



Council of the  
European Union

Brussels, 21 December 2022  
(OR. en)

16272/22

EF 396  
ECOFIN 1362

#### COVER NOTE

---

From:	Ms Verena ROSS, Chair of the European Securities and Markets Authority (ESMA)
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Submission of draft implementing and regulatory technical standards on the notification of cross-border activities under the UCITS Directive and AIFMD

---

Delegations will find attached a letter regarding the subject mentioned above

The full report can be downloaded from ESMA's website:

<https://www.esma.europa.eu/press-news/esma-news/esma-publishes-technical-standards-cross-border-activities-under-ucits>

---

Encl.

# E-MAIL



European Securities and  
Markets Authority

IF 013413 2022  
19.12.2022

The Chair

19 December 2022  
ESMA34-45-1782

**Mairead McGuinness**  
**Commissioner**  
**Financial Services, Financial Stability**  
**and the Capital Markets Union**  
**European Commission**  
**Rue de la Loi / Wetstraat 200**  
**1049 Brussels**  
**Belgium**

**Ref: ESMA's draft implementing and regulatory technical standards on the notification of cross-border activities under the UCITS Directive and AIFMD**

Dear Commissioner McGuinness, *Dear Mairead,*

I am writing to you regarding the draft implementing technical standards ("ITS") and regulatory technical standards ("RTS") which ESMA is empowered to develop under Articles 17, 18, 20 and 95 of the UCITS Directive<sup>1</sup> and under Articles 31, 32 and 33 of the AIFMD<sup>2</sup>.

In line with these empowerments, I am pleased to submit to you for adoption:

- Draft RTS specifying the information to be provided by management companies and alternative investment fund managers ("AIFMs") to their home national competent authorities ("NCA") in order to carry out their activities in host Member States; and
- Draft ITS specifying the content and format of notification letters to be submitted by management companies, UCITS and AIFMs to their home NCAs to undertake cross-border marketing or cross-border management activities and to provide services in host Member States. The draft ITS also specify the procedure for the communication of the notification file by the home NCA to the host NCAs of the Member States where these activities are envisaged.

ESMA has conducted a public consultation on the provisions of the draft RTS and ITS relating to the information to be provided and the templates to be used by management companies, UCITS and AIFMs to undertake cross-border marketing or cross-border management activities and to provide services in host Member States. However, ESMA did not conduct public consultations on the provisions relating to the communication of information between NCAs,

---

<sup>1</sup> Directive 2009/65/EC of the European Parliament and 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).

<sup>2</sup> Directive 2011/61/EU of the European Parliament and the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.



as we considered that it would have been disproportionate to seek stakeholders' views on these provisions, which only affect NCAs. ESMA also analysed the potential related costs and benefits of the RTS and ITS, in accordance with Article 15(1) of the ESMA Regulation (Regulation (EU) No 1095/2010 of the European Parliament and of the Council).

ESMA requested the opinion of the Securities and Markets Stakeholder Group ("SMSG") on the draft RTS and ITS in accordance with Article 37(1) of the ESMA Regulation. However, the SMSG decided not to provide an opinion.

For any further information on the draft RTS and ITS, please do not hesitate to contact me or Evert van Walsum, Head of the Investors and Issuers Department at ESMA.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Verena Ross".

Verena Ross

cc.: Ms Irene Tinagli, MEP, Chair of the Committee on Economic and Monetary Affairs, European Parliament

Ms Claudia Lindemann, Head of ECON Secretariat, European Parliament

Mr Zbyněk Stanjura, President of ECOFIN, Council of the European Union

Ms Thérèse Blanchet, Secretary-General of the Council of the European Union

Mr John Berrigan, Director General, DG Financial Stability, Financial Services and Capital Markets Union, European Commission

# Final Report

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

