the organisational structure of the branch and the delegation arrangements put in place in the host Member State.

**Q1. Do you agree with the content of the provisions of the first chapter of the draft RTS as regards the information to be notified in relation to the provisions of activities in a host Member State by a management company? If not, please justify your position and make proposals of amendments.**

10. The second chapter follows the same approach and contains the information to be provided by AIFMs to their home NCA. Although the content of this information is, by essence, very similar to the information to be provided by management companies, some small adaptations were necessary, in particular to add an obligation for AIFMs to indicate the categories of investors targeted by the AIFM in the host Member State.

**Q2. Do you agree with the content of the provisions of the second chapter of the draft RTS as regards the information to be notified in relation to the provisions of activities in a host Member State by an AIFM? If not, please justify your position and make proposals of amendments.**

## 4 Draft ITS on the form and content of notification letters

11. The UCITS Directive and the AIFMD empower ESMA to develop several ITS in relation to the notifications made by UCITS, management companies and AIFMs to undertake marketing and management activities in Member States other than the Member State in which they are established. In particular, ESMA is empowered to develop the following ITS in relation to cross-border marketing and cross-border management of UCITS:

- Standard forms, templates and procedures for the provision of documentation by a management company to the NCA of the Member State in which the UCITS that it intends to manage is located<sup>12</sup>;
- The forms and contents of a standard model notification letter to be used by a UCITS for the purpose of notification relating to the cross-border marketing of its units<sup>13</sup>.

12. ESMA is also empowered to develop the following ITS in relation to domestic or cross-border marketing and cross-border management of AIFs:

- The form and content of a model notification letter to be used by an AIFM to market AIFs in its home Member State<sup>14</sup>;
- The form and content of a model for the notification letter to be used by an AIFM to market AIFs in another Member State<sup>15</sup>;
- The form of the written notice to be given by an AIFM to its home NCA in the event of a material change to any of the particulars communicated in the initial notification of cross-border marketing<sup>16</sup>; and
- The standard forms, templates and procedures for the transmission of information by an AIFM to its home NCA to manage an AIF established in another Member State and provide the services referred to in Article 6(4) of the AIFMD directly or through a branch<sup>17</sup>.

13. This CP provides draft ITS in relation to all points referred to in paragraphs 11 and 12 above, which concern the information to be communicated by UCITS, management companies and AIFMs to initiate cross-border marketing or cross-border management activities.

14. The purpose of the draft ITS is to ensure that notifications for the cross-border marketing and cross-border management of UCITS and AIFs are made in a consistent manner, using common templates. In particular, such common templates will facilitate the notification by UCITS, management companies and AIFMs and avoid any discrepancies in the national approaches. They will also facilitate the exchange of information between NCAs and

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<sup>12</sup> Article 20(5) of the UCITS Directive.

<sup>13</sup> Article 95(2)(a) of the UCITS Directive.

<sup>14</sup> Article 31(5)(a) of the AIFMD.

<sup>15</sup> Article 32(8)(a) of the AIFMD.

<sup>16</sup> Article 32(8)(d) of the AIFMD.

<sup>17</sup> Article 33(8) of the AIFMD.

eventually facilitate the use of the marketing and management passports set out in the UCITS Directive and the AIFMD.

15. To facilitate the access to the various template notification letters, ESMA developed a single set of ITS containing all the template notification letters, rather than different sets of ITS.
16. To this end, ESMA developed draft notification letters relating to the cross-border marketing of UCITS (4.1.), the cross-border management of UCITS (4.2.), the marketing of AIFs in the home Member State of the AIFM (4.3.), the marketing of AIFs in a Member State other than the Member State of the AIFM (4.4.) and the cross-border management of AIFs (4.5.).

#### **4.1 Notification letter for the cross-border marketing of UCITS**

17. Pursuant to Article 95(2) of the UCITS Directive, ESMA may develop ITS to determine the form and content of a model notification letter for the purpose of notification referred to in Article 93(1) of the UCITS Directive for the cross-border marketing of UCITS. The corresponding template notification letter, which is set out in Annex I to the draft ITS, is based on the currently existing template notification letter set out in Annex I of the Commission Delegated Regulation (EU) No 584/2010.
18. This text was adopted before the creation of ESMA in 2011. The Omnibus Directive<sup>18</sup> amended the UCITS Directive to grant ESMA the power to develop the ITS relating to the template notification letter for the cross-border marketing of UCITS. However, this draft ITS is largely inspired by the existing Commission Delegated Regulation (EU) No 584/2010 and contains only the necessary amendments to the template notification letter set out in its Annex I.
19. These necessary amendments stem from the changes introduced to Article 93(1) of the UCITS Directive by Article 1(5) of Directive (EU) 2019/1160 on cross-border distribution of funds. The template set out in Annex I of the draft ITS includes an additional table relating to the facilities made available to investors to perform the tasks listed in Article 92(1) of the UCITS Directive, as well as the details necessary for the invoicing or for the communication of any applicable regulatory fees or charges by the host NCA. In order to further enhance the supervision of cross-border marketing activities, the template also requires some detailed information on the arrangements made for marketing the units of the UCITS, including in particular information on the entities that will carry out the marketing in the host Member State and a description of the envisaged marketing strategy in the host Member State.

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<sup>18</sup> Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

20. In order to give NCAs a more precise idea of the anticipated level of marketing in the host Member States, it could also be envisaged to ask management companies to provide some information regarding the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment.

**Q3. Do you agree with the template notification letter set out in Annex I of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposal.**

**Q4. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex I of the draft ITS, management companies would be required to provide information on the “envisioned marketing strategy in the host Member State in relation to each fund the marketing of which is intended”. What type of information could you provide in this context, including any type of indicator or supporting document?**

**Q5. Would you be able to provide information on the envisioned marketing targets in the host Member State, in particular as regards the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given UCITS.**

## **4.2 Notification letter for the cross-border management of UCITS**

21. Pursuant to Article 20(5) of the UCITS Directive, ESMA may develop ITS to specify establish standard forms, templates and procedures for the provision of the information referred to in Article 20(1) by a management company to the home NCA of the UCITS that they intend to manage, namely:

- The written contract with the depositary; and
- Information on delegation arrangements regarding functions of investment management and administration.

22. The template set out in Annex II of the draft ITS encompasses all the relevant information referred to in Article 20(1) of the UCITS Directive, since it aims at providing management companies a uniform template to be used when notifying the home NCA of the UCITS they intend to manage.

23. Finally, the draft ITS specifies the procedure for the submission of the notification letter to the relevant NCA. In order to ensure a smooth and streamlined notification, UCITS management companies should submit the notification letters to their home NCA by email to a dedicated email to be made available on NCAs' websites, or by any other electronic communication system put in place by NCAs.

**Q6. Do you agree with the template notification letter set out in Annex II of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

### **4.3 Notification letter for the marketing of AIFs in the home Member State of the AIFM**

24. Pursuant to Article 31(5)(a) of the AIFMD, ESMA may develop ITS to determine the form and content of a model notification letter for the marketing of AIFs to professional investors in its home Member State. Contrary to UCITS, no template has been developed so far in the context of marketing of AIFs in the AIFMD implementing legislation.
25. The notification letter template for the marketing of AIFs in the AIFM's home Member State set out in Annex III of the draft ITS is based on the template for the cross-border marketing of UCITS (Annex I of the draft ITS). However, the information to be provided has been tailored to the information referred to in Article 31 of the AIFMD.

**Q7. Do you agree with the template notification letter set out in Annex III of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q8. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex III of the draft ITS, AIFMs are required to provide information on the “envisaged marketing strategy in the home Member State in relation to each AIF the marketing of which is intended”. What type of information could provide in this context, including any type of indicator or supporting document?**

**Q9. Please provide feedback on whether information on the envisaged marketing of AIFs in the home Member State of the AIFM would be available, in particular as regards the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given AIF.**

### **4.4 Notification letter for the cross-border marketing of AIFs**

26. Pursuant to Article 32(8)(a) of the AIFMD, ESMA may develop ITS to determine the form and content of a model notification letter referred to in Article 32(2) of the AIFMD for the cross-border marketing of AIFs. Contrary to the existing template set out in Annex I of the Commission Delegated Regulation (EU) No 584/2010 for the cross-border marketing of UCITS, no template has been developed so far in the context of cross-border marketing of AIFs in the AIFMD implementing legislation.
27. For consistency purposes, the notification letter template for the cross-border marketing of AIFs set out in Annex IV of the draft ITS is based on the template for the cross-border marketing of UCITS (Annex I of the draft ITS). However, the information to be provided has been tailored to the information referred to in Article 32 of the AIFMD.

**Q10. Do you agree with the template notification letter set out in Annex IV of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q11. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex IV of the draft ITS, AIFMs are required to provide information on the “envisioned marketing strategy in the host Member State in relation to each AIF the marketing of which is intended”. What type of information could you provide in this context, including any type of indicator or supporting document?**

**Q12. Please provide feedback on whether information on the envisioned marketing of AIFs in the host Member State would be available, in particular as regards the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given AIF.**

#### **4.5 Notification letter for the cross-border management of AIFs**

28. Pursuant to Article 33(8) of the AIFMD, ESMA may develop ITS to specify the forms, template and procedure for the notification made by an AIFM to its home NCA to manage an AIF established in another Member State. The corresponding template notification letter is set out in Annex V of the draft ITS. It is based on the information referred to in Article 33(2) of the AIFMD. For consistency purposes, it is based on the template for the cross-border management of UCITS (Annex II of the draft ITS). However, the information to be provided has been tailored to the information referred to in Article 33 of the AIFMD and requires, for example, a description of the types of investors which the branch established by an AIFM in a host Member State will be dealing with.
29. This template notification letter specifies the information to be provided with respect to the Member State in which the AIFM intends to manage AIFs, the programme of operations of the AIFM, the organisational structure of the branch established in the host Member State as the case may be.
30. Finally, the draft ITS specifies the procedure for the submission of the notification letter to the relevant NCA. Similarly to notifications made by management companies for the marketing of UCITS established in another Member State, the approach taken aims at ensuring a smooth and streamlined notification, by which AIFMs should submit the notification letters to their home NCA by email to a dedicated email to be made available on NCAs' websites, or by any other electronic communication system put in place by NCAs.

**Q13. Do you agree with the template notification letter set out in Annex V of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

## 5 Annexes

### 5.1 Annex I: Legislative mandates to develop the ITS and RTS

Directive (EU) No 1095/2010 establishing ESMA empowered the latter to develop draft ITS and draft RTS where the European Parliament and the Council delegate power to the Commission to adopt technical standards by means of delegated acts under Article 290 TFEU.

- Article 17(10) of the UCITS Directive provides that: "*In order to ensure consistent harmonisation of this Article ESMA may develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 1, 2, 3, 8 and 9.*

*Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.*

*In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 3 and 9.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010."*

- Article 18(5) of the UCITS Directive provides that: "*In order to ensure consistent harmonisation of this Article ESMA may develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 1, 2 and 4.*

*Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.*

*In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 2 and 4.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010."*

- Article 20(5) of the UCITS Directive provides that: "*In order to ensure consistent harmonisation of this Article, ESMA may develop draft regulatory technical standards to determine the information to be provided to the competent authorities in the application for managing a UCITS established in another Member State.*

*The Commission may adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.*

*In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for such provision of information.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.”*

- Article 95(2) of the UCITS Directive provides that: “In order to ensure uniform conditions of application of Article 93, ESMA may develop draft implementing technical standards to determine:
  - (a) *the form and contents of a standard model notification letter to be used by a UCITS for the purpose of notification referred to in Article 93(1), including an indication as to which documents the translations refer to;*
  - (b) *the form and contents of a standard model attestation to be used by competent authorities of Member States referred to in Article 93(3);*
  - (c) *the procedure for the exchange of information and the use of electronic communication between competent authorities for the purpose of notification under Article 93.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.”*

- Article 32(8) of the AIFMD provides that: “In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to determine:
  - (a) *the form and content of a model for the notification letter referred to in paragraph 2;*
  - (b) *the form and content of a model for the statement referred to in paragraph 3;*
  - (c) *the form of the transmission referred to in paragraph 3; and*
  - (d) *the form of the written notice referred to in paragraph 7.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.”*

- Article 33(7) of the AIFMD provides that: "*In order to ensure consistent harmonisation of this Article, ESMA may develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 2 and 3.*

*Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.*"

- Article 33(8) of the AIFMD provides that: "*In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 2 and 3.*

*Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU).*"

## 5.2 Annex II: Cost-benefit analysis

### 1. Introduction

The UCITS Directive and the AIFMD contain provisions allowing UCITS to market their units, and AIFMs to market the units or shares of AIFs they manage, in host Member States, as well as allowing UCITS management companies and AIFMs to carry out their activities in host Member States under the freedom of establishment or the freedom to provide services.

In order to facilitate the cross-border marketing of UCITS and AIFs throughout the EU, as the cross-border activities of UCITS management companies and AIFMs, the UCITS Directive and the AIFMD contains provisions mandating ESMA to develop draft RTS and draft ITS to specify the content of certain information to be provided, as well as the standard forms and templates to be used, as described in section 3 of this consultation paper.

This consultation paper sets out proposals for the RTS specifying the information to be provided by UCITS management companies and AIFMs when notifying their intention to carry out their activities in a host Member State and the ITS under the UCITS Directive and the AIFMD which contain the forms and templates to be used in the context of notifications for the cross-border marketing of the units or UCITS and the marketing of units or shares AIFs in the home Member State of the AIFM or in another Member State and the intention of UCITS management companies and AIFMs to carry out their activities in a host Member State.

This draft cost-benefit analysis (CBA) is qualitative by nature. Should relevant data be received through the consultation process, ESMA will take it into account when finalising the RTS and ITS and will include it in the CBA accompanying the final report.

### 2. Technical options

The following options were identified and analysed by ESMA to address the policy objectives of the RTS and ITS developed under the UCITS Directive and the AIFMD.

In identifying the options set out below and choosing the preferred ones, ESMA was guided by the relevant rules of the UCITS Directive and the AIFMD.

- Draft RTS under Articles 17(10), 18(5) and 20(5) of the UCITS Directive

<b>Policy objective</b>	Article 17(1) and (2) of the UCITS Directive require UCITS management companies wishing to carry out their activities in a host Member State by establishing a branch to notify the competent authorities of their home Member State and provide them with some information, namely: <ul style="list-style-type: none"><li>- The Member State within the territory of which they intend to establish a branch;</li><li>- A programme of operations setting out the activities and services envisaged and the organisation structure of the branch, including a description of the risk management process put in</li></ul>
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	<p>place by the management company, as well as a description of the procedures and arrangements taken in accordance with Article 15 of the UCITS Directive;</p> <ul style="list-style-type: none"> <li>- The address in the host Member State from which documents may be obtained; and</li> <li>- The names of those responsible for the management of the branch.</li> </ul> <p>In a similar manner, Article 18(1) of the UCITS Directive requires UCITS management companies wishing to carry out their activities in a host Member State under the freedom to provide services to notify the competent authorities of their home Member State and provide them with some information, namely:</p> <ul style="list-style-type: none"> <li>- The Member State within the territory of which they intend to operate;</li> <li>- A programme of operations stating the activities and services envisaged, including a description of the risk management process put in place by the management company, as well as a description of the procedures and arrangements taken in accordance with Article 15 of the UCITS Directive.</li> </ul> <p>Additionally, Article 20(1) of the UCITS Directive require UCITS management applying to manage a UCITS established in another Member State to provide the competent authorities of the UCITS home Member State with</p> <ul style="list-style-type: none"> <li>- The written contract with the depositary of the UCITS; and</li> <li>- Information on delegation arrangements regarding functions of investment management and administration referred to in Annex II of the UCITS Directive.</li> </ul> <p>Under Article 17(10), 18(5) and 20(5) of the UCITS Directive ESMA is empowered to develop draft RTS to specify the information to be notified in accordance with, respectively Article 17(1) and (2), Article 18(1) and Article 20(1).</p>
<b>Baseline scenario</b>	<p>The baseline scenario should be understood for this CBA as the application of the requirements in the UCITS Directive (i.e. the provision of the information referred to in Articles 17(1) and (2), 18(1) and 20(1) of this directive) without any further specification. This would leave NCAs discretion to determine the precise content of the information they require in the context of a notification pursuant to these Articles.</p> <p>The main benefit of the proposed RTS is to ensure that the same set of information is notified by UCITS management companies when they</p>

	notify their intention to pursue their intention to carry out their activities in a host Member State through a branch or directly under the freedom to provide services, or to manage UCITS in a host Member State, and thus ensure that the information requirements set out in Articles 17(1) and (2), 18(1) and 20(1) of the UCITS Directive are applied in a consistent manner in all Member States. This will ultimately facilitate the notification process for management companies.
<b>Option 1</b>	Do not develop RTS and rely only on the requirements set out in the UCITS Directive to determine the information to be communicated by management companies to their home NCA when notifying their intention to pursue their activities in a host Member State through a branch or under the freedom to provide services, or when notifying their intention to manage a UCITS to home NCA of the concerned UCITS.
<b>Option 2</b>	The RTS would provide general guidance on the information to be provided by management companies pursuant to Articles 17(1) and (2), 18(1) and 20(1) of the UCITS Directive. This would imply setting criteria for the determination of the information to be provided, without specifying any precise document or information.
<b>Option 3</b>	The RTS would specify detailed information requirements in relation to the information that management companies have to provide pursuant to Articles 17(1) and (2), 18(1) and 20(1) of the UCITS Directive. This would imply determining specific fields of information to be provided in respect of each set of information referred to in Articles 17(2), 18(1) and 20(1) of the UCITS Directive.
<b>Preferred option</b>	<p>ESMA decided to consult on option 3 and discarded options 1 and 2.</p> <p>Although the empowerment granted to ESMA under Articles 17(10), 18(5) and 20(5) of the UCITS Directive are optional, it was found that the need for convergence in the context of cross-border management and provision of services requires clarifications of the information to be provided to competent authorities within a common set of information requirements.</p> <p>Furthermore, the empowerments granted to ESMA require specifying the information referred to in Articles 17(1) and (2), 18(1) and 20(1) of the UCITS Directive, which is already set out as general categories. This implies that the RTS should contain some precise information fields to help management companies understand what is expected from them when making the notification referred to in Articles 17(1), 18(1) and 20(1) of the UCITS Directive.</p>

- Draft RTS under Articles 33(7) of the AIFMD

<b>Policy objective</b>	<p>Article 33(2) and (3) of the AIFMD requires AIFMs intending to manage an AIF established in another Member State or to provide the services for which it has been authorised in another Member State to provide its home NCA with information, namely:</p> <ul style="list-style-type: none"> <li>- The Member State in which it intends to manage AIFs directly or to establish a branch, and/or to provide services;</li> <li>- A programme of operations stating in particular the services which it intends to perform and/or identifying the AIFs that it intends to manage; and</li> </ul> <p>In case the AIFM wishes to establish a branch in the host Member State:</p> <ul style="list-style-type: none"> <li>- The organisational structure of the branch;</li> <li>- The address in the home Member State of the AIF from which documents may be obtained; and</li> <li>- The names and contact details of the persons responsible for the management of the branch.</li> </ul> <p>Under Article 33(7) of the AIFMD ESMA is empowered to develop draft RTS to specify the information to be notified in accordance with Article 33(2) and (3) of the AIFMD.</p>
<b>Baseline scenario</b>	<p>The baseline scenario should be understood for this CBA as the application of the requirements set out in the AIFMD (i.e. the provision of the information referred to in Article 33(2) and (3) of this Directive) without any further specification. This would leave NCAs discretion to determine the precise content of the information they require in the context of a notification pursuant to this Article.</p> <p>The main benefit of the proposed RTS is to ensure that the same set of information is notified by AIFMs when they notify their intention to manage an AIF established in another Member State or to provide services in a host Member State, and thus ensure that the information requirements set out in Article 33(2) and (3) of the AIFMD are applied in a consistent manner in all Member States. This will ultimately facilitate the notification process for AIFMs.</p>
<b>Option 1</b>	<p>Do not develop RTS and rely only on the requirements set out in the AIFMD to determine the information to be communicated by AIFMs to their home NCA when notifying their intention to manage an AIFs</p>

	established in another Member State or to provide services in a host Member State.
<b>Option 2</b>	The RTS would provide general guidance on the information to be provided by AIFMs pursuant to Article 33(2) and (3) of the AIFMD. This would imply setting criteria for the determination of the information to be provided, without specifying any precise document or information.
<b>Option 3</b>	The RTS would specify detailed information requirements in relation to the information that AIFMs have to provide pursuant to Article 33(2) and (3) of the AIFMD. This would imply determining specific fields of information to be provided in respect of each set of information referred to in Article 33(2) and (3) of the UCITS Directive.
<b>Preferred option</b>	<p>ESMA decided to consult on option 3 and discarded options 1 and 2.</p> <p>Although the empowerment granted to ESMA under Article 33(7) of the AIFMD is optional, it was found that the need for convergence in the context of cross-border management and provision of services requires clarifications of the information to be provided to competent authorities within a common set of information requirements.</p> <p>Furthermore, the empowerment granted to ESMA requires specifying the information referred to in Article 33(2) and (3) of the AIFMD, which is already set out as general categories. This implies that the RTS should contain some precise information fields to help AIFMs understand what is expected from them when making the notification referred to in Article 33(2) and (3) of the UCITS Directive.</p>

- Draft ITS under Article 20(5) of the UCITS Directive

<b>Policy objective</b>	<p>Article 20(1) of the UCITS Directive requires UCITS management applying to manage a UCITS established in another Member State to provide the competent authorities of the UCITS home Member State with</p> <ul style="list-style-type: none"> <li>- The written contract with the depositary of the UCITS; and</li> <li>- Information on delegation arrangements regarding functions of investment management and administration referred to in Annex II of the UCITS Directive.</li> </ul> <p>Under Article 20(5) of the UCITS Directive ESMA is empowered to develop draft ITS to establish standard forms, templates and procedures for the provision of the information referred to in Article 20(1).</p>
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<b>Baseline scenario</b>	<p>The baseline scenario should be understood for this CBA as the application of the requirements in the UCITS Directive (i.e. the provision of the information referred to in Article 20(1) of this Directive) without any further specification. This would leave NCAs discretion to determine the format of the information to be provided and the template notification letters to be used, as well as the procedure for the notification of information by electronical means or by any other means, by management companies for the purpose of the notification under this Article and oblige management companies to use a different template and follow a different procedure for the purpose of the notification in each Member State.</p> <p>The main benefit of the proposed ITS is to ensure that the information referred to in Article 20(1) of the UCITS Directive is notified to the relevant NCAs in a consistent manner within all Member States. This will ultimately facilitate the notification process for management companies.</p>
<b>Option 1</b>	<p>Do not develop ITS and rely only on the requirements set out in the UCITS Directive to determine the information to be communicated by management companies to the UCITS home NCA when notifying their intention to manage a UCITS established in another Member State, without specifying the format of the notification.</p>
<b>Option 2</b>	<p>The ITS would provide a template for the notification of the information referred to in Article 20(1) of the UCITS Directive and describe the notification procedure, ensuring that the notification can be made by electronic means. This would imply determining a single template containing all the relevant information as required in the UCITS Directive and further clarified in the RTS.</p>
<b>Preferred option</b>	<p>ESMA decided to consult on option 2 and discarded option 1.</p> <p>Although the empowerment granted to ESMA under Article 20(5) of the UCITS Directive is optional, it was found that the need for convergence in the context of cross-border management of UCITS requires clarifications of the information to be provided to NCAs within a common template and a uniform procedure.</p>

- Draft ITS under Article 95(2)(a) of the UCITS Directive

<b>Policy objective</b>	<p>Article 93(1) of the UCITS Directive require UCITS proposing to market their units in a host Member State to submit a notification letter to their home NCA, which must include information on the arrangements made for marketing the units of the UCITS in the host Member State, the details necessary for the invoicing or for the communication of any applicable regulatory fees and charges by the host NCA and information on the</p>
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	<p>facilities for performing the tasks referred to in Article 92(1), as well as be accompanied by some documents concerning the UCITS.</p> <p>Under Article 95(2)(a) of the UCITS Directive ESMA is empowered to develop draft ITS to establish the form and contents of a standard model notification letter to be used by a UCITS for the purpose of the notification referred to in Article 93(1).</p>
<b>Baseline scenario</b>	<p>The baseline scenario should be understood for this CBA as the application of the existing Commission Regulation (EU) No 584/2010, which already contains a model notification letter to be used by UCITS to notify their intention to market their units in a host Member State.</p> <p>The main benefit of the proposed ITS is to provide stakeholders with an updated model notification letter, in particular taking into account the requirements contained in Directive (EU) 2019/1160, which amended the UCITS Directive as regards the information to be provided in the notification referred to in Article 93(1) of the UCITS Directive. This will ultimately facilitate the notification process for management companies.</p>
<b>Option 1</b>	Do not develop ITS and rely only on the existing model notification letter set out in the Commission Regulation (EU) No 584/2010.
<b>Option 2</b>	The ITS would provide a template for the notification of the information referred to in Article 93(1) of the UCITS Directive. This would imply determining a single template containing all the relevant information as required in the UCITS Directive.
<b>Preferred option</b>	<p>ESMA decided to consult on option 2 and discarded option 1.</p> <p>Although the empowerment granted to ESMA under Article 93(2)(a) of the UCITS Directive is optional and despite the existence of a model notification letter in the Commission Regulation (EU) No 584/2010, it was found that the need for convergence in the context of cross-border management of UCITS and the changes made to the information requirements pursuant to Article 1 of Directive (EU) 2019/1160 requires that the existing model notification letter is amended and updated accordingly, in order to provide UCITS with a common template taking into account all recent legislative modifications.</p>

- Draft ITS under Articles 31(5)(a), 32(8)(a) and 33(8) of the AIFMD

<b>Policy objective</b>	Article 31(2) of the AIFMD requires AIFMs intending to market the units or shares of an AIF they manage to professional investors in their home Member State to submit a notification to their home NCA in respect of
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each AIF they intend to market. This notification must comprise some documentation and information as specified in Annex III of the AIFMD, in particular a notification letter which includes a programme of operations identifying the AIFs to be marketed and information on where the AIFs are established.

Article 32(2) of the AIFMD requires AIFMs intending to market the units or shares of an AIF they manage to professional investors in another Member State to submit a notification to their home NCA in respect of each AIF they intend to market. This notification must comprise some documentation and information as specified in Annex IV of the AIFMD, in particular a notification letter which includes a programme of operations identifying the AIFs to be marketed and information on where the AIFs are established.

Article 33(2) of the AIFMD requires AIFMs intending to manage an AIF established in another Member State or provide the services for which they have been authorised in a host Member State to communicate the following information to their home NCA:

- The Member State in which they intend to manage AIFs directly or to establish a branch and/or to provide the services for which they were authorised;
- A programme of operations stating in particular the services which they intend to perform and/or identifying the AIFs they intend to manage;

Article 33(3) of the AIFMD requires AIFMs intending to establish a branch in a host Member State to provide the activities and services for which they have been authorised to communicate the following information to their home NCA:

- The organisational structure of the branch;
- The address in the home Member State of the AIF from which documents may be obtained;
- The names and contact details of the persons responsible for the management of the branch.

Under Articles 31(5)(a), 32(8)(a) and 33(8) of the AIFMD ESMA is empowered to develop draft ITS to establish the form and contents of a model for the notification letters to be used by AIFMs for the purpose of the notifications referred to in Articles 31(2), 32(2) and 33(2) and (3) of the AIFMD.

<b>Baseline scenario</b>	<p>The baseline scenario should be understood for this CBA as the application of the requirements in the AIFMD (i.e. the provision of the information referred to in Articles 31(2), 32(2) and 33(2) and (3) of this Directive) without any further specification. This would leave NCAs discretion to determine the format of the information to be provided and the model of the notification letters to be used within their jurisdiction by AIFMs for the purpose of the notification under these Articles and oblige AIFMs to use a different model of letter for the purpose of the notifications in each Member State.</p> <p>The main benefit of the proposed ITS is to ensure that the information referred to in Articles 31(2), 32(2) and 33(2) and (3) of the AIFMD is notified to the relevant NCAs in a consistent manner within all Member States. This will ultimately facilitate the notification process for AIFMs.</p>
<b>Option 1</b>	<p>Do not develop ITS and rely only on the requirements set out in the AIFMD to determine the information to be communicated by AIFMs to their home NCA when notifying their intention to market the units or shares of AIFs they manage to professional investors in their home Member State or in a host Member State, or their intention to manage an AIF established in another Member State or to provide the services for which they have been authorised in a host Member State, without specifying the format of the notification.</p>
<b>Option 2</b>	<p>The ITS would provide a model of the notification letters referred to in Articles 31(2), 32(2) and 33(2) and (3) of the AIFMD and describe the procedure for the notifications referred to in Article 33(2) and (3) of the AIFMD in order to ensure such notifications can be made by electronic means. This would imply determining templates containing all the relevant information as required in the AIFMD.</p>
<b>Preferred option</b>	<p>ESMA decided to consult on option 2 and discarded option 1.</p> <p>Although the empowerments granted to ESMA under Articles 31(5)(a), 32(8)(a) and 33(8) of the AIFMD are optional, it was found that the need for convergence in the context of marketing of AIFs (either domestically or cross-border), the cross-border management of AIFs and the cross-border provision of services require clarifications of the information to be provided to NCAs within common templates.</p>

**Q14. What is the anticipated impact from the introduction of the proposed ITS and RTS? Do you expect that the currently used practices, in particular as regards the content of the information provided to NCAs and the models used to notify cross-border marketing or the provision of activities in a host Member State, would need to be changed?**



**Q15. What would be the additional costs and benefits of the proposed ITS and RTS?**  
**Please provide quantitative figures, where available, in particular in relation to costs of compliance.**

### **5.3 Annex III: Summary of questions**

**Q1. Do you agree with the content of the provisions of the first chapter of the draft RTS as regards the information to be notified in relation to the provisions of activities in a host Member State by a management company? If not, please justify your position and make proposals of amendments.**

**Q2. Do you agree with the content of the provisions of the second chapter of the draft RTS as regards the information to be notified in relation to the provisions of activities in a host Member State by an AIFM? If not, please justify your position and make proposals of amendments.**

**Q3. Do you agree with the template notification letter set out in Annex I of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposal.**

**Q4. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex I of the draft ITS, management companies would be required to provide information on the “envisaged marketing strategy in the host Member State in relation to each fund the marketing of which is intended”. What type of information could you provide in this context, including any type of indicator or supporting document?**

**Q5. Would you be able to provide information on the envisaged marketing targets in the host Member State, in particular as regards the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given UCITS.**

**Q6. Do you agree with the template notification letter set out in Annex II of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q7. Do you agree with the template notification letter set out in Annex III of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q8. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex III of the draft ITS, AIFMs are required to provide information on the “envisaged marketing strategy in the home Member State in relation to each AIF the marketing of which is intended”. What type of information could provide in this context, including any type of indicator or supporting document?**

**Q9. Please provide feedback on whether information on the envisaged marketing of AIFs in the home Member State of the AIFM would be available, in particular as regards**

the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given AIF.

**Q10. Do you agree with the template notification letter set out in Annex IV of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q11. As indicated in Section 1 of Part 3 of the template notification letter set out in Annex IV of the draft ITS, AIFMs are required to provide information on the “envisaged marketing strategy in the host Member State in relation to each AIF the marketing of which is intended”. What type of information could you provide in this context, including any type of indicator or supporting document?**

**Q12. Please provide feedback on whether information on the envisaged marketing of AIFs in the host Member State would be available, in particular as regards the minimum and maximum capital raising target, the expected duration of the marketing and the revenues treatment? If not, please explain why this information would not be available when notifying the intention to market a given AIF.**

**Q13. Do you agree with the template notification letter set out in Annex V of the draft ITS? If not, please specify the items for which you foresee a different approach and make alternative proposals.**

**Q14. What is the anticipated impact from the introduction of the proposed ITS and RTS? Do you expect that the currently used practices, in particular as regards the content of the information provided to NCAs and the models used to notify cross-border marketing or the provision of activities in a host Member State, would need to be changed?**

**Q15. What would be the additional costs and benefits of the proposed ITS and RTS? Please provide quantitative figures, where available, in particular in relation to costs of compliance.**

## 5.4 Annex IV: Draft RTS

### COMMISSION DELEGATED REGULATION (EU) 2022/XXX

of [date]

**supplementing Directives 2009/65/EC and 2011/61/EU with regard to regulatory technical standards specifying information to be notified by management companies and Alternative Investment Fund Managers to carry out their activities in other Member States**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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), and in particular Articles 17(10), 18(5) and 20(5) thereof, and Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (AIFM), and in particular Article 33(7) thereof,

Whereas:

(1) It is important to specify the information that management companies should notify to the competent authorities of their home Member State when they wish to pursue the activities for which they have been authorised through a branch or under the freedom to provide services in a host Member State, and to the competent authorities of the home Member State of the UCITS they intend to manage, in order to establish uniform information requirements and to benefit from the possibility to provide services and carry out activities throughout the Union.

(2) It is also important to specify the information that AIFMs should notify to the competent authorities of their home Member State, when they wish to manage EU AIFs established in another Member State or provide in another Member State the services for which it has been authorised, through a branch or under the freedom to provide services, in order to establish uniform information requirements and to benefit from the possibility to provide services and carry out activities throughout the Union.

(3) The scope and the content of information to be communicated to the competent authorities vary according to the purpose and the form of the notification. For reasons of clarity, it is therefore appropriate to specify the information to be communicated for each type of notification.

(4) Competent authorities of home and host Member States should receive updated information in case of any change in the detail of a notification, including any withdrawal, cancellation or change of the authorisation initially granted to a management company or an

AIFM, or changes to any information provided in a previous notification. That information should ensure that competent authorities have a clear and up-to-date view of the activities of management companies and AIFMs at all times to properly exercise their supervisory powers.

(5) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission.

(6) In accordance with Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council, the European Securities and Markets Authority (ESMA) has conducted an open public consultation on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of that Regulation.

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### **Notification of information by UCITS management companies under Directive 2009/65/EC**

#### *Article 1*

#### **Information to be provided under Article 17(1) and (2) of Directive 2009/65/EC**

1. Management companies shall ensure that the notification made to the competent authorities of their home Member State to indicate that they wish to establish a branch within the territory of another Member State to pursue the activities for which they have been authorised includes the name, address and contact details of the management company in the home Member State, and the name and contact details of a designated contact person at the management company who is responsible for exchanging with the competent authority of the management company's home Member State.

2. The description of the services and activities to be included in the programme of operations referred to in Article 17(2)(b) shall comprise the following items:

(a) an overview explaining how the branch will contribute to the strategy of the management company, or their group, and setting out whether the management company is member of a group;

(b) a description of the strategy of the branch in the host Member State;

(c) forecast statements of the branch for both profit and loss and cash flow, over an initial 36-month period.

3. The information on the organisational structure of the branch shall include:

(a) functional, geographical and legal reporting lines;

(b) description of the manner in which the branch fits into the internal structure of the management company, including details of any operational units put in place at the level of the

branch and an indication of the human resources allocated to the branch, or of the group if the management company is member of a group;

- (c) the rules for reporting by the branch to the head office;
- (d) description of the risk management process put in place by the management company at the level of the branch on the basis of Articles 40 to 43 of the Commission Directive 2010/43/EU;
- (e) details of any delegation arrangements relating to the provision of services referred to in Article 6(3) of Directive 2009/65/EC;
- (f) summary details of the systems and controls that will be put in place by the management company at the level of the branch, including:
  - (i) The procedures put in place, and the human and material resources allocated, for the compliance with the obligations that fall under the responsibility of the competent authority of the host Member State in which the branch is established according to Article 17(5) of Directive 2009/65/EC;
  - (ii) The procedures put in place, and the human and material resources allocated, to comply with anti-money-laundering obligations;
  - (iii) details of controls over delegation arrangements with respect to activities carried out by the branch in the host Member State.

4. The information on the persons responsible for the management of the branch shall include the name, position, email address and telephone number of individuals performing key functions with the branch, including the individuals responsible for day-to-day branch operations, compliance and dealing with complaints.

## *Article 2*

### **Information to be communicated under Article 18(1) and (2) of Directive 2009/65/EC**

- 1. Management companies shall ensure that the notifications submitted pursuant to Article 18(1) of Directive 2009/65/EC includes the name, address and contact details of the management company along with the name of a specified contact person at the management company.
- 2. The description of the services and activities to be included in the programme of operations shall comprise the following items:
  - (a) an overview explaining how the activities to be carried out in the host Member State will contribute to the strategy of the management company, or their group, and setting out whether the management company is member of a group;
  - (b) details of any delegation arrangements relating to the provision of services referred to in Article 6(3) of Directive 2009/65/EC.

### *Article 3*

#### **Information to be provided under Article 20(1) of Directive 2009/65/EC**

The information to be provided by the management company to the competent authorities of the UCITS home Member State concerning delegation arrangements regarding functions of investment management and administration referred to in Annex II of this Directive shall include:

- (a) A copy of the delegation agreement signed by the management company and the delegate;
- (b) A list of investment management or administration functions subject to delegation;
- (c) The name, address and contact details of the delegate, along with the name of a specified contact person at the delegate.

### *Article 4*

#### **Information to be notified concerning changes to notifications under Articles 17(8), 18(4) and 20(4) of Directive 2009/65/EC**

1. Management companies shall ensure that a notification made to communicate a change to information referred to in Articles 1 to 3 shall include details of any change to any of the information contained in the initial notification.

2. In the event of the termination of a branch established in another Member State, management companies shall ensure that the written notice given to the competent authorities of its home Member State and to the competent authorities of the host Member State pursuant to Article 17(8) of Directive 2009/65/EC in relation to the termination of the operation of a branch shall include the following information:

- (a) the name of the person or persons who will be responsible for the process of terminating the operation of the branch;
- (b) the schedule of the planned termination;
- (c) the details and processes proposed to wind down the business operations, including details of how investor interests are to be protected, complaints resolved and any outstanding liabilities discharged.

## **CHAPTER II**

### **Notification of information under Directive 2011/61/EU**

### *Article 5*

#### **Information to be notified in notifications under Article 33(2) of Directive 2011/61/EU**

1. AIFMs shall ensure that the notifications submitted pursuant to Article 33(2) of Directive 2011/61/EU includes the name, address and contact details of the AIFM along with the name of a specified contact person.
2. The programme of operations referred to in Article 33(2)(b) of Directive 2011/61/EU shall comprise the following items:
  - (a) a detail of the activities of collective portfolio management to be provided in accordance with the list set out in Annex I of Directive 2011/61/EU, and a detail of the services to be provided in accordance with Article 6(4) of Directive 2011/61/EU;
  - (b) a description of the strategy of the AIFM in the host Member State, indicating in particular the categories of targeted clients and investors with which the AIFM will be dealing in the host Member State and how the AIFM will deal with those investors;
  - (c) details of any delegation arrangements relating to the activities carried out in the host Member State;
  - (d) summary details of the systems and controls that will be put in place, including:
    - (i) arrangements for the compliance with the obligations that fall under the responsibility of the competent authority of the host Member State where the AIF manages EU AIFs or provide services referred to in Article 6(4) of Directive 2011/61/EU according to Article 45(2) of Directive 2011/61/EU;
    - (ii) details of controls over delegation arrangements with third parties in connection with the activities carried out in the host Member State;
- (e) information on the AIFs that the AIFM intends to manage in the host Member State, including:
  - (i) the name, home Member State, legal form, duration, if applicable, national identification code, investment strategy and, if applicable, LEI of the AIF;
  - (ii) in case of master-feeder structures, the name of the master AIF, and its AIFM and AIFM's home Member State if different from the AIFM of the AIF to be managed.

## *Article 6*

### **Information to be notified for the purposes of the notifications under Article 33(3) of Directive 2011/61/EU**

1. AIFMs shall ensure that notifications submitted pursuant to Article 33(3) of Directive 2011/61/EU, include the following information:
  - (a) the name, address and contact details of the AIFM in the home Member State, and the name of a specified contact person;
  - (b) the name, address and contact details of a designated person within the branch who is responsible for exchanging with the competent authorities of the AIFM's home Member State or with the competent authorities of the Member State where the branch is established;

- (c) the name and contact details of those persons responsible for the management of the branch.
2. The information on the organisational structure of the branch referred to in point (a) of Article 33(3) of Directive 2011/61/EU shall comprise the following items:
- (a) an overview explaining how the branch will contribute to the strategy of the AIFM, or its group, and setting out whether the AIFM is member of a group;
  - (b) the following information on the organisation of the branch:
    - (i) functional, geographical and legal reporting lines;
    - (ii) description of the manner in which the branch fits into the corporate structure of the AIFM, or of the group if the AIFM is a member of a group;
    - (iii) the rules for reporting by the branch to the head office;
    - (iv) description of the risk management process put in place by the AIFM at the level of the branch on the basis of Article 45 of the Commission Delegated Regulation (EU) No 231/2013;
  - (c) details of individuals performing key functions with the branch, including the individuals responsible for day-to-day branch operations, compliance and dealing with complaints;
  - (d) details of any delegation arrangements relating to the activities of the branch;
  - (e) summary details of the systems and controls that will be put in place, including:
    - (i) arrangements for the compliance with the obligations that fall under the responsibility of the competent authority of the host Member State in which the branch is established according to Article 45(2) of Directive 2011/61/EU;
    - (ii) arrangements to comply with anti-money-laundering obligations;
    - (iii) details of controls over delegation arrangements with third parties in connection with the activities carried out by the branch;
  - (f) forecast statements for both profit and loss and cash flow, over an initial 36-month period.

## *Article 7*

### **Information to be notified concerning change to notifications**

1. A notification made to communicate a change to information referred to in Articles 5 and 6 which was previously notified by an AIFM shall include details of the concerned changes.
2. AIFMs shall ensure that changes to notifications referred to in Article 6 which relate to the termination of the operation of a branch shall include the following information:
  - (a) the name of the person or persons who will be responsible for the process of terminating the operation of the branch;
  - (b) the schedule of the planned termination;



(c) the details and processes proposed to wind down the business operations, including details of how investor interests are to be protected, complaints resolved and any outstanding liabilities discharged.

*Article 8*

**Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States

Done at Brussels, [insert date].

*For the Commission*

*The President*

## 5.5 Annex V: Draft ITS

### COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

**laying down implementing technical standards for the application of Directive 2009/65/EC of the European Parliament and of the Council and Directive 2011/61/EU of the European Parliament and of the Council with regard to the form and content of the standard notification letter for cross-border marketing and cross-border management of collective investment undertakings (Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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), and in particular Article 95(2) thereof, and Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Funds Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EU) No 1060/2009 and (EU) No 2095/2010, and in particular Articles 31(5), 32(8) and 33(8) thereof,

Whereas:

(1) Directives 2009/65/EC and 2011/61/EU provide the European Securities and Markets Authority (ESMA) with the power to develop draft implementing technical standards to specify and harmonise the standard forms and templates to be used by management companies, UCITS and AIFMs in order to carry out marketing and management activities, and to provide services, in host Member States. The harmonisation of the notification procedure should provide competent authorities with the necessary certainty as to how the requirements will work and help to ensure that the procedure functions smoothly.

(2) In order to facilitate the notifications for the cross-border marketing and cross-border management of UCITS and AIFs, it is necessary to specify the form and content of the standard model notification letters to be used by a UCITS to market its shares in another Member State, by an AIFM to market the units or shares of an AIF it manages in a host Member States, or by an management company or an AIFM to manage a UCITS or AIF that it manages in another Member State. In order to ensure a convergent approach in the notification procedure applicable in all Member States, it is also necessary to specify the form and content of the standard model notification letter to be used by AIFMs to market units or shares of EU AIFs they manage in their home Member State.

(3) In order to ensure a smooth and uniform submission of the notifications for cross-border management of UCITS and AIFs, management companies, UCITS and AIFMs should submit

the necessary documents and information to competent authorities by electronic means, using the email address to be made available by competent authorities on their websites, or by any other electronic mean put in place by competent authorities.

(4) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.

(5) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based relating to the template notification letters for the marketing and the management of UCITS and AIFs in host Member States, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>19</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Form and content of standard model notification letters**

1. An undertaking for collective investment in transferable securities (UCITS) shall submit the notification letter for marketing its units in another Member State to the competent authorities of its home Member State, as referred to in Article 93(1) of Directive 2009/65/EC, in accordance with the model set out in Annex I to this Regulation.
2. A management company wishing to manage a UCITS established in another Member State shall provide the documentation referred to in Article 20(1) of Directive 2009/65/EC to the competent authorities of the UCITS home Member State in accordance with the model set out in Annex II to this Regulation.
3. An EU AIFM that intends to market the units or shares of an EU AIF it manages to professional investors in its home Member State shall submit to the competent authorities of its home Member State a notification letter, as referred to in Article 31(2) of Directive 2011/61/EU, in accordance with the model set out in Annex III to this Regulation.
4. An EU AIFM that intends to market the units or shares of an AIF it manages to professional investors in another Member State than its home Member State, shall submit to the competent authorities of its home Member State a notification letter, as referred to in Article 32(2) of Directive 2011/61/EU, in accordance with the model set out in Annex IV to this Regulation.
5. An EU AIFM wishing to manage EU AIFs established in another Member State or to provide in another Member State the services referred to in Article 6(4) of Directive 2011/61/EU, shall communicate the information referred to in Article 33(2) of Directive 2011/61/EU to the

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<sup>19</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 25 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ([OJ L 331, 15.12.2010, p. 84](#)).

competent authorities of its home Member State in accordance with the model set out in Annex V to this Regulation.

*Article 2*

**Contact details for the notifications made pursuant to Article 20(1) of Directive 2009/65/EC and Article 33(2) of Directive 2011/61/EU**

1. For the purpose of the notifications made by management companies pursuant to Article 20 of Directive 2009/65/EC and AIFMs pursuant to Article 33(2) of Directive 2011/61/EU, competent authorities shall publish on their websites the email address to which the notifications shall be sent.
2. Management companies and AIFMs shall send the notifications referred to in paragraph 1 in a machine-readable format to the email address published by competent authorities on their websites referred to in the same paragraph, or by any other communication means put in place by competent authorities.

*Article 3*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*

The President

## ANNEX I

### Model notification letter for the cross-border marketing of UCITS under Article 93(1) of Directive 2009/65/EC

#### NOTIFICATION LETTER

##### NOTIFICATION OF INTENTION TO MARKET UNITS OF UCITS

IN \_\_\_\_\_ (the host Member State)<sup>20</sup>

Are you notifying amendments to information already provided in an initial notification? Yes  No

*In case the answer to this question was “Yes”, please fill-in only the updated information compared to the previous notification.*

#### Table of contents

PART 1 Information on the management company or internally managed UCITS.....	37
Section 1. Identification of the management company or internally managed UCITS.....	37
Section 2. Facilities to investors.....	38
Section 3. Attachments.....	38
PART 2 Information on the UCITS.....	40
PART 3 Compliance with the rules governing marketing requirements in the host Member State.....	41
PART 4 Confirmation of completeness.....	42

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<sup>20</sup> Please fill-in one notification letter for each Member State where the marketing of UCITS is intended.

## PART 1

### Information on the management company or internally managed UCITS

#### Section 1. Identification of the management company or internally managed UCITS

Name of the management company/internally managed UCITS:

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Management company or internally managed UCITS' LEI (if available):

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National identification code of the management company or internally managed UCITS (if available):

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Management company's or internally managed UCITS' home Member State:

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Address and registered office/domicile, if different from address

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Details of management company's or internally managed UCITS' website:

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Details of contact person at the management company

Name/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Details of the contact point (if a third party is designated by the management company to make the notification):

Name: \_\_\_\_\_

Legal form: \_\_\_\_\_

Registered office: \_\_\_\_\_

Name of the person to be contacted/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charges (if applicable)<sup>21</sup>:

Name/Position: \_\_\_\_\_

Address for correspondence: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Please specify which email address provided in this section (contact person at the management company/internally managed UCITS, contact point within the appointed third party or contact point or contact point for the transmission of the invoice) is the preferred address to which the host NCA can transmit any confidential information (inter alia, login and password to access the national systems for reporting).

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<sup>21</sup> Please indicate a single contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charge referred to in Article 9 of Regulation (EU) 2019/1156 and in Article 2 of the Commission Implementing Regulation (EU) 2021/955. This contact point may be the same as the contact point designated within the management company, or a contact point within an appointed third party.

## Section 2. Facilities to investors

In accordance with Article 93(1) of Directive 2009/65/EC, please fill-in the following table to provide information on the facilities to perform the tasks referred to in Article 92(1) of this Directive:

Tasks	Information on the facilities performing the tasks	Name/legal form/registered office/ address, e-mail and telephone number for correspondence of the person or entity responsible to provide the facilities
Process subscriptions, repurchase and redemption orders and make other payments to unit-holders relating to the units of the UCITS		
Provide investors with information on how orders can be made and how repurchase and redemption proceeds are paid		
Facilitate the handling of information and access to procedures and arrangements referred to in Article 15 of Directive 2009/65/EC relating to investors' exercise of their rights		
Make the information and documents required pursuant to Chapter IX off Directive 2009/65/EC available to investors		
Provide investors with information relevant to the tasks that the facilities perform in a durable medium		
Act as a contact point for communicating with the competent authorities		

## Section 3. Attachments

(1) The latest version of the fund rules or instruments of incorporation, translated if necessary in accordance with Article 94(1)(c) of Directive 2009/65/EC.

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(Title of document or name of electronic file attachment)

(2) The latest version of the prospectus, translated if applicable in accordance with Article 94(1)(c) of Directive 2009/65/EC.

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(Title of document or name of electronic file attachment)



(3) The latest version of the key investor information, translated if applicable in accordance with Article 94(1)(b) of Directive 2009/65/EC.

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(Title of document or name of electronic file attachment)

(4) The latest published annual report and any subsequent half-yearly report, translated if applicable in accordance with Article 94(1)(c) of Directive 2009/65/EC (if available).

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(Title of document or name of electronic file attachment)

Note:

The latest versions of the required documents listed above must be attached to this letter for onward transmission by the competent authorities of the UCITS home Member State, even if copies have previously been provided to that authority. If any of the documents have previously been sent to the competent authorities of the UCITS host Member State and remain valid, the notification letter may refer to that fact.

Provide the link to the latest electronic copies of the attachments:

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**PART 2**  
**Information on the UCITS**

*Please fill the below table with information for each UCITS you intend to market in the host Member State, creating a new table for each UCITS and by indicating only one share class (name and ISIN) on each line. In the case of umbrella UCITS, references to UCITS in the table below shall be understood as referring to the compartment to be marketed in the host Member State and not the umbrella UCITS.*

Name of the UCITS to be marketed in the host Member State	UCITS home Member State	Legal form of the UCITS <sup>(1)</sup>	LEI of the UCITS (if available)	Name of share class(es) to be marketed in the host Member State <sup>(2)</sup>	ISIN of share class(es) to be marketed in the host Member State <sup>(2)</sup>	Duration	National identification code of the UCITS

(1) The legal form is one of the following: common fund, unit trust, investment company, or any other legal form available under the national legislation of the UCITS home Member State.

(2) Please list only those share classes the marketing of which is intended.

### Part 3

#### **Compliance with the rules governing marketing requirements in the host Member State**

The following information is provided in conformity with the national laws and regulations of the UCITS host Member State in relation to the marketing of units of UCITS in that Member State.

UCITS shall refer to the websites of the competent authorities of each Member State where complete and up to date information on the national laws, regulations and administrative provisions governing marketing requirements is published in accordance with Article 5 of Regulation (EU) 2019/1156. A list of relevant website addresses is available at [www.esma.europa.eu](http://www.esma.europa.eu)

##### 1. Arrangements made for marketing of units of UCITS

Units of the UCITS/UCITS compartments will be marketed by:

- the management company that manages the UCITS or the internally managed UCITS credit institutions  
authorised investment firms or advisers  
Other bodies, including bodies located in a third country. Please specify: \_\_\_\_\_

Please indicate the name, address and contact details of each third-party distributor in the host Member State:

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Please provide a short description of the envisaged marketing strategy in the host Member State in relation to each fund the marketing of which is intended, including details about the marketing means (e.g. any roadshows, telephone calls, websites, etc.).

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If websites are intended to be used to market UCITS online in the host Member State, please provide the domain names and the relevant hyperlink(s):

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##### 2. Other information required by the competent authorities of the host Member State in accordance with Article 5(1) of Regulation (EU) 2019/1156

Include details of any additional information to be disclosed to unit-holders (if required by the UCITS host Member State):

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If required by the UCITS host Member State, evidence of payment due to the competent authorities of the host Member State:

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## **PART 4**

### **Confirmation of completeness**

#### Confirmation by the UCITS

We hereby confirm that the documents attached to this notification letter contain all relevant information as provided for in the Directive 2009/65/EC.

*(The notification letter shall be signed by an authorised signatory of the UCITS or a third person empowered by a written mandate to act on behalf of the notifying UCITS, in a manner which the competent authorities of the UCITS home Member State accept for certification of documents. The signatory shall state his/her full name and capacity, and shall ensure the confirmation is dated.)*

## ANNEX II

### Model notification letter to be submitted by a UCITS management company to the competent authorities of the UCITS home Member State under Article 20(1) of Directive 2009/65/EC

#### NOTIFICATION LETTER

NOTIFICATION OF THE INTENTION OF A UCITS MANAGEMENT COMPANY TO MANAGE A UCITS ESTABLISHED IN ANOTHER MEMBER STATE IN ACCORDANCE WITH ARTICLE 20 OF DIRECTIVE 2009/65/EC.

IN \_\_\_\_\_  
(the host Member State(s))

Are you notifying amendments to information already provided in an initial notification? Yes  No

*If the answer to this question is “Yes”, please fill-in only the updated information compared to the previous notification.*

#### Table of contents

PART 1 Information on the management company .....	44
PART 2 Identification of the delegate and the delegated functions .....	45
PART 3 Attachments.....	46

## PART 1

### Information on the management company

Name of the management company: \_\_\_\_\_

Management company LEI (if available): \_\_\_\_\_

National identification code of the management company (if available): \_\_\_\_\_

Management company's home Member State: \_\_\_\_\_

Address and registered office/domicile if different from address  
\_\_\_\_\_  
\_\_\_\_\_

Details of management company's website: \_\_\_\_\_

Details of contact person at the management company

Name/Position: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

Details of the contact point (if a third party is designated by the management company to make the notification):

Name: \_\_\_\_\_  
Legal form: \_\_\_\_\_

Registered office: \_\_\_\_\_  
Name of the person to be contacted/Position: \_\_\_\_\_  
Address for correspondence (if different): \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Email address: \_\_\_\_\_

Contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charges (if applicable)<sup>22</sup>:

Name/Position: \_\_\_\_\_  
Address for correspondence: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Email address: \_\_\_\_\_

Please specify which email address provided in this section (contact person at the management company, contact point within the appointed third party or contact point or contact point for the transmission of the invoice) is the preferred address to which the host NCA can transmit any confidential information (inter alia, login and password to access the national systems for reporting):  
\_\_\_\_\_

<sup>22</sup> Please indicate a single contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charge referred to in Article 9 of Regulation (EU) 2019/1156 and in Article 2 of the Commission Implementing Regulation (EU) 2021/955. This contact point may be the same as the contact point designated within the management company, or a contact point within an appointed third party.

## PART 2

### Identification of the delegate and the delegated functions

*Please replicate the information in Part 2 for each delegate and delegated functions*

Name of the delegate: \_\_\_\_\_

Delegate's home Member State: \_\_\_\_\_

Address and registered office/domicile if different from address  
\_\_\_\_\_  
\_\_\_\_\_

Details of contact person at the delegate

Name/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

The delegate will carry out the following activities and provide the following services in the host Member State(s) on behalf of the management company:

- Investment management**
- Marketing**

#### **Administration**

- Legal and fund management accounting services
- Customer inquiries
- Valuation and pricing (including tax returns)
- Regulatory compliance monitoring
- Maintenance of unit-holder register
- Distribution of income
- Unit issues and redemptions
- Contract settlements (including certificate dispatch)
- Record keeping

Other (please specify)  
\_\_\_\_\_  
\_\_\_\_\_

Please describe the reporting line in place between the delegate and the management company  
\_\_\_\_\_  
\_\_\_\_\_

### **PART 3**

### **Attachments**

- (1) Written contract with the depositary of the concerned UCITS in the UCITS home Member State(s).
  
- (2) Other (please specify).

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(Title of document or name of electronic file attachment)

**Note:**

The latest versions of the required documents listed above must be attached to this letter for onward transmission by the competent authorities of the management company's home Member State, even if copies have previously been provided to that authority. If any of the documents have previously been sent to the competent authorities of the management company's host Member State and remain valid, the notification letter may refer to that fact.

Provide the link to the latest electronic copies of the attachments:

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## ANNEX III

### **Model notification letter for the marketing of AIFs under Article 31(2) of Directive 2011/61/EU and Article 31(1) of Regulation (EU) No 2015/760**

#### **NOTIFICATION LETTER**

NOTIFICATION OF INTENTION TO MARKET UNITS OR SHARES OF AN AIF OR AIFs OF THE SAME AIFM IN THE HOME MEMBER STATE OF THE AIFM IN ACCORDANCE WITH ARTICLE 31 OF DIRECTIVE 2011/61/EU ON ALTERNATIVE INVESTMENT FUND MANAGERS (the “AIFMD”), INCLUDING EUROPEAN LONG TERM INVESTMENT FUND (“ELTIF”) IN ACCORDANCE WITH ARTICLE 31 OF REGULATION (EU) 2015/760 ON ELTIFs (the “ELTIF REGULATION”).

IN \_\_\_\_\_  
(the home Member State of the AIFM)

Are you notifying amendments to information already provided in an initial notification? Yes  No

If the answer to this question is “Yes”, please fill-in only the updated information compared to the previous notification.

#### **Table of contents**

PART 1 Information on the AIFM or internally managed AIF .....	48
Section 1. Identification of the AIFM or internally managed AIF .....	48
Section 2. Attachments .....	49
PART 2 Information on the AIFs to be marketed in the home Member State of the AIFM.....	50
PART 3 Compliance with the national laws and regulations of the home Member State of the AIFM .....	51
Section 1. Arrangements made for marketing of units or shares of AIFs .....	51
Section 2. Other information required by the competent authorities of the home Member State of the AIFM in accordance with Article 5(1) of Regulation (EU) 2019/1156 .....	52

## PART 1

### Information on the AIFM or internally managed AIF

#### Section 1. Identification of the AIFM or internally managed AIF

Name of the AIFM/ internally managed AIF:

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AIFM/internally managed AIF LEI (if available):

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National identification code of the AIFM/internally managed AIF (if available):

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AIFM/internally managed AIF's home Member State:

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Address and registered office/domicile if different from address

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Details of AIFM/internally managed AIF's website:

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Details of contact person at the AIFM/internally managed AIF

Name/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Details of the contact point (if a third party is designated by the AIFM or internally managed AIF to make the notification):

Name: \_\_\_\_\_

Legal form: \_\_\_\_\_

Registered office: \_\_\_\_\_

Name of the person to be contacted/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Contact point for the invoicing or for the communication of any applicable regulatory fee or charges (if different)<sup>23</sup>:

Name/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Please specify which email address provided in this section (contact person at the AIFM/internally managed AIF, contact point within the appointed third party or contact point or contact point for the transmission of the invoice) is the preferred address to

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<sup>23</sup> Please indicate a single contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charge referred to in Article 9 of Regulation (EU) 2019/1156 and in Article 2 of the Commission Implementing Regulation (EU) 2021/955. This contact point may be the same as the contact point designated within the AIFM or internally managed AIF, or a contact point within an appointed third party.

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which the host NCA can transmit any confidential information (inter alia, login and password to access the national systems for reporting):

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Duration of the AIFM/ internally managed AIF, if applicable:

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## **Section 2. Attachments**

The latest version of the AIF rules or instruments of incorporation.

The latest version of the offering document (e.g. prospectus);

The AIF's latest annual report (if available)

Any additional information referred to in Article 23(1) of Directive 2011/61/EU for each AIF the AIFM intends to market<sup>24</sup>

Other (please specify).

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(Title of document or name of electronic file attachment)

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<sup>24</sup> Paragraph (f) of Annex IV of Directive 2011/61/EU.

## PART 2

### Information on the AIFs to be marketed in the home Member State of the AIFM

Please fill the below table with information for each AIF you intend to market, creating a new table for each AIF and by indicating only one share class (name and ISIN) on each line. In the case of umbrella AIFs, references to AIFs in the table below shall be understood as referring to the compartment to be marketed in the host Member State and not the umbrella AIF.

(1) The legal form is one of the following: common fund, unit trust, investment company, or any other legal form available under the national legislation of the AIF home Member State.

(2) In case the legislation of the home Member State of the AIFM does not allow marketing to retail investors, please indicate "N/A".

(3) Please list only those share classes the marketing of which is intended.

Master-feeder structures (if applicable):

Name of the master AIF or compartment(s)	AIFM of the master AIF/or compartment (if different)	Home Member State of the master AIF (if different)	Home Member State of the AIFM (if different)

## PART 3

### **Compliance with the national laws and regulations of the home Member State of the AIFM**

AIFMs or internally managed AIFs shall refer to the website of the competent authorities of each Member State for details of which items of information shall be provided in this section and for complete and up to date information on the national laws, regulations and administrative provisions governing marketing requirements. A list of relevant website addresses is available at [www.esma.europa.eu](http://www.esma.europa.eu)

#### **Section 1. Arrangements made for marketing of units or shares of AIFs**

Units or shares of the AIF/AIF compartments will be marketed by:

- the AIFM that manages the AIF or the internally managed AIF  
credit institutions  
authorised investment firms or advisers  
Other bodies, including bodies located in a third country. Please specify: \_\_\_\_\_

Information on the arrangements established to prevent units or shares of the AIF from being marketed to retail investors, including in the case where the AIFM relies on activities of independent entities to provide investment services in respect of the AIF<sup>25</sup>:

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Please indicate the name, address and contact details of each third-party distributor in the home Member State of the AIFM:

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Please provide a short description of the envisaged marketing strategy in the home Member State of the AIFM in relation to each fund the marketing of which is intended, including details about the marketing means (e.g. any roadshows, telephone calls, websites, etc.).

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If websites are intended to be used to market AIFs online in the home Member State of the AIFM, please provide the domain names and the relevant hyperlink(s):

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<sup>25</sup> This information must be filled only in respect of the AIFs the marketing of which is envisaged to professional investors only. No arrangements need to be put in place in respect of AIFs that the AIFM/self-managed AIF intends to market to retail investors, where permitted by the national legislation of the home Member State of the AIFM in accordance with Article 43 of Directive 2011/61/EU. In case this notification letter refers to both AIFs targeting professional investors and AIFs targeting retail investors, please indicate information only in respect of AIFs targeting only professional investors.



**Section 2. Other information required by the competent authorities of the home Member State of the AIFM in accordance with Article 5(1) of Regulation (EU) 2019/1156**

Include details of any additional information to be disclosed to unitholders or shareholders or their agents (if required by the home Member State of the AIFM):

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If required by the home Member State of the AIFM, evidence of payment due to the competent authorities of the home Member State of the AIFM:

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## ANNEX IV

### Model notification letter for the cross-border marketing of AIFs under Article 32(2) of Directive 2011/61/EU and Article 31(2) of Regulation (EU) No 2015/760

#### NOTIFICATION LETTER

NOTIFICATION OF INTENTION TO MARKET UNITS OR SHARES OF AN AIF OR AIFs OF THE SAME AIFM IN A MEMBER STATE OTHER THAN THE HOME MEMBER STATE OF THE AIFM IN ACCORDANCE WITH ARTICLE 32 OF DIRECTIVE 2011/61/EU ON ALTERNATIVE INVESTMENT FUND MANAGERS (the “AIFMD”), INCLUDING EUROPEAN LONG TERM INVESTMENT FUND (“ELTIF”) IN ACCORDANCE WITH ARTICLE 31 OF REGULATION (EU) 2015/760 ON ELTIFs (the “ELTIF REGULATION”).

IN \_\_\_\_\_  
(the host Member State(s))

Are you notifying amendments to information already provided in an initial notification? Yes  No

If the answer to this question is “Yes”, please fill-in only the updated information compared to the previous notification.

#### Table of contents

PART 1 Information on the AIFM or internally managed AIF .....	54
Section 1. Identification of the AIFM or internally managed AIF .....	54
Section 2. Facilities to retail investors (if relevant).....	55
Section 3. Attachments .....	56
PART 2 Information on the AIFs to be marketed in the host Member State .....	57
PART 3 Compliance with the national laws and regulations of the Member State where the AIFs are intended to be marketed .....	58
Section 1. Arrangements made for marketing of units or shares of AIFs .....	58
Section 2. Other information required by the competent authorities of the host Member State in accordance with Article 5(1) of Regulation (EU) 2019/1156 .....	58

## PART 1

### Information on the AIFM or internally managed AIF

#### Section 1. Identification of the AIFM or internally managed AIF

Name of the AIFM/internally managed AIF:

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AIFM/internally managed AIF LEI (if available):

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National identification code of the AIFM/internally managed AIF (if available):

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AIFM/internally managed AIF's home Member State:

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Address and registered office/domicile if different from address

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Details of AIFM/internally managed AIF's website:

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Details of contact person at the AIFM/internally managed AIF

Name/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Details of the contact point (if a third party is designated by the AIFM or internally managed AIF to make the notification):

Name: \_\_\_\_\_

Legal form: \_\_\_\_\_

Registered office: \_\_\_\_\_

Name of the person to be contacted/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Contact point for the invoicing or for the communication of any applicable regulatory fee or charges (if different)<sup>26</sup>:

Name/Position: \_\_\_\_\_

Address for correspondence (if applicable): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Please specify which email address provided in this section (contact person at the AIFM or internally managed AIF, contact point within the appointed third party or contact point or contact point for the transmission of the invoice) is the preferred address to which the host NCA can transmit any confidential information (inter alia, login and password to access the national systems for reporting):

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<sup>26</sup> Please indicate a single contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charge referred to in Article 9 of Regulation (EU) 2019/1156 and in Article 2 of the Commission Implementing Regulation (EU) 2021/955. This contact point may be the same as the contact point designated within the AIFM or internally managed AIF, or a contact point within an appointed third party.

Duration of the AIFM/internally managed AIF, if applicable:

## **Section 2. Facilities to retail investors (if relevant)**

Pursuant to Article 32(1) of Directive 2011/61/EU, EU AIFMs are authorised to market units or shares of EU AIFs they manage to professional investors in other Member States than their home Member State. However, Member States may allow AIFMs to market to retail investors in their territory units or shares of AIFs they manage in accordance with Article 43 of Directive 2011/61/EU.

The information on facilities to retail investors must be filled in case marketing of the AIFs targets retail investors.

In accordance with point (j) of Annex IV of Directive 2011/61/EU, please fill-in the following table to provide information on the facilities to perform the tasks referred to in Article 43a(1) of this Directive:

Task of the facility	Information on the facilities performing the tasks	Name/legal form/registered office/address, e-mail and telephone number for correspondence of the person responsible to provide the facilities
Process investor's subscription, payment and redemption orders relating to the units or shares of the AIF		
Provide investors with information on how orders referred to above can be made and how repurchase and redemption proceeds are paid		
Facilitate the handling of information relating to the exercise of investor's rights arising from their investment in the AIF		
Make the information and documents required pursuant to Articles 22 and 23 of Directive 2011/61/EU available to investors for the purposes of inspection and obtaining copies thereof		
Provide investors with information relevant to the tasks that the facilities perform in a durable medium as defined in point (m) of Article 2(1) of Directive 2009/65/EC		

Act as a contact point for communicating with the competent authorities		
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### **Section 3. Attachments**

- The latest version of the AIF rules or instruments of incorporation.
- The latest version of the offering document (e.g. prospectus);
- The AIF's latest annual report (if available)
- Any additional information referred to in Article 23(1) of Directive 2011/61/EU for each AIF the AIFM intends to market (Paragraph (f) of Annex IV)
- Other (please specify).

---

(Title of document or name of electronic file attachment)

## PART 2

### Information on the AIFs to be marketed in the host Member State

Please fill the below table with information for each AIF you intend to market in the host Member State, creating a new table for each AIF and by indicating only one share class (name and ISIN) on each line. In the case of umbrella AIFs, references to AIFs in the table below shall be understood as referring to the compartment to be marketed in the host Member State and not the umbrella AIF.

(1) The legal form is one of the following: common fund, unit trust, investment company, or any other legal form available under the national legislation of the AIF home Member State.

(2) In case the legislation of the host Member State does not allow marketing to retail investors, please indicate "N/A".

(3) Please list only those share classes the marketing of which is intended.

**Master-feeder structures (if applicable):**

Name of the master AIF or compartment(s)	AIFM of the master AIF/or compartment (if different)	Home Member State of the master AIF (if different)	Home Member State of the AIFM (if different)

**PART 3**  
**Compliance with the national laws and regulations of the Member State where the AIFs are intended to be marketed**

AIFMs or internally managed AIFs shall refer to the website of the competent authorities of each Member State for details of which items of information shall be provided in this section and for complete and up to date information on the national laws, regulations and administrative provisions governing marketing requirements. A list of relevant website addresses is available at [www.esma.europa.eu](http://www.esma.europa.eu)

**Section 1. Arrangements made for marketing of units or shares of AIFs**

Units or shares of the AIF/AIF compartments will be marketed by:

- the AIFM that manages the AIF or the internally managed AIF  
credit institutions  
authorised investment firms or advisers  
Other bodies, including bodies located in a third country. Please specify: \_\_\_\_\_

Information on the arrangements established to prevent units or shares of the AIF from being marketed to retail investors, including in the case where the AIFM relies on activities of independent entities to provide investment services in respect of the AIF<sup>27</sup>:

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Please indicate the name, address and contact details of each third-party distributor in the host Member State:

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Please provide a short description of the envisaged marketing strategy in the host Member State in relation to each fund the marketing of which is intended, including details about the marketing means (e.g. any roadshows, telephone calls, websites, etc.).

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---

If websites are intended to be used to market AIFs online in the host Member State, please provide the domain names and the relevant hyperlink(s):

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**Section 2. Other information required by the competent authorities of the host Member State in accordance with Article 5(1) of Regulation (EU) 2019/1156**

Include (if required by the host Member State where the AIF is intended to be marketed):

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<sup>27</sup> This information must be filled only in respect of the AIFs the marketing of which is envisaged to professional investors only. No arrangements need to be put in place in respect of AIFs that the AIFM/self-managed AIF intends to market to retail investors, where permitted by the national legislation of the host Member State in accordance with Article 43 of Directive 2011/61/EU. In case this notification letter refers to both AIFs targeting professional investors and AIFs targeting retail investors, please indicate information only in respect of AIFs targeting only professional investors.

- details of any additional information to be disclosed to unitholders or shareholders or their agents;
  - in case an AIF makes use of any exemptions from rules or requirements applicable in the Member State where it is intended to be managed in relation to marketing arrangements for the AIF, a specific share class or any category of investors, details of the use made of such exemptions;
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If required by the host Member State where the AIF is intended to be marketed, evidence of payment due to the competent authorities of the host Member State:

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## ANNEX V

### **Model notification letter to be submitted by an AIFM to the competent authority of its home Member State to manage AIFs established in other Member States under Article 33(2) of Directive 2011/61/EU**

#### **NOTIFICATION LETTER**

NOTIFICATION OF THE INTENTION OF AN AIFM TO MANAGE AIFs ESTABLISHED IN A MEMBER STATE OTHER THAN ITS HOME MEMBER STATE IN ACCORDANCE WITH ARTICLE 33 OF DIRECTIVE 2001/61/EU.

IN \_\_\_\_\_  
(the host Member State(s))

Are you notifying amendments to information already provided in an initial notification? Yes  No

*In case the answer to this question is “Yes”, please fill-in only the updated information compared to the previous notification.*

#### **Table of contents**

PART 1 Information on the AIFM.....	61
PART 2 Information to be notified pursuant to Article 33(2) of Directive 2011/61/EU .....	62
Section 1. Programme of operations.....	62
Section 2. Information on the AIFs to be managed in the host Member State .....	64
PART 3 Information to be provided by the AIFM pursuant to Article 33(3) of Directive 2011/61/EU to carry out its activities in the host Member State(s) through a branch .....	65
Section 1. Information on the branch .....	65
Section 1. Programme of operations of the branch .....	65
Section 3. Operational structure of the branch .....	66
Section 4. Termination of the branch .....	67

## PART 1 Information on the AIFM

Name of the AIFM: \_\_\_\_\_

AIFM LEI (if available): \_\_\_\_\_

National identification code of the AIFM (if available): \_\_\_\_\_

AIFM home Member State: \_\_\_\_\_

Address and registered office/domicile if different from address  
\_\_\_\_\_  
\_\_\_\_\_

Details of AIFM website: \_\_\_\_\_

Details of contact person at the AIFM

Name/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Details of the contact point (if a third party is designated by the AIFM to make the notification):

Name: \_\_\_\_\_

Legal form: \_\_\_\_\_

Registered office: \_\_\_\_\_

Name of the person to be contacted/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Contact point for the invoicing or for the communication of any applicable regulatory fee or charges (if different)<sup>28</sup>:

Name/Position: \_\_\_\_\_

Address for correspondence (if different): \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Please specify which email address among that specified in this section (contact person at the AIFM, contact point within the appointed third party or contact point or contact point for the transmission of the invoice) is the preferred address to which the host NCA can transmit the confidential information (inter alia, login and password to access the national systems for reporting):  
\_\_\_\_\_

Duration of the AIFM, if applicable: \_\_\_\_\_

<sup>28</sup> Please indicate a single contact point for the transmission of the invoice or for the communication of any applicable regulatory fee or charge referred to in Article 9 of Regulation (EU) 2019/1156 and in Article 2 of the Commission Implementing Regulation (EU) 2021/955. This contact point may be the same as the contact point designated within the AIFM, or a contact point within an appointed third party.

## PART 2

### Information to be notified pursuant to Article 33(2) of Directive 2011/61/EU

#### **Section 1. Programme of operations**

Please indicate the scope of activities of the AIFM in the host Member State where the management of AIFs is envisaged

##### **Investment management**

- Portfolio management
- Risk management

##### **Administration**

- Legal and fund management accounting services
- Customer inquiries
- Valuation and pricing, including tax returns
- Regulatory compliance monitoring
- Maintenance of unit-/shareholder register
- Distribution of income
- Unit/shares issues and redemptions
- Contract settlements, including certificate dispatch
- Record keeping

##### **Marketing**

##### **Investment and non-core services**

- Management of portfolios of investments, including those owned by pension funds and institutions for occupational retirement provision in accordance with Article 32 of Directive 2016/2341/EU, in accordance with mandates given by investors on a discretionary, client-by-client basis
- Investment advice
- Safe-keeping and administration in relation to shares or units of collective investment undertakings
- Reception and transmission of orders in relation to financial instruments

Description of the strategy of the AIFM in the host Member State (e.g. indication of the volume of business envisaged, types of investors with which the AIFM will be dealing and how the AIFM will obtain and deal with those investors):

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If the activities will be carried out in the host Member State under the freedom to provide services, please indicate the name, contact details and position of the individual performing the key functions with the AIFM, including the individuals responsible for day-to-day operations carried out in the host Member State, compliance and dealing with complaints:

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Description of any delegation arrangements relating to the activities carried out in the host Member State:

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Description of the arrangements for the compliance with the obligations that fall under the responsibility of the competent authority of the host Member State where the activities are carried out according to Article 45(2) of Directive 2011/61/EU:

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## Section 2. Information on the AIFs to be managed in the host Member State

*Please fill the below table with any information available on existing AIFs that the AIFM intends to manage in the host Member State. In the case of umbrella AIFs, references to AIFs in the table below shall be understood as referring to the compartment to be marketed in the host Member State and not the umbrella AIF.*

Name of the AIF to be managed in the host Member State	Date of incorporation or constitution	LEI of the AIF (if applicable)	Legal form of the AIF <sup>(1)</sup>	Name of the depositary of the AIF	Duration of the AIF	AIF national identification code	AIF's investment strategy (please specify the predominant AIF type and the breakdown by investment strategies as set out in the reporting template included in Regulation 231/2013)

(1) The legal form is one of the following: common fund, unit trust, investment company, or any other legal form available under the national legislation of the AIF home Member State.

### Master-feeder structures (if applicable):

Name of the master AIF or compartment(s)	AIFM of the master AIF/or compartment (if different)	Home Member State of the master AIF (if different)	Home Member State of the AIFM (if different)

### PART 3

#### Information to be provided by the AIFM pursuant to Article 33(3) of Directive 2011/61/EU to carry out its activities in the host Member State(s) through a branch

*This Part must be filled only if the AIFM intends to establish a branch in the host Member State. If the management company intends to carry out its activities in the host Member State exclusively under the freedom to provide services, this Part shall be left blank.*

##### **Section 1. Information on the branch**

Name of the branch: \_\_\_\_\_

National identification code of the branch (if available): \_\_\_\_\_

Address and registered office/domicile if different from address:

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Details of the branch's website (if different from the AIFM's website):  
\_\_\_\_\_

Details of contact person of the person(s) responsible for the management of the branch

Name(s)/Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Contact point from which documents may be obtained in the home Member State where the branch is established:

Name/Position: \_\_\_\_\_

Address for correspondence: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

##### **Section 2. Programme of operations of the branch**

The branch will carry out the following activities and provide the following services in the host Member State(s):

###### **Investment management**

- Portfolio management
- Risk management

###### **Administration**

- Legal and fund management accounting services
- Customer inquiries
- Valuation and pricing, including tax returns
- Regulatory compliance monitoring
- Maintenance of unit-/shareholder register
- Distribution of income
- Unit/shares issues and redemptions
- Contract settlements, including certificate dispatch

Record keeping

**Marketing**

**Investment and non-core services**

- Management of portfolios of investments, including those owned by pension funds and institutions for occupational retirement provision in accordance with Article 32 of Directive 2016/2341/EU, in accordance with mandates given by investors on a discretionary, client-by-client basis
- Investment advice
- Safe-keeping and administration in relation to shares or units of collective investment undertakings
- Reception and transmission of orders in relation to financial instruments

**Section 3. Operational structure of the branch**

Description of the risk management process put in place by the AIFM at the level of the branch on the basis of Article 45 of the Commission Delegated Regulation (EU) No 231/2013:

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Description of the functional, geographical and legal reporting:

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Description of the place of the branch into the corporate structure of the AIFM, or of the group if the AIFM is a member of a group:

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Description of the rules in place for reporting by the branch to the head office of the AIFM:

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Please provide a summary of the systems and controls in place at the level of the branch as set out in Article 6(2)(e) of Regulation (*[reference to the RTS to be included when published]*):

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Name, contact details and positions of the individuals performing key functions with the branch, including the individuals responsible for day-to-day branch operations, compliance and dealing with complaints:

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Details of any delegation arrangements relating to the activities of the branch:

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Description of the controls over delegation arrangements with respect to activities carried out in the host Member State:

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Description of the arrangements for the compliance with the obligations that fall under the responsibility of the competent authority of the host Member State in which the branch is established according to Article 45(2) of Directive 2011/61/EU:

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Description of the arrangements to comply with anti-money laundering:

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*Please provide forecast statements for both profit and loss and cash flow over an initial 36-month period*

#### **Section 4. Termination of the branch**

*This section should not be filled in an initial notification. It should be filled only in the event of an update, where the termination of the branch initially notified is envisaged.*

Name of the person responsible for the process of terminating the operations of the branch:

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Details and processes for winding down the business operations, including details of the measures to protect the interests of investors in the host Member State, the solvation of complaints and the discharge of any outstanding liabilities:

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*Please provide a schedule of the planned termination*

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