association of the luxembourg fund industry

Luxembourg, 9 September 2022

Response to ESMA consultation on draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS

Introduction

The Association of the Luxembourg Fund Industry (ALFI) represents the face and voice of the Luxembourg asset management and investment fund community. The Association is committed to the development of the Luxembourg fund industry by striving to create new business opportunities, and through the exchange of information and knowledge.

Created in 1988, the Association today represents over 1,500 Luxembourg domiciled investment funds, asset management companies and a wide range of business that serve the sector. These include depositary banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax advisory firms, auditors and accountants, specialised IT and communication companies. Luxembourg is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. Luxembourg domiciled investment funds are distributed in more than 70 countries around the world.

We thank ESMA for the opportunity to participate in this consultation.

Response to the consultation

Introductory comments

Luxembourg is a key hub for the cross-border distribution/marketing of investment funds. Thanks to its competitive legal framework and toolbox, AIFMs and management companies chose Luxembourg to set up their funds and market them in Europe and all over the world.

Therefore, the members of ALFI are very much interested in commenting on ESMA's draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS.

We understand and appreciate ESMA's intention to achieve alignment between UCITS and AIF documentation, because this usually facilitates both filings and checks by regulators. However, it is important to note that certain points are only relevant to either UCITS or AIFs. For example, UCITS are by nature open-ended, therefore, the duration of the fund is not relevant for them. The available information may also depend on the type of funds and investors, and certain information (e.g. sales targets) are confidential and therefore not intended to be disclosed.

We note that in particular for UCITS more detailed information (such as the description of a marketing strategy) would be requested. The fund industry questions the relevance of those aspects for each notification of a sub-fund. Even more, the marketing strategy may evolve over time and therefore disclosing this at a certain point in time may be misleading and incorrect at some point in the future, Before requesting new information, the purpose of the information request should be confirmed. Only information that is really needed for the supervision of a fund or manager by NCAs should be collected. The collection of information should not only be done for pure statistical purposes.

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Technically speaking, we think if new RTS were adopted, the current UCITS level 2 Regulation on notification (Commission Regulation (EU) 584/2010 of 1 July 2010) would have to be partially repealed. However, we could not find a reference in the proposed text.

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.

Answer:

Draft Article 3 "Information to be provided under Article 20(1) of Directive 2009/65/EC" requires management companies to provide the competent authorities of the UCITS home Member States with

a. a copy of the delegation agreement signed between the management company and the delegate to whom (i) investment management and/or (ii) administration functions referred to in Annex II of the UCITS Directive have been delegated;
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 20(1) of the UCITS Directive requires a management company which applies to manage a UCITS established in another Member State to provide the competent authorities of the UCITS home Member State with (a) the written agreement with the depositary and (b) information on delegation arrangements regarding functions of investment management and administration referred to in Annex II of the UCITS Directive.

We agree that the management company shall provide the competent authorities of the UCITS home Member States with a list of investment management or administration functions subject to delegation as per item (b) of draft Article 3. However, the requirement to provide copies of agreements goes beyond the requirements laid down in Article 20(1) of the UCITS Directive. Such obligation, in order to be imposed, would therefore require prior amendment to the aforementioned Article 20(1). Draft Article 3 therefore cannot be adopted as drafted at this stage as the UCITS Directive may not be modified by means of a Commission Delegated Regulation. We also do not see any added value in sharing with the UCITS home Member States copies of all agreements related to delegated investment management function in the context of the cross-border management applications.

Similarly, item (c) of the draft Article 3 goes beyond the requirements of Article 20(1) of the UCITS Directive and will be cumbersome to provide for each new notifications same documentation.

It is also not clear whether any change to the agreements filed with the UCITS home Member States and/or any change to the details of the delegate and/or its person of contact must be filed with the UCITS home Member States, within which timeframe and using what type of form.

We strongly believe that a reference list of investment management or administration functions subject to delegation can be found and shall be sufficient. We are also of the opinion that the level of information shall be restricted to the confirmation on which functions are delegated without being obliged to provide details on the delegate or the related arrangements in place. Detailed information in that respect is already provided by the management companies to their home Member States in the context of their program of activities and local supervisory rules.

Part II of the model notification form contained in Annex II shall not be required to be filled in with respect to each delegate, but be replaced by general information on which activities are delegated in respect of the relevant UCITS.

Article 20(4) of the UCITS Directive provides that any subsequent material modifications of the

documentation referred to in paragraph (1) shall be notified by the management company to the competent authorities of the UCITS home Member State. Draft Article 4 of the Commission Delegated Regulation shall be amended to account for the materiality of the change to information referred to in Article 3.

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.

Answer:

Our members would appreciate a clarification that the AIFM may submit a cross-border management notification to its home Member State with respect to an AIF of another Member State prior to the formation of such AIF, provided that all information required under article 5-7 of the draft RTS is available. This will be in line with the fact that an AIF must appoint an AIFM and that the cross-border management notification may be filed prior to the formation of the AIF so that upon formation the AIF can validly appoint the AIFM as its AIFM acknowledging that the regulatory notifications have been duly processed and the AIFM is authorised to provide the cross-border management services to the AIF. Therefore, Section 2 of the Part II of the template notification letter set out in Annex V of the draft ITS shall be amended so that the date of incorporation or constitution and AIF national identification code are provided **only if available**.

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.

Answer:

Having reviewed the content of the template notification letter for UCITS, we believe the requested information will lead to increased manual interventions both internally within the asset manager's operations but also with the regulators.

Part 1:

For example, it remains unclear whether every change to any information provided in the UCITS notification letter needs to be notified or only material changes; the UCITS Directive in its current iteration requires all changes to be notified whereas the AIFMD only requires material changes to be notified. Harmonisation between the notification requirements would be preferred.

Moreover, it should be clarified whether certain changes in the UCITS notification letter (e.g. change of contact person) could be considered as being out of scope of the one month prior notification. In addition, our members are also wondering how such a change of a contact person should be treated.

Generally, it would be useful to have an NCA reference and/or NCA's contact for invoices to avoid uncertainties.

The table in section 2 called "Facilities to investors" is welcomed following the introduction of the Cross-Border Directive.

Part 2:

We are of the view that the statement *"in the case of umbrella UCITS, reference to the 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*" is misleading. All other references to UCITS in the notification letter are understood to refer to the UCITS itself. Hence, we would suggest to replace the word UCITS with compartment/sub-fund in this particular table.

As regards the duration on sub-fund level, we note that the addition "(if applicable)" was removed. It should be reinserted.

Part 3:

We consider the information requested in the section "*Name, address and contact details of each third-party distributor in the host Member State*" as being too detailed and therefore cumbersome to provide. Considering that the intention of the draft technical standards is to update the notification letter with respect to the requirements of the Cross-Border Directive, the proposed notification letter goes beyond this aim and increases avoidable administrative burden. Moreover, including details on third-party distributors in host Member States along the marketing notification seems to be particularly difficult for newer and smaller funds that have not an existing relationship with them.

Many regulators already request such detailed information as part of the oversight duties/responsibilities of the management company hence it should be sufficient to indicate, in a generic manner, the intended types of distribution channels to be used. This request should not replace the supervision of distributors by either the home or host state NCA, and issues with distributors should not prevent the passporting of the product. It would be better to suggest an alternative wording aiming at more general information.

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially in the context of contact details as these are not always available at least one month in advance. Moreover, the request should be directed exclusively to distributors with whom a direct contractual distribution relationship exists.

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?

Answer:

Our members are of the view that this type of information should not be requested as part of the UCITS notification letter. We anticipate that descriptions/responses would remain quite generic, which would not be useful for NCAs whilst causing additional administrative work for the industry.

For UCITS, it may be difficult to confirm a definitive strategy upon notification, as this is often subject to change depending on the success of the distribution activities. Also, it may not be possible to provide any supporting documents as often such detailed information is confidential in nature. The reference to "website" is also considered as too broad. In addition, clarification will be required on the frequency of updates to this response as as changes to these pieces of information can be required urgently to adapt to the market constraints and cannot be subject to a one monthnotice.

Should this requirement be retained by ESMA, it should refer explicitly only to the management company or self-managed UCITS.

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.

Answer:

We are wondering why NCAs would need to receive this type of information in the context of the

notification of cross-border marketing activities. UCITS are open-ended vehicles by their nature and, therefore, it is impossible to indicate an expected duration upon notification. Many asset managers do carry out regular reviews of their fund ranges and take appropriate actions.

Envisaged marketing targets can only consist in predictions and estimates; therefore, they are of no particular value for NCAs.

In the past, there have been instances of NCAs requiring this information as the regulatory fees levied were in proportion to the assets raised by the fund. However, this is no more the practice and as such, we query the practical importance of this information to justify the increased administrative burden to UCITS for obtaining the same.

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially as such information is not always available at least one month in advance.

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.

Answer:

Part 1:

Same comments as in Q3 Part 1. Our members would appreciate a confirmation that any change to details of contact persons can be filed within a reasonable timeframe **after** the change occurs and by simple email to the UCITS home Member State (instead of a different/amended form).

Part 2:

As indicated in the answer to Q1, we believe that Part 2 of the template notification letter set out in Annex II of the draft ITS is too detailed and cumbersome to provide on a delegate-by-delegate basis. In line with Article 20(1) of the UCITS Directive, Part 2 of the template notification letter shall collect **information on delegation arrangements** regarding functions of investment management and administration referred to in Annex II, rather than the identity and details of each delegate.

Proposed content of Part 2 of the template notification letter set out in Annex II of the draft ITS:

PART 2

Information on delegation arrangements regarding functions of investment management and administration referred to in Annex II Directive 2009/65/EC

The following functions will be delegated by the management company to an eligible delegate in compliance with Directive 2009/65/EC and the following services will be provided by such delegate(s) in the UCITS host Member State 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)

- ☐ The management company confirms that appropriate overnight arrangements are in place between the delegate and the management company.

Part 3:

Part 3 of the template notification letter set out in Annex II of the draft ITS requires that *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*.

As explained in Q1 above, we understand that the agreements with delegated administration agents and investment managers will not be required as this goes beyond the requirements under Article 20(1) of Directive 2009/65/EC.

Our members would appreciate the possibility to be able to provide any other documents by means of secured electronic platforms in case of heavy files. Our members understand that this is what is intended to be covered by the request to *provide the link to the latest electronic copies of the attachments*. We would appreciate if the form could be clarified so that it is made clear that attachments can be provided either by means of copies attached to the notification form or uploaded on a secured electronic platform to which a link will be included in the notification form.

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.

Answer:

Having reviewed the content of the template notification letter for marketing of AIFs in the home Member State of the AIFM, we believe the requested information will lead to increased manual interventions both internally within the asset manager's operations but also with the regulators.

Part 1:

For example, it remains unclear whether every change to any information provided in this notification letter needs to be notified or only material changes, especially considering the AIFMD only requires material changes to be notified 1 month in advance.

It should also be clarified that certain changes in this notification letter (e.g. change of contact person, distributors etc.) should not be considered as material and entail a notification obligation

Generally, it would be useful to have an NCA reference and/or NCA's contact for invoices to avoid uncertainties.

Where the letter states "(if different)", it remains unclear whether this refers to the AIFM contact details

or the third-party contact details.

We note the table called “Facilities to investors” is missing from the proposed template to marketing AIFs in the home Member State of the AIFM.

Part 2:

We are of the view that the statement *“in the case of umbrella AIFs, reference 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*” is misleading. All other references to AIFs in the notification letter are understood to refer to the AIF itself. Hence, we would suggest to replace the word AIF with compartment/sub-fund in this particular table.

As regards the duration on sub-fund level, we note that the addition “(if applicable)” was removed. It should be reinserted.

As regards master-feeder structures, for clarification purposes and to facilitate the use of the form, we would suggest adding a footnote referring the applicant to the Article 36 AIFMD national procedure – where existent – for all circumstances where the master fund would not itself be in a position to rely on Article 31/32 AIFMD.

Part 3:

We consider the information requested in the section “*Name, address and contact details of each third-party distributor in the host Member State*” as being too detailed and therefore cumbersome to provide. Considering that the intention of the draft technical standards is to update the notification letter with respect to the requirements of the Cross-Border Directive, the proposed notification letter goes beyond this aim and increases avoidable administrative burden. Moreover, including details on third-party distributors in host Member States along the marketing notification seems to be particularly difficult for newer and smaller funds that have not an existing relationship with them.

Many regulators already request such detailed information as part of the oversight duties/responsibilities of the AIFM hence it should be sufficient to indicate, in a generic manner, the intended types of distribution channels to be used. This request should not replace the supervision of distributors by either the home or host state NCA, and issues with distributors should not prevent the passporting of the AIF. It would be better to suggest an alternative wording aiming at more general information.

It is worth noting that such detailed information is sometimes not readily available especially in the case of third-party management companies as opposed to in-house management companies.

Considering that this template will be used by NCAs (rather than by the fund/fund manager itself directly), we would suggest inserting directly therein a link to the national requirements to be published on the NCA’s website (rather than the mere link to the general ESMA landing page).

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially in the context of contact details as these are not always available at least one month in advance. Moreover, the request should be directed exclusively to third-party distributors with whom a direct contractual distribution relationship exists.

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?

Answer:

Our members are of the view that this type of information should not be requested as part of the AIFMD notification letter. We anticipate that descriptions/responses would remain quite generic, which would not be useful for NCAs whilst causing additional administrative work for the industry.

Also, it may not be possible to provide any supporting documents as often such detailed information is confidential in nature. The reference to "website" is also considered as too broad. In addition, clarification will be required on the frequency of updates to this response as updated information is not always available at least one month in advance.

Should this requirement be retained by ESMA, it should refer explicitly only to the AIFM or internally-managed AIF.

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.

Answer:

Although the following information is more readily available for AIFs [maximum capital raising target and expected duration of marketing period (at least whether the AIF is open-ended or closed-ended)], we are wondering why NCAs would need to receive this type of information in the context of the notification of cross-border marketing activities.

Envisaged marketing targets can only consist in predictions and estimates; therefore, they are of no particular value for NCAs.

Our members do not understand the term 'revenues treatment'. We fear that this may relate to confidential information that is not meant to be disclosed.

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially as such information is not always available at least one month in advance.

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.

Answer:

Having reviewed the content of the template notification letter for marketing of AIFs in the host Member States, we believe the requested information will lead to increased manual interventions both internally within the asset manager's operations but also with the regulators.

Part 1:

For example, it remains unclear whether every change to any information provided in this notification letter needs to be notified or only material changes, especially considering the AIFMD only requires material changes to be notified one month in advance.

It should also be clarified whether certain changes in this notification letter (e.g. change of contact person) could be considered as being out of scope of the one month prior notification to ensure greater harmonisation across the NCAs. In addition, our members are also wondering how such a change of a contact person should be treated.

Generally, it would be useful to have an NCA reference and/or NCA's contact for invoices to avoid

uncertainties.

It is worth noting that, also in case of alternative investments, information about duration in notification letters is a constant source of confusion for practitioners.

The table in section 2 called "Facilities to investors" is welcomed following the introduction of the Cross-Border Directive.

Part 2:

We are of the view that the statement *"in the case of umbrella AIFs, reference 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*" is misleading. All other references to AIFs in the notification letter are understood to refer to the AIF itself. Hence, we would suggest to replace the word AIF with compartment/sub-fund in this particular table.

Moreover, all references to share classes in Part 2 of the notification letter should be deleted. The inclusion of the details of share classes to be marketed is not required by the AIFMD. It frustrates the objective of creating a true Capital Markets Union for Europe by imposing an unnecessary administrative burden on AIFMs wishing to market their AIFs within the EU. The differences in wording between the relevant provisions of the UCITS Directive and AIFMD should be noted here[1]. On a practical note, in contrast to UCITS, many of the AIFs marketed on a cross-border basis within the European Union do not commonly have share classes as such. We also question the utility for NCAs of collecting information about the share classes to be marketed.

As regards the duration on sub-fund level, we note that the addition "(if applicable)" was removed. It should be reinserted. Also, the reference (2) can be deleted from this column.

Part 3:

We consider the information requested in the section "*Name, address and contact details of each third-party distributor in the host Member State*" as being too detailed and therefore cumbersome to provide. The inclusion of these details is not required by the AIFMD. This proposed requirement frustrates the objective of creating a true Capital Markets Union for Europe by imposing an unnecessary administrative burden on AIFMs wishing to market their AIFs on a cross-border basis within the EU.

The proposal to require the inclusion of the names, addresses and contact details of third-party distributors in the notification letter also ignores the reality of how AIFMs market their AIFs within the EU. Very often, at the time of filing of the marketing notification, an AIFM may not know the identity of the distributors to be used. AIFMs will also be faced with the sometimes-vexed question of "Who is a distributor?". Certain entities, which might from a regulatory perspective be considered a distributor, will object in the strongest possible terms to being identified as such. This is especially the case with certain fund platforms. In addition, AIFMs would need to consider if it is necessary to identify sub-distributors in the notification letter.

Many regulators already request such detailed information as part of the oversight

[1] The relevant provisions of the UCITS Directive contain the following references to share classes:

- Article 93(1): "The notification letter shall include information on arrangements made for marketing units of the UCITS in the host Member State, including, where relevant, in respect of share classes";
- Article 93(8), as amended: "In the event of a change to the information in the notification letter submitted in accordance with paragraph 1, or a change regarding share classes to be marketed, the UCITS shall give written notice thereof to the competent authorities of both the UCITS home Member State and the UCITS host Member State at least one month before implementing that change";
- Article 93a(1): "Member States shall ensure that a UCITS may de-notify arrangements made for marketing as regards units, including, where relevant, in respect of share classes, in a Member State in respect of which it has made a notification in accordance with Article 93, where all the following conditions are fulfilled".

The inclusion of the above references to share classes in the UCITS Directive make it necessary to collect information about share classes marketed through the template UCITS marketing notification letter. However, the equivalent provisions of AIFMD, namely Article 32, Article 32a and Annex IV, contain no references to share or unit classes.

duties/responsibilities of the AIFM hence it should be sufficient to indicate, in a generic manner, the intended types of distribution channels to be used. This request should not replace the supervision of distributors by either the home or host state NCA, and issues with distributors should not prevent the passporting of the AIF. It would be better to suggest an alternative wording aiming at more general information.

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially in the context of contact details as these are not always available at least one month in advance. Also, the focus should be on distributors with whom the asset manager has a direct contractual distribution relationship.

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?

Answer:

Our members are of the view that this type of information should not be requested as part of the AIFMD notification letter. We anticipate that descriptions/responses would remain quite generic, which would not be useful for NCAs whilst causing additional administrative work for the industry.

For AIFs, the marketing strategy may vary from country to country meaning detailed explanations on a country level would potentially need to be provided. Also, it may not be possible to provide any supporting documents as often such detailed information is confidential in nature. The reference to "website" is also considered as too broad. In addition, clarification will be required on the frequency of updates to this response as updated information is not always available at least one month in advance.

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.

Answer:

Although the following information is generally available for AIFs: maximum capital raising target and expected duration of marketing period (at least whether the AIF is open-ended or closed-ended), we are wondering why NCAs would need to receive this type of information

Envisaged marketing targets can only consist in predictions and estimates; therefore, they are of no particular value for NCAs.

Our members do not understand the term 'revenues treatment'. We fear that this may relate to confidential information that is not meant to be disclosed.

Should this request be retained by ESMA in its current proposal, additional clarification will be required on the frequency of updates to such information, especially as such information is not always available at least one month in advance.

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.

Answer:

See above Q2 regarding Section 2 Part 2 of Annex V. Reference to "exiting" AIFs shall be removed as it shall be permitted to apply for cross-border management notifications prior to the establishment of the AIF, provided that all key information requested in Articles 5-7 is available.

Same comments as above regarding the request for confirmation that any change to the details of a contact person is not material and does not need to be notified separately.

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?

Answer:

With regard to the model notification letter for the cross-border marketing of AIFs under Article 32(2) AIFMD and Article 31(2) ELTIF Regulation (set out at Annex IV of the proposed ITS), the main changes with regard to the content of the information provided to the CSSF would be the following:

- The requirement to identify the share classes to be marketed;
- The requirement to give the names, addresses and contact details of third-party distributors in the notification letter;
- The requirement to include the duration of the AIFM.

None of the information listed above is currently provided to the CSSF in the context of a marketing notification filed under Article 32 AIFMD.

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.

Answer:

With regard to the model notification letter for the cross-border marketing of AIFs under Article 32(2) AIFMD and Article 31(2) ELTIF Regulation (set out at Annex IV of the proposed ITS), we would expect that service providers would increase their fees for filing notification letters given the extent of additional information required as compared with current practice in Luxembourg. By way of indication only, one service provider charges a fixed fee of EUR 1,500 per notification letter filed. They would anticipate increasing this fee by EUR 300 if the model notification letter is implemented as proposed. This increase in work on the side of the service provider would be matched by a corresponding increase in work on the side of the AIFM to gather and provide the information to the service provider.