

Cross-border distribution of collective investment funds: marketing and regulatory fees

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The Committee on Economic and Monetary Affairs adopted the report by Wolf KLINZ (ALDE, DE) on the proposal for a regulation of the European Parliament and of the Council on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013.

The proposal for a Regulation aims to remove the regulatory barriers that currently hinder the cross-border distribution of investment funds in order to make their cross-border distribution simpler, faster and less costly.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal.

Fees or charges: there is a need to ensure better recovery of fees or charges and to increase transparency and clarity of the fees and charges structure. Fees or charges levied by a competent authority in carrying out its duties in relation to the cross-border activity of alternative investment fund managers (AIFMs), European Venture Capital Funds (EuVECA) managers, European Social Entrepreneurship Fund (EuSEF) managers and undertakings for collective investment in transferable securities (UCITS) management companies shall be consistent with the actual costs incurred by the competent authority for carrying out its functions with respect to these duties.

Competent authorities shall send an **invoice**, an individual payment statement or a payment instruction to the appropriate address. The invoice shall indicate the fees or charges, the means of payment and the date when payment is due.

European Securities and Markets Authority (ESMA) central database on cross-border marketing of AIFs and UCITS: by 24 months after the date of entry into force of this amending Regulation, ESMA shall publish on its website a **central database** for the cross-border marketing of AIFs and UCITS, publicly accessible in a language customary in the sphere of international finance, listing: (i) all AIFs that are marketed in another Member State, their AIFMs, EUSEF manager or EUVECA manager, and a list of Member States in which they are marketed; and (ii) all UCITS that are marketed in another Member State, their UCITS management companies, AIFs and UCITS which those AIFMs and UCITS management company and a list of the Member States in which they are marketed.

That central database shall be kept up to date.

Marketing communications shall also specify where, how and in which language investors or potential investors can obtain a summary of investor rights and shall provide a **hyperlink** to such a summary, which shall include, as appropriate, access to Union level and national collective redress mechanisms in the event of litigation.

In order to facilitate the exchange of information between ESMA and competent authorities, ESMA shall establish a system for the regular **exchange of information** relevant to cross-border marketing activities of AIFMs and UCITS management companies.

Ex-ante verification of marketing communications: competent authorities may decide to require **prior notification** of marketing communications for the purpose of ex-ante verification of compliance of those communications with this Regulation and other applicable requirements, such as whether the marketing communications are identifiable as such, whether they present a detailed account of risks and rewards of purchasing units or shares of a UCITS and, where a Member State allows marketing of AIFs to retail investors, of an AIF in an equally prominent manner and whether all information in marketing communications is presented in a manner that is fair, clear and not misleading. That verification should be performed within a limited timeframe. Where competent authorities require prior notification, this should not prevent them from verifying marketing communications ex-post.

Powers of competent authorities: in order to enable the national competent authorities to exercise the functions attributed to them in this Regulation, Member States shall vest them with sufficient resources and all the necessary supervisory and investigative powers.

Evaluation: to assess the phenomenon of reverse solicitation and demand on the own initiative of an investor, as well as the potential to use them to circumvent provisions connected to the passport, including by third country entities, the Commission shall publish a report on these issues two years after the entry into force of this Regulation.