

Summaries of national provisions on marketing requirements for AIFs

This summary contains information on the national laws, regulations and administrative provisions relating to marketing requirements for AIFs, as referred to in Section 5(1) of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating the cross-border distribution of collective investment undertakings.

This information was last modified on December 13, 2021.

Summary of marketing requirements for AIFs

manager The information referred to in Section 23 of the AIFMD Directive that must be provided to investors is provided in the Dutch language. The information that must be provided to investors under the Prospectus Regulation must comply with the language requirements as set out in Section 27 Prospectus Regulation.

Decree on the Supervision of the Conduct of Financial Undertakings (*Besluit Gedragstoezicht financiële ondernemingen*) Where units are offered that are not negotiable, the manager shall provide a prospectus on that AIF before investors acquire those rights. The prospectus shall contain at least the information referred to in Section 23, first and second paragraphs of the AIFMD Directive.

A manager of an AIF with its registered office in another Member State informs the AFM if there is a suspension of the repurchase or redemption of units in an AIF managed by it. A number of ongoing requirements also apply to non-EU managers who offer AIFs on the basis of Section 1:13b of the Wft. For example, there is a periodic reporting obligation.

An EU manager of an AIF managed by him and having its registered office in another Member State, who intends to offer this AIF to investors in the Netherlands, must comply with the requirements of Section 32 and 33 of the AIFMD Directive. The withdrawal of a European Passport for the offering of units must comply with the requirements of Section 32a, first paragraph of the AIFMD Directive. An EU manager wishing to offer an AIF managed by it and having its registered office in another Member State in the Netherlands to retail investors must also comply with the requirements of Section 32 and 33 of the AIFMD Directive. In addition, the manager must report this intention to the AFM.

An EU licensed manager who wants to offer a non-EU AIF in the Netherlands must report this to the AFM.

Foreign managers of AIFs or AIFs originating from a designated state that wish to offer units in the Netherlands can, under certain circumstances, make use of the designated state regime as set out in the Wft. An AIFM that uses this regime is exempt from the licence requirement but will have to comply with a number of ongoing obligations. When the top-up retail requirements are met, AIFs can also be offered to non-professional investors in the Netherlands.

A manager of an AIF, a EuVECA fund or an EuSEF fund who wishes to proceed with pre-marketing must report this to the AFM no later than two weeks after he has proceeded to pre-marketing. The obligation does not apply to a manager who uses the registration regime and does not manage or wish to manage a EuVECA fund or EuSEF fund. Third parties may only pre-market on behalf of a manager under the CBDF Directive if they are authorised as an investment firm, as a credit institution, as a UCITS management company, as a manager of an AIF, or as a tied agent of an investment firm. If, within 18 months of pre-marketing, subscriptions are made to AIFs for which information has been provided in the context of pre-marketing, this shall be considered as a result of the marketing. In addition, for a period of 36 months after de-notification, no pre-marketing may be done with regard to the denotified AIF, EuVECA or EuSEF.