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General Secretariat

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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services (Asset management)
N° Cion doc.:	COM(2018) 92 final
Subject:	Cross-border distribution of funds - CBDF (Directive) - Presidency compromise proposal

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending 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
cross-border distribution of collective investment funds
2018/0041 (COD)

Presidency compromise proposal - 1 February 2019

Key	
	Political issue
	Identical text

Nr	Ref.	COMMISSION	COUNCIL	EP	PRESIDENCY COMPROMISE PROPOSAL - 1 FEBRUARY 2019
1.		DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	
2.		amending 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 cross- border distribution of collective investment funds	amending 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 cross- border distribution of collective investment <i>undertakings</i>	amending 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 cross- border distribution of collective investment <i>undertakings</i>	

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3.		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
4.	Cit. 1	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,	
5.	Cit. 2	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
6.	Cit. 3	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
7.	Cit. 4	Having regard to the opinion of the European Central Bank,	<i>deleted</i>	Having regard to the opinion of the European Central Bank ¹ ,	
8.	Cit. 5	Having regard to the opinion of the European Economic and Social Committee,	Having regard to the opinion of the European Economic and Social Committee,	Having regard to the opinion of the European Economic and Social Committee ² ,	
9.	Cit. 6	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
10.		Whereas:	Whereas:	Whereas:	
11.	Rec. 1	(1) A common objective of Directive 2009/65/EC of the European Parliament and of the Council ³ and Directive 2011/61/EU of the European Parliament and of the Council ⁴ is to ensure a level playing field among collective	(1) A common objective 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 is to ensure a level playing field among collective	(1) A common objective of Directive 2009/65/EC of the European Parliament and of the Council ⁵ and Directive 2011/61/EU of the European Parliament and of the Council ⁶ is to ensure a level playing field among collective	

¹ OJ C [...], [...], p. [...].

² OJ C , , p. .

³ 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), *OJ L 302, 17.11.2009, p. 32*.

⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (AIFM), *OJ L 174, 1.7.2011, p. 1*.

⁵ 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), *OJ L 302, 17.11.2009, p. 32*.

⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (AIFM), *OJ L 174, 1.7.2011, p. 1*.

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		investment undertakings and to remove restrictions to the free movement of units and shares of collective investment funds in the Union at the same time ensuring more uniform protection for investors. While these objectives have been largely achieved, certain barriers still hamper fund managers' ability to fully benefit from the internal market.	investment undertakings and to remove restrictions to the free movement of units and shares of collective investment undertakings in the Union at the same time ensuring more uniform protection for investors. While these objectives have been largely achieved, certain barriers still hamper fund managers' ability to fully benefit from the internal market.	investment undertakings and to remove restrictions to the free movement of units and shares of collective investment funds in the Union at the same time ensuring more uniform protection for investors. While these objectives have been largely achieved, certain barriers still hamper fund managers' ability to fully benefit from the internal market.	
12.	Rec. 2	(2) The rules proposed in this Directive are complemented by a dedicated Regulation [on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]. It lays down additional rules and procedures concerning undertakings for collective investment in transferable securities (UCITS) and alternative investment fund managers (AIFMs) That Regulation and this Directive should collectively further coordinate the conditions for fund managers operating in the internal market and facilitate cross-border distribution of the funds they manage.	(2) The rules proposed in this Directive are complemented by a dedicated Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]. It lays down additional rules and procedures concerning undertakings for collective investment in transferable securities (UCITS) and alternative investment fund managers (AIFMs) That Regulation and this Directive should collectively further coordinate the conditions for fund managers operating in the internal market and facilitate cross-border distribution of the funds they manage.	(2) The rules proposed in this Directive are complemented by a dedicated Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]. It lays down additional rules and procedures concerning undertakings for collective investment in transferable securities (UCITS) and alternative investment fund managers (AIFMs) That Regulation and this Directive should collectively further coordinate the conditions for fund managers operating in the internal market and facilitate cross-border distribution of the funds they manage.	
13.	Rec. 3	(3) It is necessary to fill in the regulatory gap and align the procedure governing notification to the competent authorities of the changes that UCITS are planning in	(3) It is necessary to fill in the regulatory gap and align the notification procedure ■ to the competent authorities of the changes regarding UCITS with the	(3) It is necessary to fill in the regulatory gap and align the ■ notification procedure to the competent authorities of the changes regarding UCITS with the	

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		relation to their managed funds with those which are laid down in Directive 2011/61/EU.	<i>notification procedure</i> laid down in Directive 2011/61/EU.	<i>notification procedure</i> laid down in Directive 2011/61/EU.	
14.	Rec. 4	(4) Regulation [on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] establishes new rules requiring the European Securities and Markets Authority (ESMA), to develop draft regulatory technical standards and draft implementing technical standards to specify the information required and the forms, templates and procedures to be used for the transmission of that information in relation to management of funds, take-up or discontinuing of marketing of funds under Directive 2009/65/EC and Directive 2011/61/EU. Therefore, the provisions of those two Directives providing ESMA with discretionary empowerments to develop regulatory technical standards and draft implementing technical standards for notifications are no longer necessary and therefore should be deleted.	(4) Regulation [on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] establishes new rules requiring the European Securities and Markets Authority (ESMA), to develop draft regulatory technical standards and draft implementing technical standards to specify the information required and the forms, templates and procedures to be used for the transmission of that information in relation to <i>the management</i> , take-up or discontinuing of marketing of <i>collective investment undertakings</i> under Directive 2009/65/EC and Directive 2011/61/EU. Therefore, the provisions of those two Directives providing ESMA with discretionary empowerments to develop regulatory technical standards and draft implementing technical standards for notifications are no longer necessary and therefore should be deleted.	(4) Regulation [on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] establishes new rules requiring the European Securities and Markets Authority (ESMA), to develop draft regulatory technical standards and draft implementing technical standards to specify the information required and the forms, templates and procedures to be used for the transmission of that information in relation to <i>the management</i> , take-up or discontinuing of marketing of <i>collective investment undertakings</i> under Directive 2009/65/EC and Directive 2011/61/EU. Therefore, the provisions of those two Directives providing ESMA with discretionary empowerments to develop regulatory technical standards and draft implementing technical standards for notifications are no longer necessary and therefore should be deleted.	
15.	Rec. 5	(5) Regulation [on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] further strengthens the principles applicable to marketing communications governed by	(5) Regulation [on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] further strengthens the principles applicable to marketing communications governed by	(5) Regulation [on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] further strengthens the principles applicable to marketing communications governed by	

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		Directive 2009/65/EC and extends their application to the AIFMs, thus resulting in a high standard of investor protection, regardless of the type of investor. As a result, the corresponding provisions of Directive 2009/65/EC relating to marketing communications and accessibility of national laws and regulation relevant to the arrangement of marketing units of UCITS are no longer necessary and therefore should be deleted.	Directive 2009/65/EC and extends their application to the AIFMs, thus resulting in a high standard of investor protection, regardless of the type of investor. As a result, the corresponding provisions of Directive 2009/65/EC relating to marketing communications and accessibility of national laws and regulation relevant to the arrangement of marketing units of UCITS are no longer necessary and therefore should be deleted.	Directive 2009/65/EC and extends their application to the AIFMs, thus resulting in a high standard of investor protection, regardless of the type of investor. As a result, the corresponding provisions of Directive 2009/65/EC relating to marketing communications and accessibility of national laws and regulation relevant to the arrangement of marketing units of UCITS are no longer necessary and therefore should be deleted.	
16.	Rec. 6	(6) The provisions of Directive 2009/65/EC, which require UCITS to provide facilities to investors, as implemented by certain national legal systems, have proven to be burdensome. Moreover, the local facilities are rarely used by investors as intended by the Directive. The preferred method of contact has shifted to direct interaction of investors with the fund manager – either electronically or by telephone, whereas payments and redemptions are executed through other channels. While these facilities are used for administrative purposes such as cross-border recovery of regulatory fees, such issues, however, should be addressed via other means including cooperation between the competent authorities. Consequently, rules should be established, which modernise and specify the requirements for	(6) The provisions of Directive 2009/65/EC, which require UCITS to provide facilities to investors, as implemented by certain national legal systems, have proven to be burdensome. Moreover, the local facilities are rarely used by investors as intended by the Directive. The preferred method of contact has shifted to direct interaction of investors with the fund manager – either electronically or by telephone, whereas payments and redemptions are executed through other channels. While these facilities are used for administrative purposes such as cross-border recovery of regulatory fees, such issues, however, should be addressed via other means including cooperation between the competent authorities. Consequently, rules should be established, which modernise and specify the requirements for	(6) The provisions of Directive 2009/65/EC, which require UCITS to provide facilities to investors, as implemented by certain national legal systems, have proven to be burdensome. Moreover, the local facilities are rarely used by investors as intended by the Directive. The preferred method of contact has shifted to direct interaction of investors with the fund manager – either electronically or by telephone, whereas payments and redemptions are executed through other channels. While these facilities are used for administrative purposes such as cross-border recovery of regulatory fees, such issues, however, should be addressed via other means including cooperation between the competent authorities. Consequently, rules should be established, which modernise and specify the requirements for	

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		providing facilities to retail investors, a physical presence should not be required by Member States. At the same time rules should ensure that investors have access to the information to which they are entitled.	providing facilities to retail investors, <i>and a local</i> physical presence <i>providing such facilities</i> should not be required by Member States. At the same time rules should ensure that investors have access to the information to which they are entitled.	providing facilities to retail investors, <i>and a local</i> physical presence <i>providing such facilities</i> should not be required by Member States. At the same time rules should ensure that investors have access to the information to which they are entitled.	
17.	Rec. 7	(7) In order to ensure a coherent treatment of retail investors, it is necessary that the requirements relating to facilities are also applied to AIFMs where Member States allow them to market units or shares of AIFs to retail investors in their territories.	(7) In order to ensure a coherent treatment of retail investors, it is necessary that the requirements relating to facilities are also applied to AIFMs where Member States allow them to market units or shares of AIFs to retail investors in their territories.	(7) In order to ensure a coherent treatment of retail investors, it is necessary that the requirements relating to facilities are also applied to AIFMs where Member States allow them to market units or shares of AIFs to retail investors in their territories.	
18.	Rec. 7 a (new)			<i>(7a) In order to facilitate the enforcement of retail investor rights in cases of cross-border marketing of investment funds, Member States should ensure that in cases of mass infringements, retail investors have access to representative legal actions under both Union and national law in accordance with Directive ... [Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC].</i>	
19.	Rec. 8	(8) The absence of clear and uniform conditions for the discontinuation of marketing of units or shares of a UCITS or an EU AIF in a host Member State creates	(8) The absence of clear and uniform conditions for the discontinuation of marketing of units or shares of a UCITS or an EU AIF in a host Member State creates	(8) The absence of clear and uniform conditions for the discontinuation of marketing of units or shares of a UCITS or an EU AIF in a host Member State creates	

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		economic and legal uncertainty for the fund managers. Therefore, this proposal lays down clear conditions, including thresholds, under which deregistration could take place. The thresholds are indicative of when a fund manager may consider that its activities have become insignificant in a particular host Member State. The conditions are set in such a way that they balance, on the one hand, the interests of fund managers to be able to deregister marketed funds when the established conditions are met, and on the other hand, the interests of investors in the fund from the host Member State concerned.	economic and legal uncertainty for the fund managers. Therefore, this proposal lays down clear conditions, including thresholds, under which <i>denotification</i> could take place. The thresholds are indicative of when a fund manager may consider that its activities have become insignificant in a particular host Member State. The conditions are set in such a way that they balance, on the one hand, the <i>ability of collective investment undertakings (or their managers)</i> to deregister marketed funds when the established conditions are met, and on the other hand, the interests of investors <i>in such undertakings</i> .	economic and legal uncertainty for the fund managers. Therefore, this proposal lays down clear conditions under which <i>denotification of marketing activities</i> could take place. The conditions are set in such a way that they balance, on the one hand, the <i>ability of collective investment undertakings or their managers to end their marketing activities</i> when the established conditions are met, and on the other hand, the interests of investors in <i>such undertakings</i> .	
20.	Rec. 9	(9)The possibility to stop marketing UCITS or EU AIFs in a particular Member State should not come at a cost to investors, nor diminish their safeguards under Directive 2009/65/EC or Directive 2011/61/EU, in particular with regard to their right to accurate information on the continued activities of those funds.	(9)The possibility to stop marketing UCITS or EU AIFs in a particular Member State should not come at a cost to investors, nor diminish their safeguards under Directive 2009/65/EC or Directive 2011/61/EU, in particular with regard to their right to accurate information on the continued activities of those funds.	(9) The possibility to stop marketing UCITS or EU AIFs in a particular Member State should not come at a cost to investors, nor diminish their safeguards under Directive 2009/65/EC or Directive 2011/61/EU, in particular with regard to their right to accurate information on the continued activities of those funds.	
21.	Rec. 10	(10) There are cases where an AIFM willing to test investor appetite for a particular investment idea or investment strategy is faced with a divergent treatment of pre-marketing activities in different national legal systems. In some Member States where pre-marketing is permitted, its	(10) There are cases where an AIFM willing to test investor appetite for a particular investment idea or investment strategy is faced with a divergent treatment of pre-marketing activities in different national legal systems. In some Member States where pre-marketing is permitted, its	(10) There are cases where an AIFM <i>or a UCITS management company</i> willing to test investor appetite for a particular investment idea or investment strategy is faced with a divergent treatment of pre-marketing activities in different national legal systems. In some Member States where pre-	(10) There are cases where an AIFM willing to test investor appetite for a particular investment idea or investment strategy is faced with a divergent treatment of pre-marketing activities in different national legal systems. In some Member States where pre-marketing is permitted, its

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		definition and conditions vary considerably. However, in other Member States there is no concept of pre-marketing at all. To address these divergences, a harmonised definition of pre-marketing should be provided and conditions under which an EU AIFM can engage in these activities should be established.	definition and conditions vary considerably. However, in other Member States there is no concept of pre-marketing at all. To address these divergences, a harmonised definition of pre-marketing should be provided and conditions under which an EU AIFM can engage in these activities should be established.	marketing is permitted, its definition and conditions vary considerably. However, in other Member States there is no concept of pre-marketing at all. To address these divergences, a harmonised definition of pre-marketing <i>of an AIF</i> should be provided and conditions under which an EU AIFM can engage in these activities should be established.	definition and conditions vary considerably. However, in other Member States there is no concept of pre-marketing at all. To address these divergences, a harmonised definition of pre-marketing should be provided and conditions under which an EU AIFM can engage in these activities should be established.
22.	Rec. 11	(11) For pre-marketing to be recognised as such under this Directive, it should concern an investment idea or strategy without having an actual AIF already established. Accordingly, during the course of pre-marketing, investors are unable to subscribe to the units or shares of an AIF because the fund does not exist yet, and no offering documents, even in a draft form, should be permitted to be distributed to potential investors during this stage. However, when following the pre-marketing activities the AIFM offers for subscription units or shares of an AIF with the features akin to the pre-marketed investment idea, the appropriate marketing notification procedure should be observed and the AIFM should not be able to invoke reverse solicitation.	(11) For pre-marketing to be recognised as such under this Directive, it should concern an investment idea or strategy <i>of an AIF or a compartment of an AIF, which is not yet established, or which is established, but not yet notified for marketing in that Member State.</i> Accordingly, during the course of pre-marketing, investors are unable to subscribe to the units or shares of an AIF <i>and no subscription forms or similar documents in a final form</i> should be permitted to be distributed to potential investors during this stage. <i>AIFMs shall ensure that investors do not acquire units or shares in an AIF through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that AIF under marketing permitted under Article 31 or 32. If within 18 months after the EU AIFM engaged in the pre-marketing activities in that</i>	(11) For pre-marketing to be recognised as such under this Directive, it should <i>be addressed to a professional investor and</i> concern an investment idea or strategy without having an <i>an AIF or compartment</i> already established, <i>or an established AIF or compartment which is not yet notified for marketing in the Member State concerned.</i> Accordingly, during the course of pre-marketing, investors are unable to subscribe to the units or shares of an AIF <i>and no final versions of offering documents or any form of subscription documents</i> should be permitted to be distributed to potential investors during this stage. However, when following the pre-marketing activities <i>of the AIFM, an investor subject to these activities subscribes to</i> units or shares of an AIF <i>or compartment</i> with the features akin to the pre-marketed investment idea <i>or to an AIF or compartment referred to</i>	

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			<i>Member State, the AIFM offers for subscription units or shares of an AIF referred to in the information provided in the context of pre-marketing or of an AIF established as a result of the pre-marketing, this shall be considered as a result of marketing and shall be subject to notification procedure.</i>	<i>during the pre-marketing activities, the appropriate marketing notification procedure should be observed and the AIFM should not be able to invoke reverse solicitation. To ensure that national competent authorities can exercise their control over pre-marketing activities in their Member State, AIFMs should send an informal letter or e-mail to the competent authorities of their home Member State and the competent authorities of the Member State or Member States where they will engage in pre-marketing activities, mentioning in which Member State or Member States they will conduct pre-marketing activities. The sending of that informal letter or e-mail should not be subject to any extra regulatory fees charged by any competent authority.</i>	
23.	Rec. 11 a (new)		<i>(11a) AIFMs shall ensure that information relating to its pre-marketing activities is available, and provided upon request, to its competent authorities after that activity takes place. This information shall include the reference to the Member States and the period of time in which the pre-marketing activities took place.</i>	<i>(11a) AIFMs should ensure that their pre-marketing activities are appropriately documented and made available, upon request, to the national competent authorities concerned. Such information should include a reference to the Member States and the period of time in which the pre-marketing activities took place and a description of the investment strategies or investment ideas presented in the course of the pre-marketing activities. ESMA</i>	

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				<i>should closely monitor any lack of convergence between Member States with regard to the documentation of pre-marketing activities, and should take all necessary measures to ensure that, in such cases, the efficiency of pre-marketing as a tool to foster the cross-border distribution of funds is not hindered.</i>	
24.	Rec. 11 b (new)			<i>(11b) Without prejudice to the definition of pre-marketing laid down in this Directive, Member States should ensure that UCITS management companies can continue to test professional investor appetite for a particular investment idea or investment strategy concerning UCITS which have not yet been established. Furthermore, the Commission should submit a legislative proposal to the European Parliament and to the Council in order to harmonise the provisions applicable to UCITS management companies and AIFM testing investor appetite for a particular investment idea or investment strategy.</i>	deleted
25.	Rec. 11 c (new)			<i>(11c) The harmonised rules on pre-marketing should not disadvantage an EU AIFM vis-à-vis a non-EU AIFM in any case. This concerns both the current situation in which non-EU AIFMs do not have passporting rights, and the situation where the</i>	<i>(11b) Laws, regulations and administrative provisions necessary to comply with this Directive and, in particular, with harmonised rules on pre-marketing, should not disadvantage an EU AIFM vis-à-vis a non-EU AIFM in any case.</i>

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				<i>provisions on passporting in Directive 2011/61/EU become applicable. To ensure this, the Commission should conduct a thorough investigation of all provisions in Directive 2011/61/EU in the light of their application in the scenario of a passporting regime for non-EU AIFMs, and, if appropriate, propose legislative changes before Article 35 and Articles 37 to 41 of Directive 2011/61/EU become applicable.</i>	<i>This concerns both the current situation in which non-EU AIFMs do not have passporting rights, and the situation where the provisions on passporting in Directive 2011/61/EU become applicable.</i>
26.	Rec. 12	(12) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing this Directive Regulation [on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] with regard to relevant provisions on marketing communications and pre-marketing. It is also necessary to coordinate the empowerments granted to the Commission to adopt draft regulatory technical standards and implementing technical standards, as developed by ESMA, under Regulation [on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]	(12) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing this Directive and Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] with regard to relevant provisions on marketing communications and pre-marketing. It is also necessary to coordinate the empowerments granted to the Commission to adopt draft regulatory technical standards and implementing technical standards, as developed by ESMA, under Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]	(12) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing this Directive and Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013] with regard to relevant provisions on marketing communications and pre-marketing. It is also necessary to coordinate the empowerments granted to the Commission to adopt draft regulatory technical standards and implementing technical standards, as developed by ESMA, under Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013]	

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		in the area of notifications, notification letters or written notices on cross-border activities that are to be deleted by this Directive from Directive 2009/65/EC and Directive 2011/61/EU respectively.	in the area of notifications, notification letters or written notices on cross-border activities that are to be deleted by this Directive from Directive 2009/65/EC and Directive 2011/61/EU respectively.	in the area of notifications, notification letters or written notices on cross-border activities that are to be deleted by this Directive from Directive 2009/65/EC and Directive 2011/61/EU respectively.	
27.	Rec. 13	(13) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,	(13) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,	(13) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁷ , Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,	
28.		HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
29.	Art. 1 - title	Article 1 Amendments to Directive 2009/65/EC	Article 1 Amendments to Directive 2009/65/EC	Article 1 Amendments to Directive 2009/65/EC	
30.	Art. 1 - para 1	Directive 2009/65/EC is amended as follows:	Directive 2009/65/EC is amended as follows:	Directive 2009/65/EC is amended as follows:	
31.	Art. 1 - para 1 - point 1	(1) Article 17 is amended as follows:	(1) <i>In paragraph 8 of Article 17 new subparagraphs are inserted:</i>	(1) <i>In Article 17(8), the following subparagraphs are added:</i>	

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32.	Art. 1 - para 1 - point 1 - point a	(a) the following paragraph 8a is inserted:	<i>deleted</i>	<i>deleted</i>	
33.	Art. 1 - para 1 - point 1 - point a Art. 17 - para 8a - subpara 1 <i>UCITS</i>	‘Where, pursuant to a change referred to in paragraph 8, the UCITS would no longer comply with this Directive, the relevant competent authorities referred to in paragraph 8 shall notify the management company within 10 working days that it is not to implement that change.	‘Where, pursuant to a change, <i>the management company</i> would no longer comply with this Directive, the █ competent authorities <i>of the management company’s home Member State</i> shall <i>inform</i> the management company within 15 working days <i>of receiving all the information referred to in this paragraph</i> that it is not to implement that change.	‘Where, pursuant to a change, <i>the management company</i> would no longer comply with this Directive, the █ competent authorities <i>of the management company’s home Member State</i> shall <i>inform</i> the management company within 15 working days <i>of receiving all the information referred to in this paragraph</i> that it is not to implement that change.	
34.	Art. 1 - para 1 - point 1 - point a Art. 17 - para 8a - subpara 1 a (new) <i>UCITS</i>		<i>In this case, the competent authorities of the management company’s home Member State shall inform the competent authorities of the management company’s host Member State that the change will not be implemented.</i>	<i>In that case, the competent authorities of the management company’s home Member State shall inform the competent authorities of the management company’s host Member State that the change will not be implemented.</i>	
35.	Art. 1 - para 1 - point 1 - point a Art. 17 - para 8a - subpara 2 <i>UCITS</i>	Where a change referred to in paragraph 8 is implemented after notification has been made in accordance with the first subparagraph and pursuant to that change the UCITS no longer complies with this Directive, the competent authorities of the home Member State of the UCITS shall take all due measures in accordance with Article 98.	Where a change █ is implemented <i>notwithstanding</i> the first and <i>second subparagraphs</i> pursuant to <i>which the management company would</i> no longer <i>comply</i> with this Directive, the competent authorities of the <i>management company’s</i> home Member State █ shall take all due measures in accordance with Article 98 <i>and shall notify accordingly the competent authorities of the management company’s host Member State without undue delay.</i> ’	Where a change █ is implemented <i>in breach of</i> the <i>second and the third</i> subparagraph and pursuant to that change the <i>management company would</i> no longer <i>comply</i> with this Directive, the competent authorities of the <i>management company’s</i> home Member State █ shall take all due measures in accordance with Article 98 <i>and shall notify accordingly the competent authorities of the management company’s host Member State without undue delay.</i> ’	

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36.	Art. 1 - para 1 - point 1 - point a Art. 17 - para 8a - subpara 3 <i>UCITS</i>	Where a change referred to paragraph 8 does not affect the compliance of the management company with this Directive, the competent authorities of the home Member State of the management company shall, within 10 working days, inform the competent authorities of the host Member State of the management company of those changes.'	<i>deleted</i>	<i>deleted</i>	
37.	Art. 1 - para 1 - point 1 - point b Art. 17 - para 10 <i>UCITS</i>	(b) paragraph 10 is deleted. (Present text: 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	<i>deleted</i> (Council keeps present text)	<i>deleted</i> (EP keeps present text)	

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		implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.)			
38.	Art. 1 - para 1 - point 2 Art. 18 - para 5 <i>UCITS</i>	(2) in Article 18, paragraph 5 is deleted. (Present text: 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.	<i>deleted</i> <i>(Council keeps present text)</i>	<i>deleted</i> <i>(EP keeps present text)</i>	

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39.	Art. 1 - para 1 - point 3 Art. 77 <i>UCITS</i>	(3) Article 77 is deleted. (Present text: All marketing communications to investors shall be clearly identifiable as such. They shall be fair, clear and not misleading. In particular, any marketing communication comprising an invitation to purchase units of UCITS that contains specific information about a UCITS shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information referred to in Article 78. It shall indicate that a prospectus exists and that the key investor information referred to in Article 78 is available. It shall specify where and in which language such information or documents may be obtained by investors or potential investors or how they may obtain access to them.	(2) Article 77 is deleted.	(3) Article 77 is deleted.	
40.	Art. 1 - para 1 - point 4 Art. 91 - para 3 <i>UCITS</i>	(4) in Article 91, paragraph 3 is deleted. (Present text: Member States shall ensure that complete information on the laws, regulations and administrative provisions which do not fall within the field governed by this Directive	(3) in Article 91, paragraph 3 is deleted.	(4) in Article 91, paragraph 3 is deleted.	

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		and which are specifically relevant to the arrangements made for the marketing of units of UCITS, established in another Member State within their territories, is easily accessible from a distance and by electronic means. Member States shall ensure that that information is available in a language customary in the sphere of international finance, is provided in a clear and unambiguous manner and is kept up to date.			
41.	Art. 1 - para 1 - point 5 - intro	(5) Article 92 is replaced by the following:	(4) Article 92 is replaced by the following:	(5) Article 92 is replaced by the following:	
42.	Art. 1 - para 1 - point 5 Art. 92 - title	'Article 92	'Article 92	'Article 92	
43.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - intro <i>UCITS</i>	1. Member States shall ensure that the UCITS management company establishes, in each Member State where it intends to market units of a UCITS, facilities to perform the following tasks:	1. Member States shall ensure that the UCITS ■ makes available, in each Member State where it intends to market its units, facilities to perform the following tasks:	1. Member States shall ensure that the UCITS management company offers, in each Member State where it intends to market units of a UCITS, facilities to perform the following tasks:	
44.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point a <i>UCITS</i>	(a) process investors' subscription, payment, repurchase and redemption orders relating to the units of the UCITS, in accordance with the conditions set out in the UCITS marketing documents;	(a) process ■ subscription, ■ repurchase and redemption orders and make other payments to unit-holders relating to the units of the UCITS, in accordance with the conditions set out in the UCITS ■ documents;	(a) process ■ subscription, ■ repurchase and redemption orders and make other payments to unit-holders relating to the units of the UCITS, in accordance with the conditions set out in the UCITS ■ documents;	
45.	Art. 1 - para 1 - point 5 Art. 92- para 1 - point b <i>UCITS</i>	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	

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46.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point c <i>UCITS</i>	(c) facilitate the handling of information relating to the investors' exercise of their rights arising from their investment in the UCITS in the Member State where the UCITS is marketed;	(c) facilitate the handling of information <i>and access to procedures and arrangements referred to in Article 15</i> relating to the investors' exercise of their rights arising from their investment in the UCITS in the Member State where the UCITS is marketed;	(c) facilitate the handling of information <i>and access to procedures and arrangements referred to in Article 15</i> relating to the investors' exercise of their rights arising from their investment in the UCITS in the Member State where the UCITS is marketed;	
47.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point d - intro <i>UCITS</i>	(d) make available to investors, for inspection and for the obtaining of copies of:	(d) make available to investors, for inspection and for the obtaining of copies of <i>information and documents required pursuant to Chapter IX, in accordance with Article 94;</i>	(d) make available to investors, for inspection and for the obtaining of copies of:	
48.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point d - point (i) <i>UCITS</i>	(i) fund rules or instruments of incorporation of the UCITS;	<i>deleted</i>	(i) fund rules or instruments of incorporation of the UCITS;	
49.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point d - point (ii) <i>UCITS</i>	(ii) the latest annual report of the UCITS;	<i>deleted</i>	(ii) the latest <i>published</i> annual report of the UCITS <i>and the latest published half-yearly report if more recent;</i>	
50.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point d - point (iia) (new) <i>UCITS</i>			<i>(iia) the prospectus of the UCITS;</i>	
51.	Art. 1 - para 1 - point 5			<i>(iib) the most up-to-date key [investor] information document for the UCITS.</i>	

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	Art. 92 - para 1 - point d - point (iib) (new) <i>UCITS</i>				
52.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point e <i>UCITS</i>	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m).	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m);	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m);	
53.	Art. 1 - para 1 - point 5 Art. 92 - para 1 - point e a (new) <i>UCITS</i>		<i>(f) act as contact point for communicating with the competent authority.</i>	<i>(ea) act as contact point for communicating with the competent authority.</i>	
54.	Art. 1 - para 1 - point 5 Art. 92 - para 2 <i>UCITS</i>	2. Member States shall not require the UCITS management company to have a physical presence for the purpose of paragraph 1.	2. Member States shall not require the UCITS ■ to have a physical presence <i>in the host Member State or to appoint a third party</i> for the purpose of paragraph 1.	2. Member States shall not require the UCITS ■ to have a physical presence <i>in the host Member State or to appoint a third party</i> for the purposes of paragraph 1.	
55.	Art. 1 - para 1 - point 5 Art. 92 - para 3 - subpara 1- intro <i>UCITS</i>	3. The UCITS management company shall ensure that the facilities referred to in paragraph 1 are of the following types and have the following characteristics:	3. The UCITS ■ shall ensure that the facilities <i>to perform the tasks</i> referred to in paragraph 1 are <i>provided</i> :	3. The UCITS ■ shall ensure that the facilities <i>to perform the tasks</i> referred to in paragraph 1 are <i>provided</i> :	
56.	Art. 1 - para 1 - point 5 Art. 92 - para 3 - subpara 1 - point a <i>UCITS</i>	(a) their tasks are performed in the official language or official languages of the Member State where the UCITS is marketed;	(a) ■ in the official language or <i>one of the</i> official languages of the Member State where the UCITS is marketed <i>or into a language approved by the competent authorities of that Member State</i> ;	(a) ■ in the official language or <i>one of the</i> official languages of the Member State where the UCITS is marketed <i>or in a language approved by the competent authorities of that Member State</i> ;	
57.	Art. 1 - para 1 - point 5	(b) their tasks are performed the UCITS management company itself or a third entity subject to	(b) <i>by the</i> UCITS ■ itself or a third <i>party</i> subject to regulation <i>and supervision</i> governing the tasks to	(b) <i>by the</i> UCITS ■ itself or a third <i>party</i> subject to regulation <i>and supervision</i> governing the tasks to	

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	Art. 92 - para 3 - subpara 1 - point b <i>UCITS</i>	regulation governing the tasks to be performed, or both;	be performed, or both, <i>including by the use of electronic means</i> ;	be performed, or both, <i>including by the use of electronic means</i> ;	
58.	Art. 1 - para 1 - point 5 Art. 92 - para 3 - subpara 2 <i>UCITS</i>	For the purposes of point (b), where the facilities are performed by a third entity, the appointment of a third entity shall be evidenced by a written contract, which specifies which of the tasks referred to in paragraph 1 are not performed by the UCITS management company and that the third entity receives all the relevant information and documents from the UCITS management company.'	For the purposes of point (b), where the <i>tasks</i> are performed by a third <i>party</i> , the appointment of a third <i>party</i> shall be evidenced by a written contract, which specifies which of the tasks referred to in paragraph 1 are not performed by the UCITS ■ and that the third <i>party</i> receives all the relevant information and documents from the UCITS ■.'	For the purposes of point (b), where the <i>tasks</i> are performed by a third <i>party</i> , the appointment of a third <i>party</i> shall be evidenced by a written contract, which specifies which of the tasks referred to in paragraph 1 are not performed by the UCITS ■ and that the third <i>party</i> receives all the relevant information and documents from the UCITS management company.'	
59.	Art. 1 - para 1 - point 6 - intro		<i>(5) Article 93 is amended as follows:</i>	<i>(6) ■ Article 93 is amended as follows:</i>	
60.	Art. 1 - para 1 - point 6 - point a (new) - intro		<i>(a) in paragraph 1 a new subparagraph is inserted:</i>	<i>(a) paragraph 1 is replaced by the following:</i>	
61.	Art. 1 - para 1 - point 5 a (new) - point a (new) Art. 93 - para 1 - subpara 1			1. If a UCITS proposes to market its units in a Member State other than its home Member State, it shall first submit a notification letter to the competent authorities of its home Member State.	
62.	Art. 1 - para 1 - point 5 a (new) - point a Art. 93 - para 1 - subpara 2			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. In the context of Article 16(1), it shall include an indication that the UCITS is marketed by the	

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				management company that manages the UCITS.	
63.	Art. 1 - para 1 - point 5 a (new) Art. 93 - para 1 - subpara 2 a (new)		<i>'The notification letter shall also include information and the address necessary for the invoicing, or communicating of any applicable regulatory fees or charges by the competent authorities of the host Member State and an indication of the facilities to perform the tasks referred to in Article 92, paragraph 1.</i>	<i>The notification letter shall also include information and the address necessary for the invoicing, or communication of any applicable regulatory fees or charges by the competent authorities of the host Member State and an indication of the facilities for performing the tasks referred to in Article 92(1).</i>	
64.	Art. 1 - para 1 - point 6 - intro	(6) in Article 93, paragraph 8 is replaced by the following:	(b) █ paragraph 8 is replaced by the following:	<i>(b) paragraph 8 is replaced by the following:</i>	
65.	Art. 1 - para 1 - point 6 Art. 93 - para 8 - subpara 1 <i>UCITS</i>	'8. 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 the home Member State at least one month before implementing that change.	'8. 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 the <i>UCITS</i> home Member State at least one month before implementing that change.	'8. 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 <i>both</i> the <i>UCITS</i> home <i>Member State and the host</i> Member State at least one month before implementing that change.	
66.	Art. 1 - para 1 - point 6 Art. 93 - para 8 - subpara 2 <i>UCITS</i>	Where, pursuant to a change referred to in the first subparagraph the UCITS would no longer comply with this Directive, the relevant competent authorities shall notify the UCITS within 10 working days that it is not to implement that change.	Where, pursuant to a change referred to in the first subparagraph the UCITS would no longer comply with this Directive, the █ competent authorities <i>of the UCITS home Member State</i> shall notify the UCITS within <i>15</i> working days <i>of receiving all the information referred to in the first</i>	Where, pursuant to a change referred to in the first subparagraph the UCITS would no longer comply with this Directive, the █ competent authorities <i>of the UCITS home Member State</i> shall notify the UCITS within <i>15</i> working days <i>of receiving all the information referred to in the first</i>	

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			<i>subparagraph</i> that it is not to implement that change.	<i>subparagraph</i> that it is not to implement that change.	
67.	Art. 1 - para 1 - point 6 Art. 93 - para 8 - subpara 2 a (new) <i>UCITS</i>		<i>In this case, the competent authorities of the UCITS home Member State shall notify correspondingly the competent authorities of the UCITS host Member State that the change will not be implemented.</i>	<i>In that case, the competent authorities of the UCITS home Member State shall notify the competent authorities of the UCITS host Member State that the change will not be implemented.</i>	
68.	Art. 1 - para 1 - point 6 Art. 93 - para 8 - subpara 3 <i>UCITS</i>	Where a change referred to in the first subparagraph is implemented after notification has been made in accordance with the second subparagraph and pursuant to that change the UCITS no longer complies with this Directive, the competent authorities of the home Member State of the UCITS shall take all due measures in accordance with Article 98, including, where necessary, the express prohibition of marketing of the UCITS.	Where a change referred to in the first subparagraph is implemented after notification has been made in accordance with the second subparagraph and pursuant to that change the UCITS no longer complies with this Directive, the competent authorities of the home Member State of the UCITS shall take all due measures in accordance with Article 98, including, where necessary, the express prohibition of marketing of the UCITS <i>and shall notify accordingly the competent authorities of the UCITS host Member State without undue delay.</i>	Where a change referred to in the first subparagraph is implemented after notification has been made in accordance with the second subparagraph and pursuant to that change the UCITS no longer complies with this Directive, the competent authorities of the home Member State of the UCITS shall take all due measures in accordance with Article 98, including, where necessary, the express prohibition of marketing of the UCITS <i>and shall notify accordingly the competent authorities of the UCITS host Member State without undue delay.</i>	
69.	Art. 1 - para 1 - point 6 Art. 93 - para 8 - subpara 4 <i>UCITS</i>	Where the changes referred to in the first subparagraph do not affect the compliance of the UCITS with this Directive, the competent authorities of the home Member State of the UCITS shall, without undue delay, inform the competent authorities of the host Member State of the UCITS of those changes.'	<i>deleted</i>	Where <i>a change</i> referred to in the first subparagraph <i>does</i> not affect the compliance of the UCITS with this Directive, the competent authorities of the home Member State of the UCITS shall, without undue delay, <i>and, in any case, within 15 working days of receiving all the information referred to in the first subparagraph,</i> inform the	

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				competent authorities of the host Member State of the UCITS of those changes.'	
70.	Art. 1 - para 1 - point 7 - intro	(7) the following Article 93a is inserted:	(6) the following Article 93a is inserted:	(7) the following Article 93a is inserted:	
71.	Art. 93a - title <i>UCITS</i>	'Article 93a	'Article 93a	'Article 93a	
72.	Art. 1 - para 1 - point 7 Art. 93a - para 1 - subpara 1 - intro <i>UCITS</i>	1. The competent authorities of the UCITS home Member State shall ensure that UCITS may discontinue marketing its units in a Member State where it has notified its activities in accordance with Article 93, where all the following conditions are fulfilled:	1. The competent authorities of the home Member State <i>of a UCITS</i> shall ensure that <i>a UCITS</i> may <i>de-notify</i> its <i>activities</i> in a Member State where it has notified its activities in accordance with Article 93, <i>provided that</i> all the following conditions are fulfilled:	1. The competent authorities of the UCITS home Member State shall ensure that UCITS may <i>proceed to the denotification of the marketing activities of</i> its units in a Member State where it has notified its activities in accordance with Article 93, where all the following conditions are fulfilled:	1. <i>Member State shall ensure that UCITS may de-notify its intention to use the arrangements made for the marketing of units of one or several UCITS</i> in a Member State where it has notified its activities in accordance with Article 93, where all the following conditions are fulfilled:
73.	Art. 1 - para 1 - point 7 Art. 93a - para 1 - subpara 1 - point a <i>UCITS</i>	(a) no investor which is domiciled or has a registered office in a Member State where the UCITS has notified its activities in accordance with Article 93 holds units of that UCITS, or no more than 10 investors which are domiciled or have a registered office in that Member State hold units of the UCITS representing less than 1 % of assets under management of that UCITS;	(a) no <i>more than 50 investors which to the best knowledge, upon reasonable inquiry, of the UCITS, are</i> domiciled or <i>have</i> a registered office in <i>that</i> Member State <i>hold</i> units of <i>that UCITS or the units of the UCITS held in that Member State represent in total</i> less than 1% of <i>the</i> assets under <i>the</i> management of that UCITS <i>calculated on the basis of the most recent valuation prior to the date of submission of the notification letter referred to in paragraph 2, or any other reason accepted by the relevant host national competent authority on this basis of the specificities of their domestic market;</i>	<i>deleted</i>	<i>deleted</i>
74.	Art. 1 - para 1 - point 7	(b) a blanket offer to repurchase, free of any charges or deductions,	(b) a blanket offer to repurchase, free of any charges or deductions,	(b) a blanket offer to repurchase, free of any charges or deductions,	(b) a blanket offer to <i>repurchase or redeem</i> , free of any charges or

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	Art. 93a - para 1 - subpara 1 - point b <i>UCITS</i>	all its UCITS units held by investors in a Member State where the UCITS has notified its activities in accordance with Article 93 is made public for at least 30 working days and is addressed individually to all investors in the host Member State whose identity is known;	all its UCITS units held by investors in a Member State where the UCITS has notified its activities in accordance with Article 93 is made public for at least 30 working days and is addressed, <i>directly or through financial intermediaries</i> , individually to all investors in the host Member State whose identity is known <i>to the UCITS</i> ;	all its UCITS units held by investors in a Member State where the UCITS has notified its activities in accordance with Article 93 is made public for at least 30 working days and is addressed, <i>directly or through financial intermediaries</i> , individually to all investors in the host Member State whose identity is known;	deductions, all its UCITS units held by investors in a Member State where the UCITS has notified its activities in accordance with Article 93 is made public for at least 30 working days and is addressed, <i>directly or through financial intermediaries</i> , individually to all investors in the host Member State whose identity is known <i>to the UCITS</i> ;
75.	Art. 1 - para 1 - point 7 Art. 93a - para 1 - subpara 1 - point c <i>UCITS</i>	(c) the intention to stop the marketing activities in the Member State where the UCITS has notified its activities in accordance with Article 93 is made public by means of a publicly available medium which is customary for marketing UCITS and suitable for a typical UCITS investor.	(c) the intention to <i>de-notify</i> the activities in the Member State where the UCITS has notified its activities in accordance with Article 93 is made public by means of a publicly available medium, <i>including by electronic means</i> , which is customary for marketing UCITS and suitable for a typical UCITS investor.	(c) the intention to <i>proceed to denotification of</i> marketing activities in the Member State where the UCITS has notified its activities in accordance with Article 93 is made public by means of a publicly available medium, <i>including by electronic means</i> , which is customary for marketing UCITS and suitable for a typical UCITS investor.	(c) the intention <i>to terminate the arrangements made for the marketing of its units</i> in the Member State where the UCITS has notified its activities in accordance with Article 93 is made public by means of a publicly available medium, <i>including by electronic means</i> , which is customary for marketing UCITS and suitable for a typical UCITS investor.
76.	Art. 1 - para 1 - point 7 Art. 93a - para 1 - subpara 1 a (new)			<i>The notice to investors shall make clear the consequences for investors if they do not accept the offer to repurchase their units.</i>	<i>The notice to investors shall make clear the consequences for investors if they do not accept the offer to repurchase their units.</i>
77.	Art. 1 - para 1 - point 7 Art. 93a - para 1 - subpara 2 <i>UCITS</i>	The information referred to in points (b) and (c) shall be provided in the official languages of the Member State where the UCITS has been marketed.	The information referred to in points (b) and (c) shall be provided in the official <i>language or one of the official</i> languages of the Member State where the UCITS has been marketed <i>or in a language approved by the competent authorities of that Member State.</i>	The information referred to in points (b) and (c) shall be provided in the official <i>language or one of the official</i> languages of the Member State where the UCITS has been marketed <i>or in a language approved by the competent authorities of that Member State.</i>	The information referred to in points (b) and (c) shall be provided in the official <i>language or one of the official</i> languages of the Member State where the UCITS has been marketed <i>or in a language approved by the competent authorities of that Member State.</i>

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77 a	new				d) any contractual arrangements with the financial intermediaries or delegates shall be resigned or modified with the effect on the date of de-notification in order to stop any new or further, direct or indirect offering and placement of units of the UCITS identified in the notification letter referred to paragraph 2.
78.	Art. 1 - para 1 - point 7 Art. 93a - para 2 <i>UCITS</i>	2. The UCITS shall submit a notification letter to the competent authority of its home Member State comprising the information referred to in paragraph 1.	2. The UCITS shall submit a notification letter to the competent authorities of its home Member State containing the information referred to in paragraph 1.	2. The UCITS shall submit a notification letter to the competent authorities of its home Member State comprising the information referred to in paragraph 1.	2. The UCITS shall submit a notification letter to the competent authorities of its home Member State comprising the information referred to in paragraph 1.
79.	Art. 1 - para 1 - point 7 Art. 93a - para 3 - subpara 1 <i>UCITS</i>	3. The competent authorities of the UCITS home Member State shall, no later than 20 working days from the receipt of the notification referred to in paragraph 2, transmit it to the competent authorities of the Member State where marketing of the UCITS is intended to be discontinued and to ESMA.	3. The competent authorities of the UCITS home Member State shall verify whether the notification submitted by the UCITS in accordance with paragraph 2 is complete. The competent authorities of the UCITS home Member State shall, no later than 20 working days from the receipt of the complete notification referred to in paragraph 2, transmit this notification to the competent authorities of the Member State where marketing of the UCITS is intended to be discontinued and to ESMA.	3. The competent authorities of the UCITS home Member State shall verify whether the notification submitted by the UCITS in accordance with paragraph 2 is complete. The competent authorities of the UCITS home Member State shall, no later than 15 working days from the receipt of the notification referred to in paragraph 2, transmit that notification to the competent authorities of the Member State where marketing of the UCITS is intended to be discontinued and to ESMA, or else shall inform the UCITS of the reason why the notification cannot be transmitted.	3. The competent authorities of the UCITS home Member State shall verify whether the notification submitted by the UCITS in accordance with paragraph 2 is complete. The competent authorities of the UCITS home Member State shall, no later than 20 working days from the receipt of the complete notification referred to in paragraph 2, transmit that notification to the competent authorities of the Member State identified in the notification letter referred to paragraph 2, and to ESMA.
80.	Art. 1 - para 1 - point 7 Art. 93a - para 3 - subpara 2	Upon transmission of the notification file pursuant to the first subparagraph the competent authorities of the UCITS home	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the UCITS home	Upon transmission of the notification file pursuant to the first subparagraph the competent authorities of the UCITS home	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the UCITS home

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	<i>UCITS</i>	Member State shall immediately notify the UCITS of that transmission. As of this date, the UCITS shall cease all marketing of its units in the Member State identified in the notification letter referred to in paragraph 2.	Member State shall immediately notify the UCITS of that transmission. As of this date, the UCITS shall cease any new offering or placement of its units in the Member State identified in the notification letter referred to in paragraph 2.	Member State shall immediately notify the UCITS of that transmission. As of this date, the UCITS shall cease all marketing of its units in the Member State identified in the notification letter referred to in paragraph 2.	Member State shall immediately notify the UCITS of that transmission. As of this date, the UCITS shall cease any new or further, direct or indirect offering and placement of its units in the Member State identified in the notification letter referred to in paragraph 2.
81.	Art. 1 - para 1 - point 7 Art. 93a - para 4 - intro <i>UCITS</i>			4. As long as investors remain invested in the UCITS after marketing is discontinued:	(deleted)
82.	Art. 1 - para 1 - point 7 Art. 93a - para 4 - point a (new) <i>UCITS</i>	4. The UCITS shall continue providing investors who remain invested in the UCITS, with the information required under Articles 68 to 82 and under Article 94.	4. The UCITS shall continue providing investors who remain invested in the UCITS with the information required under Articles 68 to 82 and under Article 94.	(a) the UCITS shall provide investors who remain invested in the UCITS as well as the competent authorities of the home Member State of the UCITS and the competent authorities of the Member State where the marketing has been discontinued with the information required under Articles 68 to 82 and under Article 94;	4. The UCITS shall provide investors who remain invested in the UCITS as well as the competent authorities of the home Member State of the UCITS with the information required under Articles 68 to 82 and under Article 94.
83.	Art. 1 - para 1 - point 7 Art. 93a - para 4 - point b (new) <i>UCITS</i>			(b) the competent authorities of the home Member State of the UCITS shall provide the competent authorities of the Member State where the marketing has been discontinued with the information required to be provided to the competent authorities of the UCITS host Member State under Article 93;	4a. The competent authorities of the home Member State of the UCITS shall transmit to the competent authorities of the Member State identified in the notification letter referred to in paragraph 2 information on any changes to the documents referred to in paragraph 2 of Article 93.

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84.	Art. 1 - para 1 - point 7 Art. 93a - para 4 - point c (new) UCITS			<i>(c) the competent authorities of the Member State where the marketing has been discontinued shall exercise the rights and obligations conferred on competent authorities of the UCITS host Member State under Articles 97 and 108 and, if applicable, may levy fees or charges for carrying out those activities in accordance with the provisions applicable for competent authorities pursuant to Article 6 of Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013].</i>	<i>4b. The competent authorities of the Member State identified in the notification letter referred to in paragraph 2 shall exercise the same rights and obligations as those conferred on competent authorities of the UCITS host Member State referred to in paragraph 2 of Article 21, paragraph 3 of Article 97 and Article 108.</i>
84.a	new				<i>4c. Without prejudice to other monitoring activities and supervisory powers in accordance with paragraph 2 of Article 21 and Article 97, as from the date of notification referred to in paragraph 2, the competent authorities of the Member State identified in this notification shall not require the concerned UCITS to demonstrate the compliance with laws, regulations and administrative provisions governing marketing requirements referred to in [Article 3 of X-border Regulation (which replaces Article 91(3) UCITS)]</i>

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85.	Art. 1 - para 1 - point 7 Art. 93a - para 5 <i>UCITS</i>	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4, provided the information and communication means are available for investors in the official languages of the Member State where the investor is located.'	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4, provided the information and communication means are available for investors in the official <i>language or one of the official</i> languages of the Member State where the investor is located <i>or in a language approved by the competent authorities of that Member State.'</i>	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4, provided the information and communication means are available for investors in the official <i>language or one of the official</i> languages of the Member State where the investor is located <i>or in a language approved by the competent authorities of that Member State.'</i>	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4, provided the information and communication means are available for investors in the official <i>language or one of the official</i> languages of the Member State where the investor is located <i>or in a language approved by the competent authorities of that Member State.'</i>
86.	Art. 1 - para 1 - point 8 Art. 95 - para 2(a) <i>UCITS</i>	(8) in Article 95, paragraph (2)(a) is deleted. (Present text: 2. 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;	<i>deleted</i> (Council keeps present text)	(8) in Article 95, paragraph (2)(a) is deleted.	
87.	Art. 2 - title <i>AIFMD</i>	Article 2 Amendments to Directive 2011/61/EU	Article 2 Amendments to Directive 2011/61/EU	Article 2 Amendments to Directive 2011/61/EU	
88.	Art. 2 - para 1 - intro	Directive 2011/61/EU is amended as follows:	Directive 2011/61/EU is amended as follows:	Directive 2011/61/EU is amended as follows:	

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89.	Art. 2 - para 1 - point 1 - intro	(1) in Article 4(1), between points (ae) and (af), the following point (aea) is inserted:	(1) in Article 4(1), between points (ae) and (af), the following point (aea) is inserted:	(1) in Article 4(1), between points (ae) and (af), the following point (aea) is inserted:	
90.	Art. 2 - para 1 - point 1 Art. 4 - para 1 - p. (aea)	‘(aea) ‘pre-marketing’ means a direct or indirect provision of information on investment strategies or investment ideas by an AIFM or on its behalf to professional investors domiciled or registered in the Union in order to test their interest in an AIF which is not yet established.’	‘(aea) ‘pre-marketing’ means a direct or indirect provision of information <i>or communication</i> on investment strategies or investment ideas by an <i>EU</i> AIFM or on its behalf to professional investors domiciled or registered in the Union in order to test their interest in an AIF <i>or a compartment of an AIF, which is not yet established or which is established, but not yet notified for marketing in accordance with Article 32, in that Member State where the investors are domiciled or have their registered office, and which in each case does not amount to an offer or placement to the investor to invest in the units or shares of that AIF or a compartment.</i>	‘(aea) ‘pre-marketing’ means a direct or indirect provision of information <i>or communication</i> on investment strategies or investment ideas by an <i>EU</i> AIFM or on its behalf to <i>potential</i> professional investors domiciled or registered in the Union in order to test their interest in an AIF, <i>or in a compartment of an AIF</i> , which is not yet established <i>or which is established, but not yet notified for marketing in accordance with Article 32, in that Member State where the potential investors are domiciled or have their registered office, and which in each case does not amount to an offer or placement to the investor to invest in the units or shares of that AIF or compartment.</i>	‘(aea) ‘pre-marketing’ means a direct or indirect provision of information <i>or communication</i> on investment strategies or investment ideas by an <i>EU</i> AIFM or on its behalf to <i>potential</i> professional investors domiciled or registered in the Union in order to test their interest in an AIF <i>or a compartment of an AIF, which is not yet established or which is established, but not yet notified for marketing in accordance with Article 32, in that Member State where the investors are domiciled or have their registered office, and which in each case does not amount to an offer or placement to the investor to invest in the units or shares of that AIF or a compartment.</i>
91.	Art. 2 - para 1 - point 2 - intro	(2) the following Article 30a is inserted at the beginning of CHAPTER VI:	(2) the following Article 30a is inserted at the beginning of CHAPTER VI:	(2) the following Article 30a is inserted at the beginning of CHAPTER VI:	(2) the following Article 30a is inserted at the beginning of CHAPTER VI:
92.	Art. 2 - para 1 - point 2 Art. 30a - title	‘Article 30a Conditions for pre-marketing in the Union by an EU AIFM	‘Article 30a Conditions for pre-marketing in the Union by an EU AIFM	‘Article 30a Conditions for pre-marketing in the Union by an EU AIFM	‘Article 30a Conditions for pre-marketing in the Union by an EU AIFM
93.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - intro	1. Member States shall ensure that an authorised EU AIFM may engage in pre-marketing in the Union, excluding where the information presented to potential professional investors:	1. Member States shall ensure that an authorised EU AIFM may engage in pre-marketing in the Union, excluding where the information presented to potential professional investors:	1. Member States shall ensure that an authorised EU AIFM may engage in pre-marketing in the Union, excluding where the information presented to potential professional investors:	1. Member States shall ensure that an authorised EU AIFM may engage in pre-marketing in the Union, excluding where the information presented to potential professional investors:

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94.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - point a	(a) relates to an established AIF;	<i>deleted</i>	<i>deleted</i>	<i>deleted</i>
95.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - point b	(b) contains reference to an established AIF;	<i>deleted</i>	<i>deleted</i>	<i>deleted</i>
96.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - point c	(c) enables investors to commit to acquiring units or shares of a particular AIF;	<i>(c) enables investors to commit to acquiring units or shares of a particular AIF;</i>	(c) enables investors to commit to acquiring units or shares of a particular AIF;	<i>(c) enables investors to commit to acquiring units or shares of a particular AIF;</i>
97.			<i>Text now moved down</i>		<i>Text now moved down</i>
98.			<i>Text now moved down</i>		<i>Text now moved down</i>
99.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - point c a (new)		<i>(c a) amounts to subscription forms or similar documents whether in a draft or a final form;</i>		<i>(c a) amounts to subscription forms or similar documents whether in a draft or a final form;</i>
100.	Art. 2 - para 1 - point 2 Art. 30a - para 1 - point d	(d) amounts to a prospectus, constitutional documents of a not- yet-established AIF, offering documents, subscription forms or similar documents whether in a draft or a final form allowing investors to take an investment decision.	<i>(d) amounts to constitutional documents, a prospectus or offering documents of a not-yet- established AIF in a final form.</i>	(d) amounts to <i>the final form of</i> a prospectus, constitutional documents <i>or offering documents</i> of a not-yet-established AIF, <i>or amounts to</i> subscription forms or similar documents whether in a draft or a final form allowing investors to <i>invest in the units or shares of an AIF or compartment.</i> <i>For already established AIFs, the final form of a prospectus may be provided.</i>	<i>(d) amounts to constitutional documents, a prospectus or offering documents of a not-yet- established AIF in a final form.</i>
101.	Art. 2 - para 1 - point 2 Art. 30a - para 1 a (new)		<i>Where a draft prospectus or offering documents are provided, such documents shall not contain all relevant information allowing</i>	<i>Where a draft prospectus or offering document as referred to in point (d) of the first subparagraph is provided, that</i>	<i>Where a draft prospectus or offering documents are provided, such documents shall not contain all relevant information allowing</i>

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			<i>investors to take an investment decision and shall clearly state that:</i>	<i>document shall clearly state that it does not constitute an offer or an invitation to subscribe to units or shares of an AIF or compartment.</i>	<i>investors to take an investment decision and shall clearly state that:</i>
101a			<i>(a) the document does not constitute an offer or an invitation to subscribe to units or shares of an AIF;</i>		<i>(a) the document does not constitute an offer or an invitation to subscribe to units or shares of an AIF;</i>
101b			<i>(b) the information presented in those documents should not be relied upon because it is incomplete and may be subject to change.</i>		<i>(b) the information presented in those documents should not be relied upon because it is incomplete and may be subject to change.</i>
102.	Art. 2 - para 1 - point 2 Art. 30a - para 2 - subpara -1 (new)			<i>2. Member States shall ensure that an EU AIFM sends a simple, informal letter in paper form or by electronic means before it engages in pre-marketing activities, stating the Member State or Member States in which it will engage in those activities, to the competent authorities of its home Member State with a copy to the competent authorities of the Member State or Member States in which it will engage in pre-marketing activities.</i>	Deletion
103.	Art. 2 - para 1 - point 2 Art. 30a - para 2 - subpara 1	2. Member States shall ensure that no requirement to notify the competent authorities of pre-marketing activities is necessary for an EU AIFM to engage in pre-marketing activities.	2. Member States shall ensure that no requirement to notify the competent authorities of pre-marketing activities is necessary for an EU AIFM to engage in pre-marketing activities.	Member States shall ensure that no requirement to notify the competent authorities <i>of the content or the addressees</i> of the pre-marketing activities is necessary for an EU AIFM to engage in pre-marketing activities.	Member States shall ensure that the no requirement to notify the competent authorities <i>of the content or the addressees</i> of the pre-marketing activities is necessary for an EU AIFM to engage in pre-marketing activities; nor shall they impose additional conditions or requirements on an EU AIFM.

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104.	Art. 2 - para 1 - point 2 Art. 30a - para 3- subpara -1 (new)		<i>3. AIFMs shall ensure that investors do not acquire units or shares in an AIF through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that AIF under marketing permitted under Article 31 or 32.</i>	<i>3. AIFMs shall ensure that investors do not acquire units or shares in an AIF through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that AIF under marketing permitted under Article 31 or 32.</i>	<i>3. AIFMs shall ensure that investors do not acquire units or shares in an AIF through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that AIF under marketing permitted under Article 31 or 32.</i>
105.	Art. 2 - para 1 - point 2 Art. 30a - para 3 - subpara 1	3. Subscription by professional investors to units or shares of an AIF established following the pre-marketing in accordance with paragraph 1 or to the units or shares of AIFs managed or marketed by the EU AIFM that had engaged in pre-marketing of a not-yet-established AIF with the similar features shall be considered the result of marketing.’	<i>In particular, any subscription by professional investors, within 18 months after the EU AIFM engaged in pre-marketing, to units or shares of an AIF referred to in the information provided in the context of pre-marketing, or of an AIF established as a result of the pre-marketing shall be considered the result of marketing and shall be subject to the applicable notification procedures referred to in Articles 31 and 32.</i>	Subscription by professional investors <i>that were subject to pre-marketing, within 18 months of the AIFM becoming engaged in pre-marketing</i> , to units or shares of an AIF referred to in the information provided in the context of pre-marketing activities by the EU AIFM <i>or on its behalf, or of an AIF established as a result of those pre-marketing activities</i> , shall be considered the result of marketing <i>and shall be subject to the applicable notification procedures referred to in Article 31 and 32.</i>	<i>In particular, any subscription by professional investors, within 18 months after the EU AIFM engaged in pre-marketing, to units or shares of an AIF referred to in the information provided in the context of pre-marketing, or of an AIF established as a result of the pre-marketing shall be considered the result of marketing and shall be subject to the applicable notification procedures referred to in Articles 31 and 32.</i>
106.	Art. 2 - para 1 - point 2 Art. 30a - para 3 a (new)			<i>3a. Member States shall ensure that EU AIFMs make appropriate arrangements such that information relating to their pre-marketing activities is available, and provided upon request, to the competent authorities of their home Member State and to the competent authorities of the Member States in which they have engaged in pre-marketing activities. EU AIFMs shall ensure that their pre-marketing activities</i>	<i>3a. Member States shall ensure that an EU AIFM sends two weeks after it engaged in pre-marketing activities an informal letter in paper form or by electronic means to the competent authorities of its home Member State. This letter shall contain references to the Member States and the periods of time in which the pre-marketing activities took place, as well as a brief description of those activities, including the information on the</i>

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				<i>are adequately documented, including references to the Member States and the periods of time in which the pre-marketing activities took place, as well as a brief description of those activities, including the information on the investment strategies presented and, where relevant, a list of the AIFs and compartments of AIFs presented.</i>	<i>investment strategies presented and, where relevant, a list of the AIFs and compartments of AIFs presented. The competent authority of the home Member State of the AIFM shall inform the competent authorities of the Member States in which the AIFM was engaged in pre-marketing activities. The competent authority of the Member State in which pre-marketing activities took place may request the competent authority of the home Member State of the AIFM to provide further information on the respective pre-marketing activities that took place on its territory.</i>
107.	Art. 2 - para 1 - point 2 Art. 30a - para 3 b (new)			<i>3b. A third party shall only engage in activities referred to in paragraph 1 in a host Member State of an AIFM on behalf of an authorised EU AIFM where it is authorised as an investment firm in accordance with Directive 2014/65/EU, as a credit institution in accordance with Directive 2013/36/EU, as a UCITS management company in accordance with Directive 2009/65/EC, as an alternative investment fund manager in accordance with Directive 2011/61/EU, or acts as a tied agent.'</i>	<i>3b. A third party shall only engage in activities referred to in paragraph 1 on behalf of an authorised EU AIFM where it is authorised as an investment firm in accordance with Directive 2014/65/EU, as a credit institution in accordance with Directive 2013/36/EU, as a UCITS management company in accordance with Directive 2009/65/EC, as an alternative investment fund manager in accordance with Directive 2011/61/EU, or acts as a tied agent, and shall be subject to all conditions of this Article.'</i>
108.	Art. 2 - para 1 - point 2		<i>4. For the purposes of the paragraph 3, the AIFM shall</i>		<i>4. For the purposes of the paragraph 3, the AIFM shall</i>

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	Art. 30a - para 3 c (new) - subpara 1		<i>ensure that its pre-marketing activity is adequately documented.</i>		<i>ensure that its pre-marketing activity is adequately documented.</i>
109.	Art. 2 - para 1 - point 2 Art. 30a - para 3 c (new) - subpara 2		<i>AIFMs shall ensure that information relating to its pre-marketing activities is available, and provided upon request, to its competent authorities after that activity taking place and shall include the reference to the Member States and the period of time in which the pre-marketing activities took place.</i>		Replaced by line 106
110.	Art. 2 - para 1 - point 3 Art. 31 - para 5	(3) in Article 31, paragraph 5 is deleted. (Present text: 5. 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; and (b) the form of the written notice referred to in paragraph 4. 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.	deleted (Council keeps present text)	(3) in Article 31, paragraph 5 is deleted.	
111.	Art. 2 - para 1 - point 4 - intro	(4) in Article 32 is amended as follows:	(3) ■ Article 32 is amended as follows:	(4) ■ Article 32 is amended as follows:	

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112.	Art. 2 - para 1 - point 4 - point a - intro	(a) the second subparagraph of paragraph 7 is replaced by the following:	(a) the second subparagraph of paragraph 7 is replaced by the following:	(a) the second subparagraph of paragraph 7 is replaced by the following:	
113.	Art. 2 - para 1 - point 4 - point a Art. 32 - para 7 - subpara 2	‘If, pursuant to a planned change, the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities shall inform the AIFM within 20 working days that it is not to implement the change.’	‘If, pursuant to a planned change, the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities <i>of the home Member State of the AIFM</i> shall inform the AIFM within <i>15</i> working days <i>of receiving all the information referred to in the first subparagraph</i> that it is not to implement the change.	‘If, pursuant to a planned change, the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities <i>of the home Member State of the AIFM</i> shall inform the AIFM within <i>15</i> working days <i>receiving all the information referred to in the first subparagraph</i> that it is not to implement the change. <i>The competent authorities of the home Member State of the AIFM shall, without undue delay, inform the competent authorities of the host Member State of the AIFM about the planned change, its assessment of it and whether or not it was implemented.</i> ’	
114.	Art. 2 - para 1 - point 4 - point a a (new) - intro		<i>(b) the third subparagraph of paragraph 7 is replaced by the following:</i>	<i>(aa) the third subparagraph of paragraph 7 is replaced by the following:</i>	
115.	Art. 2 - para 1 - point 4 - point a a (new) - intro Art. 32 - para 7 - subpara 3	(Present text: If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM otherwise would no	<i>‘If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM otherwise would no longer comply with this Directive, the competent</i>	If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM’s management of the AIF would no longer comply with this Directive or the AIFM otherwise would no longer comply with this Directive, the competent authorities of the	

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		longer comply with this Directive, the competent authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46, including, if necessary, the express prohibition of marketing of the AIF.	<i>authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46, including, if necessary, the express prohibition of marketing of the AIF and shall notify accordingly the competent authorities of the host Member State of the AIFM without undue delay.'</i>	home Member State of the AIFM shall take all due measures in accordance with Article 46, including, if necessary, the express prohibition of marketing of the AIF and shall notify the competent authorities of the host Member State of the AIFM accordingly without undue delay.	
116.	Art. 2 - para 1 - point 4 - point b - intro	(b) the fourth subparagraph of paragraph 7 is replaced by the following:	<i>deleted</i>	(b) the fourth subparagraph of paragraph 7 is replaced by the following:	
117.	Art. 2 - para 1 - point 4 - point b Art. 32 - para 7 - subpara 4	'If the changes do not affect the compliance of the AIFM's management of the AIF with this Directive, or the compliance by the AIFM with this Directive otherwise, the competent authorities of the home Member State of the AIFM shall within one month inform the competent authorities of the host Member State of the AIFM of those changes.'	<i>deleted</i>	'If the changes do not affect the compliance of the AIFM's management of the AIF with this Directive, or the compliance by the AIFM with this Directive otherwise, the competent authorities of the home Member State of the AIFM shall, without undue delay, and no later than within 15 working days , inform the competent authorities of the host Member State of the AIFM of those changes.'	
118.	Art. 2 - para 1 - point 4 - point c Art. 32 - para 8	(c) paragraph 8 is deleted. (Present text: 8. In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to determine:	<i>deleted</i> (Council keeps the present text)	(c) paragraph 8 is deleted.	

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		(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.			
119.	Art. 2 - para 1 - point 5 - intro	(5) the following Article 32a is inserted:	(4) the following Article 32a is inserted:	(5) the following Article 32a is inserted:	
120.	Art. 2 - para 1 - point 5 Art. 32a - title	‘Article 32a Discontinuation of marketing of units or shares of EU AIFs in the Member States other than in the home Member State of the AIFM	‘Article 32a Discontinuation of marketing of units or shares of EU AIFs in the Member States other than in the home Member State of the AIFM	‘Article 32a Denotification of marketing activities of units or shares of EU AIFs in the Member States other than in the home Member State of the AIFM	Article 32a Denotification of the intention to use arrangements made for the marketing of units or shares of one or several EU AIFs in the Member States other than in the home Member State of the AIFM
121.	Art. 2 - para 1 - point 5 Art. 32a - para 1 - intro	1. Member States shall ensure that an EU AIFM may discontinue marketing units or shares of an EU AIF that it manages in the Member State where a notification of its marketing activities has been transmitted in accordance with Article 32, where all of the following conditions are fulfilled:	1. Member States shall ensure that an EU AIFM may de-notify its activities in the Member State where a notification of its marketing activities has been transmitted in accordance with Article 32, where all of the following conditions are fulfilled:	1. Member States shall ensure that an EU AIFM may proceed to the denotification of the activities of units or shares of an EU AIF that it manages in the Member State where a notification of its marketing activities has been transmitted in accordance with Article 32, where all of the following conditions are fulfilled:	1. Member State shall ensure that an EU AIFM may de-notify its intention to use the arrangements made for the marketing of units or shares of one or several AIFs in a Member State where it has notified its activities in accordance with Article 32, where all the following conditions are fulfilled:

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122.	Art. 2 - para 1 - point 5 Art. 32a - para 1 - point a	(a) no investor, which is domiciled or has a registered office in the Member State, where a notification of its marketing activities has been transmitted in accordance with Article 32, holds units or shares of that AIF or no more than 10 investors, which are domiciled or have a registered office in that Member State, hold units or shares of the AIF representing less than 1 % of assets under management of that AIF;	(a) <i>where the investors, to the best knowledge, upon reasonable inquiry, of the AIF, are</i> domiciled or <i>have</i> a registered office in the Member State, where a notification of <i>AIF</i> marketing activities has been transmitted in accordance with Article 32, hold the units or shares of that AIF representing in total less than 5% of assets under management of that AIF calculated on the basis of the most recent valuation prior to the date of submission of the notification letter referred to in paragraph 2, or any other reason accepted by the relevant host national competent authority on this basis of the specificities of their domestic market;	<i>deleted</i>	<i>deleted</i>
123.	Art. 2 - para 1 - point 5 Art. 32a - para 1 - point b	(b) a blanket offer to repurchase, free of any charges or deductions, all its AIF units or shares held by investors in the Member State, where a notification of its marketing activities has been transmitted in accordance with Article 32, is made public at least for 30 working days and is addressed individually to all investors in that Member State whose identity is known;	(b) <i>with the exception of closed-ended AIFs and funds regulated by Regulation (EU) 2015/760</i> , a blanket offer to repurchase, free of any charges or deductions, all its AIF units or shares held by investors in the Member State, where a notification of marketing activities has been transmitted in accordance with Article 32, is made public at least for 30 working days and is addressed, directly or through an intermediary , individually to all investors in that Member State whose identity is known;	(b) <i>with the exception of closed-ended AIFs and funds regulated by Regulation (EU) 2015/760</i> , a blanket offer to repurchase, free of any charges or deductions, all its AIF units or shares held by investors in the Member State, where a notification of marketing activities has been transmitted in accordance with Article 32, is made public at least for 30 working days and is addressed, directly or through financial intermediaries , individually to all investors in that Member State whose identity is known;	(b) <i>with the exception of closed-ended AIFs and funds regulated by Regulation (EU) 2015/760</i> , a blanket offer to repurchase or redeem , free of any charges or deductions, all its AIF units or shares held by investors in a Member State where a notification of marketing activities has been transmitted in accordance with Article 32 is made public for at least 30 working days and is addressed, directly or through financial intermediaries , individually to all investors in the host Member State whose identity is known;
124.	Art. 2 - para 1 - point 5	(c) the intention to stop the marketing activities on the territory	(c) the intention to de-notify the marketing activities on the territory of the	(c) the intention to stop the marketing activities on the territory	(c) the intention to terminate the arrangements made for the

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	Art. 32a - para 1 - point c	of the Member State, where a notification of its marketing activities has been transmitted in accordance with Article 32, is made public by means of a publicly available medium which is customary for marketing AIF and suitable for a typical AIF investor.	Member State, where a notification of its marketing activities has been transmitted in accordance with Article 32, is made public by means of a publicly available medium which is customary for marketing AIF and suitable for a typical AIF investor.	of the Member State, where a notification of its marketing activities has been transmitted in accordance with Article 32, is made public by means of a publicly available medium which is customary for marketing AIF and suitable for a typical AIF investor.	marketing of units or shares of one or several AIFs in the Member State where a notification of its marketing activities has been transmitted in accordance with Article 32, is made public by means of a publicly available medium, including by electronic means , which is customary for marketing AIF and suitable for a typical AIF investor.
124. a	new				d) the contractual arrangements with the financial intermediaries or delegates shall be resigned or modified with the effect on the date of de-notification in order to stop any new or further, direct or indirect offering and placement of units or shares of the AIF identified in the notification letter referred to paragraph 2.
125.	Art. 2 - para 1 - point 5 Art. 32a - para 2	2. The AIFM shall submit a notification to the competent authority of its home Member State comprising the information referred to in paragraph 1.	2. The AIFM shall submit a notification to the competent authorities of its home Member State comprising the information referred to in paragraph 1.	2. The AIFM shall submit a notification to the competent authorities of its home Member State comprising the information referred to in paragraph 1.	2. The AIFM shall submit a notification to the competent authorities of its home Member State comprising the information referred to in paragraph 1.
126.	Art. 2 - para 1 - point 5 Art. 32a - para 3 - subpara 1	3. The competent authorities of the home Member State of the AIFM shall, no later than 20 working days following the receipt of the complete notification referred to in paragraph 2, transmit it to the competent authorities of the Member State where marketing of AIF is intended to be discontinued and to ESMA.	3. The competent authorities of the home Member State of the AIFM shall verify whether the notification submitted by the AIFM in accordance with paragraph 2 is complete. The competent authorities of the home Member State of the AIFM shall, no later than 20 working days following the receipt of the complete notification referred to in	3. The competent authorities of the home Member State of the AIFM shall verify whether the notification submitted by the AIFM in accordance with paragraph 2 is complete. The competent authorities of the home Member State of the AIFM shall, no later than 15 working days following the receipt of the complete notification referred to in	3. The competent authorities of the home Member State of the AIFM shall verify whether the notification submitted by the AIFM in accordance with paragraph 2 is complete. The competent authorities of the home Member State of the AIFM shall, no later than 20 working days following the receipt of the complete notification referred to in

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			paragraph 2, transmit it to the competent authorities of the Member State where marketing of AIF is intended to be discontinued and to ESMA.	paragraph 2, transmit it to the competent authorities of the Member State where marketing of AIF is intended to be discontinued and to ESMA.	paragraph 2, transmit it to the competent authorities of the Member State identified in the notification letter referred to in paragraph 2 and to ESMA.
127.	Art. 2 - para 1 - point 5 Art. 32a - para 3 - subpara 2	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the home Member State of the AIFM shall immediately notify the AIFM of that transmission. As of this date, the AIFM shall cease all marketing of units or shares of the AIF it manages in the Member State identified in the notification letter referred to in paragraph 2.	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the home Member State of the AIFM shall immediately notify the AIFM of that transmission. As of this date, the AIFM shall cease any new offering or placement of units or shares of the AIF it manages in the Member State identified in the notification letter referred to in paragraph 2.	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the home Member State of the AIFM shall immediately notify the AIFM of that transmission. As of this date, the AIFM shall cease all marketing of units or shares of the AIF it manages in the Member State identified in the notification letter referred to in paragraph 2.	Upon transmission of the notification file pursuant to the first subparagraph, the competent authorities of the home Member State of the AIFM shall immediately notify the AIFM of that transmission. As of this date, the AIFM shall cease any new or further, direct or indirect offering and placement of units or shares of the AIF it manages in the Member State identified in the notification letter referred to in paragraph 2.
127. a	new				As of the date referred to in the second subparagraph, during 36 months, AIFM shall not pre-market units or shares of the denotified EU AIFs or similar investment ideas in the Member State identified in the notification referred to in paragraph 2.
128.	Art. 2 - para 1 - point 5 Art. 32a - para 4 - intro			4. As long as investors remain invested in the EU AIF after marketing activities are denotified:	(deleted)
129.	Art. 2 - para 1 - point 5 Art. 32a - para 4 - point a (new)	4. The AIFM shall continue providing investors who remain invested in the EU AIF with the information required under Articles 22 and 23.	4. The AIFM shall continue providing investors who remain invested in the EU AIF with the information required under Articles 22 and 23.	(a) the AIFM shall provide investors who remain invested in the EU AIF as well as the competent authorities of the home Member State of the AIFM and the competent authorities of the Member State where the	4. The AIFM shall provide investors who remain invested in the EU AIF as well as the competent authorities of the home Member State of the AIFM with the information required under Articles 22 and 23.

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				<i>marketing has been discontinued</i> with the information required under Articles 22 and 23;	
130.	Art. 2 - para 1 - point 5 Art. 32a - para 4 - point b (new)			<i>(b) the competent authorities of the home Member State of the AIFM shall provide the competent authorities of the Member State where the marketing has been discontinued with the information required to be provided to the competent authorities of the host Member State of the AIFM under Article 32;</i>	<i>4a. The competent authorities of the home Member State of the AIFM shall transmit to the competent authorities of the Member State identified in the notification letter referred to in paragraph 2 information on any changes to the documents referred to in points (b) to (f) of Annex IV.</i>
131.	Art. 2 - para 1 - point 5 Art. 32a - para 4 - point c (new)			<i>(c) the competent authorities of the Member State where the marketing has been discontinued shall exercise the rights and obligations conferred on competent authorities of the host Member State of the AIFM under Article 45 of this Directive and, if applicable, may levy fees or charges for carrying out those activities in accordance with the provisions applicable for competent authorities pursuant to Article 6 of Regulation [on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013 and (EU) No 346/2013].</i>	<i>6. The competent authorities of the Member State identified in the notification referred to in paragraph 2 shall exercise the same rights and obligations as those conferred on competent authorities of the host Member State of the AIFM referred to in Article 45.</i>
131. a	new				<i>7. Without prejudice to other supervisory powers of the host competent authorities in accordance with paragraph 3 of Article 45, the competent</i>

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					<i>authorities of the Member State identified in the notification referred to in paragraph 2 shall not require the concerned AIFM to demonstrate the compliance with laws, regulations and administrative provisions governing marketing requirements referred to in [Article 3 of X-border Regulation]</i>
132.	Art. 2 - para 1 - point 5 Art. 32a - para 5	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4.	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4.	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4.	5. Member States shall allow for the use of all electronic or other distance communication means for the purposes of paragraph 4.
133.	Art. 2 - para 1 - point 5a (new) - intro		<i>(5) Article 33 is amended as follows:</i>	<i>(5a) Article 33(6) is amended as follows:</i>	
134.	Art. 2 - para 1 - point 5 a (new) - point a - intro		<i>(a) the second subparagraph of paragraph 6 is replaced by the following:</i>	<i>(a) the second subparagraph is replaced by the following:</i>	
135.	Art. 2 - para 1 - point 5 a (new) - point a Art. 33 - para 6 - subpara 2	(Present text: If, pursuant to a planned change, the AIFM's management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the competent authorities of the home Member State of the AIFM shall inform the AIFM without undue delay that it is not to implement the change.	'If, pursuant to a planned change, the AIFM's management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities of the home Member State of the AIFM shall inform the AIFM within 15 working days of receiving all the information referred to in the first subparagraph that it is not to implement the change.'	'If, pursuant to a planned change, the AIFM's management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities of the home Member State of the AIFM shall inform the AIFM within 15 working days of receiving all the information referred to in the first subparagraph that it is not to implement the change.;	
136.	Art. 2 - para 1 - point 5 a (new) - point b - intro		<i>(b) the third subparagraph of paragraph 6 is replaced by the following:</i>	<i>(b) the third subparagraph is replaced by the following:</i>	

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137.	Art. 2 - para 1 - point 5 a (new) - point b Art. 33 - para 6 - subpara 3	(Present text: If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM's management of the AIF would no longer comply with this Directive or the AIFM otherwise would no longer comply with this Directive, the competent authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46.	'If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM's management of the AIF would no longer comply with this Directive or the AIFM otherwise would no longer comply with this Directive, the competent authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46 and shall notify accordingly the competent authorities of the host Member State of the AIFM without undue delay. '	'If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM's management of the AIF would no longer comply with this Directive or the AIFM otherwise would no longer comply with this Directive, the competent authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46 and shall notify accordingly the competent authorities of the host Member State of the AIFM without undue delay. ';	
138.	Art. 2 - para 1 - point 6 Art. 33 - paras 7 and 8	(6) in Article 33, paragraphs 7 and 8 are deleted.	deleted (Council keeps the present text)	(6) in Article 33, paragraphs 7 and 8 are deleted.	
139.	Art. 2 - para 1 - point 7 - intro	(7) the following Article 43a is inserted:	(6) the following Article 43a is inserted:	(7) the following Article 43a is inserted:	
140.	Art. 2 - para 1 - point 7 Art. 43a - title	'Article 43a Facilities available to retail investors	'Article 43a Facilities available to retail investors	'Article 43a Facilities available to retail investors	
141.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - intro	1. Without prejudice to Article 26 of Regulation (EU) 2015/760 ⁸ , Member States shall ensure that an AIFM establishes, in each Member State where it intends to market units or shares of an AIF to retail	1. Without prejudice to Article 26 of Regulation (EU) 2015/760 ⁵ , Member States shall ensure that an AIFM makes available , in each Member State where it intends to market units or shares of an AIF to	1. Without prejudice to Article 26 of Regulation (EU) 2015/760 ⁹ , Member States shall ensure that an AIFM makes available , in each Member State where it intends to market units or shares of an AIF to	

⁸ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds *OJ L 123, 19.5.2015, p. 9.*

⁹ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds *OJ L 123, 19.5.2015, p. 9.*

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		investors, facilities to perform the following tasks:	retail investors, facilities to perform the following tasks:	retail investors, facilities to perform the following tasks:	
142.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point a	(a) process investors' subscription, payment, repurchase and redemption orders relating to the units or shares of the AIF, in accordance with the conditions set out in the AIF's marketing documents;	(a) process investors' subscription, payment, repurchase and redemption orders relating to the units or shares of the AIF, in accordance with the conditions set out in the AIF's documents;	(a) process investors' subscription, payment, repurchase and redemption orders relating to the units or shares of the AIF, in accordance with the conditions set out in the AIF's documents;	
143.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point b	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	(b) provide investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;	
144.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point c	(c) facilitate the handling of information relating to the exercise of investors' rights arising from their investment in the AIF in the Member State where the AIF is marketed;	(c) facilitate the handling of information relating to the exercise of investors' rights arising from their investment in the AIF in the Member State where the AIF is marketed;	(c) facilitate the handling of information relating to the exercise of investors' rights arising from their investment in the AIF in the Member State where the AIF is marketed;	
145.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point d - intro	(d) make available to investors for inspection and for the obtaining copies of:	(d) make available to investors for inspection and for the obtaining copies <i>of information and documents in compliance with Articles 22 and 23</i> ;	(d) make available to investors for inspection and for the obtaining copies <i>of information and documents in compliance with Articles 22 and 23</i> ;	
146.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point d - point (i)	(i) fund rules or instruments of incorporation of the AIF;	<i>deleted</i>	<i>deleted</i>	
147.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point d - point (ii)	(ii) the latest annual report of the AIF;	<i>deleted</i>	<i>deleted</i>	

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148.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point e	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC.	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC;	(e) provide investors with information relevant to the tasks the facilities perform in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC;	
149.	Art. 2 - para 1 - point 7 Art. 43a - para 1 - point e a (new)		<i>(f) act as contact point for communicating with the competent authority.</i>	<i>(ea) act as contact point for communication with the competent authorities.</i>	
150.	Art. 2 - para 1 - point 7 Art. 43a - para 2	2. Member States shall not require an AIFM to have a physical presence for the purpose of paragraph 1.	2. Member States shall not require an AIFM to have a physical presence <i>in the host Member State or to appoint a third party</i> for the purpose of paragraph 1.	2. Member States shall not require an AIFM to have a physical presence <i>in the host Member State or to appoint a third party</i> for the purpose of paragraph 1.	
151.	Art. 2 - para 1 - point 7 Art. 43a - para 3 - subpara 1 - intro	3. The AIFM shall ensure that the facilities referred to in paragraph 1 are of the following types and have the following characteristics:	3. The AIFM shall ensure that the facilities <i>to perform the tasks</i> referred to in paragraph 1 are <i>provided:</i>	3. The AIFM shall ensure that the facilities <i>for performing the tasks</i> referred to in paragraph 1 are <i>provided:</i>	
152.	Art. 2 - para 1 - point 7 Art. 43a - para 3 - subpara 1 - point a	(a) their tasks are performed in the official language or official languages of the Member State where the AIF is marketed;	(a) ■ in the official language or <i>one of the</i> official languages of the Member State where the AIF is marketed <i>or in a language approved by the competent authorities of that member state;</i>	(a) ■ in the official language or <i>one of the</i> official languages of the Member State where the AIF is marketed <i>or in a language approved by the competent authorities of that Member State;</i>	
153.	Art. 2 - para 1 - point 7 Art. 43a - para 3 - subpara 1 - point b	(b) their tasks are performed by AIFM itself or a third entity, subject to regulation governing the tasks to be performed, or both.	(b) ■ by <i>the</i> AIFM itself or a third <i>party</i> , subject to regulation <i>and to supervision</i> governing the tasks to be performed, or both.	(b) ■ by <i>the</i> AIFM itself or a third <i>party</i> , subject to regulation <i>and to supervision</i> governing the tasks to be performed, or both.	
154.	Art. 2 - para 1 - point 7 Art. 43a - para 3 - subpara 2	For the purposes of point (b), where the facilities are performed by a third entity this appointment shall be evidenced by a written contract, which specifies which of the tasks	For the purposes of point (b), where the <i>tasks</i> are performed by a third <i>party</i> , this appointment shall be evidenced by a written contract, which specifies which of the tasks	For the purposes of point (b), where the <i>tasks</i> are performed by a third <i>party</i> , this appointment shall be evidenced by a written contract, which specifies which of the tasks	

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		specified in paragraph 1 are not performed by the AIFM and that the third entity receives all the relevant information and documents from the AIFM.'	specified in paragraph 1 are not performed by the AIFM and that the third <i>party</i> receives all the relevant information and documents from the AIFM.'	specified in paragraph 1 are not performed by the AIFM and that the third <i>party</i> receives all the relevant information and documents from the AIFM.'	
155.	Art. 2 - para 1 - point 7 a (new) - intro		<i>(7) In Annex IV the following points (i) and (j) are inserted:</i>	<i>(7a) In Annex IV, the following points are added:</i>	
156.	Art. 2 - para 1 - point 7 a (new) Annex IV - point (ha) (new)		<i>'(i) information and the address necessary for the invoicing or communicating of any applicable regulatory fees or charges</i>	<i>'(ha) information and the address necessary for the invoicing or communicating of any applicable regulatory fees or charges by the competent authority of the host Member State;</i>	
157.	Art. 2 - para 1 - point 7 a (new) Annex IV - point (hb) (new)		<i>(j) an indication of the facilities to perform the tasks referred to in Article 43a.'</i>	<i>(hb) an indication of the facilities for performing the tasks referred to in Article 43a.'</i>	
158.	Art. 3 - title	Article 3 Transposition	Article 3 Transposition	Article 3 Transposition	
159.	Art. 3 - para 1 - subpara 1	1. Member States shall adopt and publish, by [PO: Please insert date 24 months after the date of entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by [PO: Please insert date 24 months after the date of entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by [PO: Please insert date 24 months after the date of entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	
160.	Art. 3 - para 1 - subpara 2	They shall apply those provisions from [PO: Please insert date 24 months after the date of entry into force].	They shall apply those provisions from [PO: Please insert date 24 months after the date of entry into force].	They shall apply those provisions from [PO: Please insert date 24 months after the date of entry into force].	

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161.	Art. 3 - para 1 - subpara 3	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	
162.	Art. 3 - para 2	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
163.	Art. 4 - titl	Article 4 Evaluation	Article 4 Evaluation	Article 4 Evaluation	
164.	Art. 4 - para -1 (new)			<i>By ... [PO: Please insert date 12 months after the date for transposition of this Directive] the Commission shall, on the basis of an impact assessment, submit a legislative proposal to the European Parliament and to the Council amending Directive 2009/65/EU in order to harmonise the provisions applicable to UCITS management companies testing the appetite of professional investors for a particular investment idea or investment strategy concerning established and not yet established UCITS with the definition and conditions of pre-marketing laid down Directive 2011/61/EU.</i>	deleted
165.	Art. 4 - para 1	By [PO: Please insert date 36 months after the date for transposition of this Directive] the	By [PO: Please insert date 36 months after the date for transposition of this Directive] the	By ... [PO: Please insert date 36 months after the date for transposition of this Directive] the	

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		Commission shall, on the basis of a public consultation and in light of discussions with ESMA and competent authorities, conduct an evaluation of the application of this Directive.	Commission shall, on the basis of a public consultation and in light of discussions with ESMA and competent authorities, conduct an evaluation of the application of this Directive.	Commission shall, on the basis of a public consultation and in light of discussions with ESMA and competent authorities, conduct an evaluation of the application of this Directive.	
166.	Art. 4 - para 1 a (new)			<i>Before Article 35 and Articles 37 to 41 of Directive 2011/61/EU become applicable, the Commission shall submit a report to the European Parliament and to the Council, and if appropriate, legislative proposals, as a result of an investigation of all provisions in Directive 2011/61/EU, in the context of their application in the scenario of a passporting regime being in place for non-EU AIFMs, with a particular focus on the potential uneven playing field between EU AIFMs and non-EU AIFMs with a view to ensuring the perspective that EU AIFMs are not disadvantaged.</i>	<i>Before Article 35 and Articles 37 to 41 of Directive 2011/61/EU become applicable, the Commission shall submit a report to the European Parliament and to the Council, and if appropriate, legislative proposals, as a result of an investigation of all provisions in Directive 2011/61/EU, in the context of their application in the scenario of a passporting regime being in place for non-EU AIFMs,.</i>
167.	Art. 4a (new) - title		<i>Article 4a Review</i>		<i>Article 4a Review</i>
168.	Art. 4a (new) - para 1		<i>By [date to be at least 12 months after the evaluation under Article 4], the Commission shall present a report on the application of this Directive. This report shall assess, inter alia, the merits of harmonising the provisions applicable to UCITS management companies testing investor appetite for a particular investment idea or investment</i>		<i>By [date to be at least 12 months after the evaluation under Article 4], the Commission shall present a report on the application of this Directive. This report shall assess, inter alia, the merits of harmonising the provisions applicable to UCITS management companies testing investor appetite for a particular investment idea or investment</i>

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			<i>strategy, and whether any amendments to this Directive are needed to this end.</i>		<i>strategy, and whether any amendments to this Directive are needed to this end.</i>
169.	Art. 5 - title	Article 5 Entry into force	Article 5 Entry into force	Article 5 Entry into force	
170.	Art. 5 - para 1	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
171.	Art. 5 - para 2	Articles 1(1)(b), 1(2) 1(8), 2(3), 2(4)(c) and 2(6) shall apply from the day of entry into force of this Directive.	Articles 1(1)(b), 1(2) 1(8), 2(3), 2(4)(c) and 2(6) shall apply from the day of entry into force of this Directive.	Articles 1(1)(b), 1(2) 1(8), 2(3), 2(4)(c) and 2(6) shall apply from the day of entry into force of this Directive.	
172.	Art. 6	Article 6	Article 6	Article 6	
173.	Art. 6 - para 1	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	