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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) 110 final
Subject:	Cross-border distribution of funds - CBDF (Regulation) - Presidency compromise proposal

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) 346/2013

2018/0045(COD)

Presidency compromise proposal - 1 February 2019

Key	
	Political issue
w	Identical text

Nr	Ref.	COM	Council	EP	PRESIDENCY COMPROMISE PROPOSAL - 1 February 2019
1.	Title	Proposal for a	Proposal for a	Proposal for a	
2.	Title	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	
3.	Title	on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013	on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013	on facilitating cross-border distribution of collective investment <i>undertakings</i> and amending Regulations (EU) No 345/2013 and (EU) No 346/2013	
4.	Title	(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)	
5.	Title	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,	

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6.	Citation 1	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	
7.	Citation 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,	
8.	Citation 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,	
9.	Citation 4	Having regard to the opinion of the European Central Bank,	<i>deleted</i>	Having regard to the opinion of the European Central Bank,	
10.	Citation 5	Having regard to the opinion of the European Economic and Social Committee ¹ ,	Having regard to the opinion of the European Economic and Social Committee ² ,	Having regard to the opinion of the European Economic and Social Committee ³ ,	
11.	Citation 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,	
12.		Whereas:	Whereas:	Whereas:	
13.	Rec. 1	(1) Divergent regulatory and supervisory approaches concerning the cross-border distribution of alternative investment funds ('AIFs'), as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council ⁴ , and undertakings for	(1) Divergent regulatory and supervisory approaches concerning the cross-border distribution of alternative investment funds ('AIFs'), as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council ⁶ , including EuVECA ,	(1) Divergent regulatory and supervisory approaches concerning the cross-border distribution of alternative investment funds (AIFs), as defined in point (a) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the	

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

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		collective investment in transferable securities ('UCITS'), within the meaning of Directive 2009/65/EC of the European Parliament and of the Council ⁵ , result in fragmentation and barriers to cross-border marketing and access of AIFs and UCITS, which in turn could prevent them from being marketed in other Member States.	<i>EuSEF and ELTIF</i> , and undertakings for collective investment in transferable securities ('UCITS'), within the meaning of Directive 2009/65/EC of the European Parliament and of the Council ⁷ , result in fragmentation and barriers to cross-border marketing and access of AIFs and UCITS, which in turn could prevent them from being marketed in other Member States.	Council ⁸ , <i>including European Venture Capital Funds (EuVECA), as defined in Regulation (EU) No 345/2013, European Social Entrepreneurship Funds (EuSEF), as defined in Regulation (EU) No 346/2013 and European Long-Term Investment Funds (ELTIF), as defined in Regulation (EU) No 2015/760</i> and undertakings for collective investment in transferable securities (UCITS), within the meaning of Directive 2009/65/EC of the European Parliament and of the Council ⁹ , result in fragmentation and barriers to cross-border marketing and access of AIFs and UCITS, which in turn could prevent them from being marketed in other Member States.	
14.	Rec. 2	(2) In order to enhance the regulatory framework applicable to investment funds and to better protect investors, marketing communications to investors in AIFs and UCITS should be identifiable as such, and should	(2) In order to enhance the regulatory framework applicable to <i>collective</i> investment <i>undertakings</i> and to better protect investors, marketing communications to investors in AIFs and UCITS should be identifiable as	(2) In order to enhance the regulatory framework applicable to <i>collective</i> investment <i>undertakings</i> and to better protect investors, marketing communications to investors in AIFs and UCITS should be identifiable as	

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).

⁷ 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).

⁸ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁹ 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).

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		present risks and rewards of purchasing units or shares of an AIF or UCITS in an equally prominent manner. In addition, all information included in marketing communications should be presented in a manner that is fair, clear and not misleading. To safeguard investors' protection and secure a level playing field between AIFs and UCITS, the standards for marketing communications should therefore equally apply to marketing communications for AIFs and UCITS.	such, and should present risks and rewards of purchasing units or shares of an AIF or UCITS in an equally prominent manner. In addition, all information included in marketing communications should be presented in a manner that is fair, clear and not misleading. To safeguard investors' protection and secure a level playing field between AIFs and UCITS, the standards for marketing communications should therefore equally apply to marketing communications for AIFs and UCITS.	such, and should present <i>a detailed account of</i> risks and rewards of purchasing units or shares of an AIF or UCITS in an equally prominent manner. In addition, all information included in marketing communications should be presented in a manner that is fair, clear and not misleading. To safeguard investors' protection and secure a level playing field between AIFs and UCITS, the standards for marketing communications should therefore equally apply to marketing communications for AIFs and UCITS.	
15.	Rec. 2 a (new)		<i>(2a) In order to increase transparency and investor protection and facilitate access to information on national laws and regulations and administrative provisions applicable to marketing communications, national competent authorities should publish such texts on their websites in at least a language customary in the sphere of international finance, including their non-official summaries which would allow managers of collective investment undertakings to get a first indication of these requirements. The publication should only be for information purposes and should</i>	<i>(2a) In order to increase transparency and investor protection and to facilitate access to information on national laws, regulations and administrative provisions applicable to marketing communications, national competent authorities should publish such information on their websites in at least a language customary in the sphere of international finance, including their non-official summaries which would allow managers of collective investment undertakings to get a first indication of those requirements. The publication should only be for information</i>	

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			<i>not create legal obligations. For the same reasons, the European Securities and Markets Authority ('ESMA') should create a central database containing summaries of national requirements for marketing communications and hyperlinks to the information published on the websites of competent authorities.</i>	<i>purposes and should not create legal obligations. For the same reasons, the European Supervisory Authority (European Securities and Markets Authority) (ESMA) should create a central database containing hyperlinks to the information published on the websites of competent authorities.</i>	
16.	Rec. 2 b (new)		<i>(2b) In order to promote good practices of investor protection which are enshrined in the national requirements for fair and clear marketing communications, including their on-line aspects, ESMA may adopt guidelines on the application of these rules to marketing communications.</i>	<i>(2b) In order to promote good practices of investor protection which are enshrined in the national requirements for fair and clear marketing communications, including their on-line aspects, it should be possible for ESMA to adopt draft regulatory technical standards on the application of those rules to marketing communications.</i>	
17.	Rec. 3	(3) Competent authorities that decide to require systematic notification of marketing communications should verify compliance of those communications with this Regulation and other applicable requirements, namely whether the marketing communications are identifiable as such, whether they present risks and rewards of purchasing units or shares of a UCITS and, where a Member State allows marketing of AIFs to retail investors, of an AIF in an	(3) Competent authorities <i>may</i> decide to require prior notification of marketing communications for the purpose of ex-ante verification of compliance of those communications with this Regulation and other applicable requirements, such as whether the marketing communications are identifiable as such, whether they present risks and rewards of purchasing units or shares of a UCITS and, where a Member State allows marketing of AIFs to	(3) Competent authorities <i>may</i> decide to require prior notification of marketing communications for the purpose of ex-ante verification of compliance of those communications with this Regulation and other applicable requirements, such as whether the marketing communications are identifiable as such, whether they present a detailed account of risks and rewards of purchasing units or shares of a UCITS and, where a Member State	

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		equally prominent manner and whether all information in marketing communications is presented in a manner that is fair, clear and not misleading.	retail investors, of an AIF in an equally prominent manner and whether all information in marketing communications is presented in a manner that is fair, clear and not misleading. <i>This task should be performed within a limited timeframe. Where competent authorities require ex-ante notification, this should not prevent them from verifying marketing communications ex-post.</i>	allows marketing of AIFs to retail investors, of an AIF in an equally prominent manner and whether all information in marketing communications is presented in a manner that is fair, clear and not misleading. <i>That verification should be performed within a limited timeframe. Where competent authorities require prior notification, this should not prevent them from verifying marketing communications ex-post.</i>	
18.	Rec. 3 a (new)		<i>(3a) Those Member States which conduct verifications of marketing communications, whether on a systematic basis or using a risk-based approach, should report to ESMA the results of these verifications, requests for amendments and any sanctions imposed on managers of collective investment undertakings. With a view to increasing awareness and transparency on the rules applicable to marketing communications, on the one hand, and ensuring investor protection, on the other hand, ESMA should on a bi-annual basis prepare and send to the Commission a report on those rules and their practical application on the basis of ex-ante and ex-post verifications of marketing</i>		

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			<i>communications by competent authorities.</i>		
19.	Rec. 4	(4) To enhance transparency and investor protection, access to information on marketing requirements for shares or units of AIFs or UCITS enshrined in national laws, regulations and administrative provisions should be improved by requiring competent authorities and the European Securities and Markets Authority ('ESMA') to maintain central databases on their websites in at least a language customary in the sphere of international finance.	<i>deleted</i>	<i>deleted</i>	
20.	Rec. 5	(5) To ensure equality in treatment and facilitate decision-making of AIFMs and UCITS management companies whether to engage in cross border distribution of investment funds, it is important that fees and charges levied by competent authorities for the authorisation, registration and supervision referred to in Directives 2009/65/EC and 2011/61/EU are proportionate to the supervisory tasks carried out and publicly disclosed, and that those fees and charges are published on their websites. For the same reason, the ESMA website should include an interactive tool enabling calculations of fees and charges levied by competent authorities	(5) To ensure equality in treatment and facilitate decision-making of AIFMs and UCITS management companies whether to engage in cross border distribution of investment funds, it is important that fees and charges levied by competent authorities for ■ supervision <i>of crossborder marketing activities</i> referred to in Directives 2009/65/EC and 2011/61/EU <i>should be</i> proportionate to the supervisory tasks carried out and publicly disclosed, and that those fees and charges <i>should be</i> published on their websites. For the same reason, <i>hyperlinks to the information published on the websites of competent authorities in relation to</i>	(5) To ensure equality in treatment and facilitate decision-making of AIFMs and UCITS management companies whether to engage in cross border distribution of investment funds, it is important that fees and charges levied by competent authorities for ■ supervision <i>of cross-border marketing activities</i> referred to in Directives 2009/65/EC and 2011/61/EU are proportionate to the supervisory tasks carried out and publicly disclosed, and that <i>in order to enhance transparency</i> those fees and charges are published on their websites. For the same reason, <i>hyperlinks to the information published on the websites of competent authorities in relation to</i>	

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			<i>the fees and charges will also be published at the ESMA website in order to have a central point for information. The ESMA website should also include an interactive tool enabling indicative calculations of those fees and charges levied by competent authorities.</i>	<i>the fees and charges should be published at the ESMA website in order to have a central point for information. The ESMA website should also include an interactive tool enabling indicative calculations of those fees and charges levied by competent authorities.</i>	
21.	Rec. 5 a (new)		<i>(5a) To ensure better recovery of fees or charges and to increase transparency and clarity of the fees and charges structure, where such fees or charges are levied by the competent authorities, AIFMs and UCITS management companies should receive an invoice, or an individual payment statement, or a payment instruction clearly stating the amount of fees or charges due and payment modalities.</i>	<i>(5a) To ensure better recovery of fees or charges and to increase transparency and clarity of the fees and charges structure, where such fees or charges are levied by the competent authorities, AIFMs and UCITS management companies should receive an invoice, an individual payment statement or a payment instruction clearly setting out the amount of fees or charges due and the arrangements for payment.</i>	
22.	Rec. 6	(6) Since ESMA, in accordance with Regulation (EU) No 1095/2010 of the European Parliament and of the Council ¹⁰ , should monitor and assess market developments in the area of its competence, it is appropriate and	(6) Since ESMA, in accordance with Regulation (EU) No 1095/2010 of the European Parliament and of the Council ¹¹ , should monitor and assess market developments in the area of its competence, it is appropriate and	(6) Since ESMA, in accordance with Regulation (EU) No 1095/2010 of the European Parliament and of the Council ¹² , should monitor and assess market developments in the area of its competence, it is appropriate and	

¹⁰ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

¹¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

¹² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

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		necessary to enhance the knowledge of ESMA by enlarging ESMA's currently existing databases to include all AIFMs and UCITS management companies and all AIFs and UCITS which those management companies manage and market, as well as all the Member States in which those investment funds are marketed. For that purpose, competent authorities should transmit to ESMA notifications, notification letters or written notices that they received under Directives 2009/65/EC and 2011/61/EU.	necessary to enhance the knowledge of ESMA by enlarging ESMA's currently existing databases to include all AIFMs and UCITS management companies, <i>the Member States in which they are providing services</i> and all AIFs and UCITS which those <i>AIFMs and UCITS</i> management companies manage and market, as well as all the Member States in which those <i>collective</i> investment <i>undertakings</i> are marketed. For that purpose, <i>in order to enable ESMA to maintain the central database with up to date information</i> , competent authorities should transmit to ESMA <i>information on the</i> notifications, notification letters <i>and information</i> that they <i>have</i> received under Directives 2009/65/EC and 2011/61/EU <i>in relation to crossborder activity as well as transmit information about any change which should be reflected in the database.</i>	necessary to enhance the knowledge of ESMA by enlarging ESMA's currently existing databases to include all AIFMs and UCITS management, <i>the Member States in which they are providing services</i> and all AIFs and UCITS which those <i>AIFMs and UCITS</i> management companies manage and market, as well as all the Member States in which those <i>collective</i> investment <i>undertakings</i> are marketed. For that purpose, <i>in order to enable ESMA to maintain the central database with up-to-date information</i> , competent authorities should transmit to ESMA <i>information on the</i> notifications, notification letters <i>and information</i> that they <i>have</i> received under Directives 2009/65/EC and 2011/61/EU <i>in relation to cross border activity as well as information about any change which should be reflected in the database. All transfers of documents in relation to notifications between competent authorities should take place through a notification portal to be established by ESMA.</i>	
23.	Rec. 7	(7) In order to secure a level playing field between qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No	(7) In order to secure a level playing field between qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No	(7) In order to secure a level playing field between qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No	

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		345/2013 of the European Parliament and of the Council ¹³ , or qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013 of the European Parliament and of the Council, ¹⁴ on the one hand, and other AIFs, on the other hand, it is necessary to include into those Regulations rules on pre-marketing that are identical to the rules laid down in Directive 2011/61/EU on pre-marketing. Those rules should enable managers registered in accordance with those Regulations to target investors by testing their appetite for upcoming investment opportunities or strategies through qualifying venture capital funds and qualifying social entrepreneurship funds.	345/2013 of the European Parliament and of the Council ¹⁵ , or qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013 of the European Parliament and of the Council, ¹⁶ on the one hand, and other AIFs, on the other hand, it is necessary to include into those Regulations rules on pre-marketing that are identical to the rules laid down in Directive 2011/61/EU on pre-marketing. Those rules should enable managers registered in accordance with those Regulations to target investors by testing their appetite for upcoming investment opportunities or strategies through qualifying venture capital funds and qualifying social entrepreneurship funds.	345/2013 of the European Parliament and of the Council ¹⁷ , or qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013 of the European Parliament and of the Council, ¹⁸ on the one hand, and other AIFs, on the other hand, it is necessary to include into those Regulations rules on pre-marketing that are identical to the rules laid down in Directive 2011/61/EU on pre-marketing. Those rules should enable managers registered in accordance with those Regulations to target investors by testing their appetite for upcoming investment opportunities or strategies through qualifying venture capital funds and qualifying social entrepreneurship funds.	
24.	Rec. 8	(8) The Commission should be empowered to adopt draft regulatory technical standards, developed by ESMA, with regard to the specification of information on fees or charges or, where applicable, relevant calculation methodologies for those fees or charges, levied by	<i>deleted</i>	(8) The Commission should be empowered to adopt draft regulatory technical standards, developed by ESMA, with regard to the specification of information on marketing communications , fees or charges or, where applicable, relevant calculation methodologies	

- ¹³ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).
- ¹⁴ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).
- ¹⁵ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).
- ¹⁶ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).
- ¹⁷ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).
- ¹⁸ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

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		the competent authorities. Furthermore, the Commission should be empowered to adopt draft regulatory technical standards, developed by ESMA, with regard to the specification of information to be notified in notifications, notification letters and written notices on cross-border activities that are required by Directives 2009/65/EC and 2011/61/EU. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.		for those fees or charges, levied by the competent authorities. Furthermore, the Commission should be empowered to adopt draft regulatory technical standards, developed by ESMA, with regard to the specification of information to be notified in notifications, notification letters and written notices on cross-border activities that are required by Directives 2009/65/EC and 2011/61/EU. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.	
25.	Rec. 9	(9) The Commission should be empowered to adopt implementing technical standards, developed by ESMA, with regard to the standard forms, templates and procedures for notifications by competent authorities of the laws, regulations and administrative provisions and their summaries on marketing requirements applicable in their territories, the levels of fees or charges levied by them, and, where applicable, relevant calculation methodologies. Furthermore, to improve the transmission of information to competent authorities	(9) The Commission should be empowered to adopt implementing technical standards, developed by ESMA, with regard to the standard forms, templates and procedures for publication by competent authorities of the laws, regulations and administrative provisions and their summaries on marketing requirements applicable in their territories, the levels of fees or charges for crossborder marketing activity levied by them, and, where applicable, relevant calculation methodologies. Furthermore, to improve the transmission to ESMA,	(9) The Commission should be empowered to adopt implementing technical standards, developed by ESMA, with regard to the standard forms, templates and procedures for publication by competent authorities of the laws, regulations and administrative provisions and their summaries on marketing requirements applicable in their territories, the levels of fees or charges for cross-border marketing activity levied by them, and, where applicable, relevant calculation methodologies. Furthermore, to improve the transmission to ESMA,	

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		and among competent authorities and ESMA, implementing technical standards should cover notifications, notification letters and written notices on cross-border activities that are required by Directives 2009/65/EC and 2011/61/EU. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.	implementing technical standards should <i>also</i> cover notifications, notification letters and <i>information</i> on cross-border activities that are required by Directives 2009/65/EC and 2011/61/EU. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.	implementing technical standards should <i>also</i> cover notifications, notification letters and <i>information</i> on cross-border activities that are required by Directives 2009/65/EC and 2011/61/EU. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.	
26.	Rec. 10	(10) It is necessary to coordinate the empowerments granted to the Commission to adopt draft regulatory technical standards and implementing technical standards, as developed by ESMA, in the area of notifications, notification letters or written notices on cross-border activities under this Regulation and under Directives 2009/65/EC and 2011/61/EU. [<i>Directive amending Directive 2009/65/EC and Directive 2011/61/EU with regard to cross-border distribution of collective investment funds</i>] should therefore delete those empowerments from Directives 2009/65/EC and 2011/61/EU.	(10) It is necessary to <i>specify the information to be communicated every quarter to ESMA, in order to keep the data bases of all managers and collective investment undertakings up-to-date.</i>	(10) It is necessary to <i>specify the information to be communicated every quarter to ESMA, in order to keep the databases of all managers and collective investment undertakings up-to-date.</i>	
27.	Rec. 11	(11) Any processing of personal data carried out within the framework of this Regulation, such as the exchange	(11) Any processing of personal data carried out within the framework of this Regulation, such as the exchange	(11) Any processing of personal data carried out within the framework of this Regulation, such as the exchange	

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		or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council , and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council .	or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council , and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council .	or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ¹⁹ , and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council ²⁰ .	
28.	Rec. 11 a (new)		<i>(11a) In order to enable the national competent authorities to exercise the functions attributed to them in this Regulation, Member States should vest them with all the necessary supervisory and investigative powers.</i>	<i>(11a) In order to enable the national competent authorities to exercise the functions attributed to them in this Regulation, Member States should vest them with sufficient resources and all the necessary supervisory and investigative powers.</i>	
29.	Rec. 12	(12) Five years after the entry into force of this Regulation, the Commission should conduct an evaluation of the application of this Regulation. The evaluation should take account of market developments and assess whether the measures introduced have improved the cross-border distribution of investment funds.	(12) Five years after the entry into force of this Regulation, the Commission should conduct an evaluation of the application of this Regulation. The evaluation should take account of market developments and assess whether the measures introduced have improved the cross-border distribution of investment funds.	(12) Five years after the entry into force of this Regulation, the Commission should conduct an evaluation of the application of this Regulation. The evaluation should take account of market developments and assess whether the measures introduced have improved the cross-border distribution of investment funds.	
30.	Rec. 12 a (new)			<i>(12a) In order to assess the phenomenon of reverse solicitation</i>	

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				<i>and demand on the own initiative of an investor, as well as the potential to use them to circumvent provisions connected to the passport, including by third country entities, the Commission should publish a report on these issues two years after the entry into force of this Regulation.</i>	
31.	Rec. 13	(13) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing [<i>Directive amending Directive 2009/65/EC and Directive 2011/61/EU with regard to cross-border distribution of collective investment funds</i>] and of this Regulation with regard to provisions on marketing communications and pre-marketing.	(13) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing [<i>Directive amending Directive 2009/65/EC and Directive 2011/61/EU with regard to cross-border distribution of collective investment undertakings</i>] and of this Regulation with regard to provisions on marketing communications and pre-marketing.	(13) In order to ensure legal certainty, it is necessary to synchronise the application dates of laws, regulations and administrative provisions implementing [<i>Directive amending Directive 2009/65/EC and Directive 2011/61/EU with regard to cross-border distribution of collective investment funds</i>] and of this Regulation with regard to provisions on marketing communications and pre-marketing.	
32.	Rec. 14	(14) Since the objectives of this Regulation, namely to enhance market efficiency while establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that	(14) Since the objectives of this Regulation, namely to enhance market efficiency while establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set	(14) Since the objectives of this Regulation, namely to enhance market efficiency while establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that	

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		Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,	out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives;	Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,	
33.		HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
34.	Article 1 - title	Article 1 Definitions	Article 1 Definitions	Article 1 Definitions	
35.	Art. 1 - para 1 - intro	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	
36.	Art. 1 - para 1 - point a	(a) 'AIF' means an AIF as defined in Article 4(1)(a) of Directive 2011/61/EU;	(a) 'AIF' means an AIF as defined in Article 4(1)(a) of Directive 2011/61/EU, including EuVECA, EuSEF and ELTIF ;	(a) 'AIF' means an AIF as defined in Article 4(1)(a) of Directive 2011/61/EU, including EuVECA, EuSEF and ELTIF ;	
37.	Art. 1 - para 1 - point b	(b) 'AIFM' means an AIFM as defined in Article 4(1)(b) of Directive 2011/61/EU;	(b) 'AIFM' means an AIFM as authorised in accordance with Article 6 of Directive 2011/61/EU;	(b) 'AIFM' means an AIFM as authorised in accordance with Article 6 of Directive 2011/61/EU;	
38.	Art. 1 - para 1 - point ba (new)		(ba) 'EuVECA manager' means a manager of a qualifying venture capital fund registered in accordance with Article 14 of Regulation (EU) No 345/2013;	(ba) 'EuVECA manager' means a manager of a qualifying venture capital fund registered in accordance with Article 14 of Regulation (EU) No 345/2013	
39.	Art. 1 - para 1 - point bb (new)		(bb) 'EuSEF manager' means a manager of a qualifying social entrepreneurship fund registered in accordance with Article 15 of Regulation (EU) No 346/2013;	(bb) 'EuSEF manager' means a manager of a qualifying social entrepreneurship fund registered in accordance with Article 15 of Regulation (EU) No 346/2013;	
40.	Art. 1 - para 1 - point c	(c) 'competent authority' means a competent authority as defined in Article 2(1)(h) of Directive 2009/65/EC or a competent authority as defined in Article 4(1)(f) of	(c) competent authority' means a competent authority as defined in Article 2(1)(h) of Directive 2009/65/EC or a competent authority as defined in Article 4(1)(f) of	(c) 'competent authority' means a competent authority as defined in Article 2(1)(h) of Directive 2009/65/EC or a competent authority as defined in Article 4(1)(f) of	

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		Directive 2011/61/EU or Article 4(1)(h) of Directive 2011/61/EU;	Directive 2011/61/EU or Article 4(1)(h) of Directive 2011/61/EU;	Directive 2011/61/EU or Article 4(1)(h) of Directive 2011/61/EU;	
41.	Art. 1 - para 1 - point d	(d) 'home Member State' means the Member State in which the AIFM or the UCITS management company has its registered office;	(d) 'home Member State' means the Member State in which the AIFM or the UCITS management company has its registered office;	(d) 'home Member State' means the Member State in which the AIFM or the UCITS management company has its registered office;	
42.	Art. 1 - para 1 - point e	(e) 'UCITS' means a UCITS authorised in accordance with Article 5 of Directive 2009/65/EC;	(e) 'UCITS' means a UCITS authorised in accordance with Article 5 of Directive 2009/65/EC;	(e) 'UCITS' means a UCITS authorised in accordance with Article 5 of Directive 2009/65/EC;	
43.	Art. 1 - para 1 - point f	(f) 'UCITS management company' means a management company as defined in Article 2(1)(b) of Directive 2009/65/EC.	(f) 'UCITS management company' means a management company as defined in Article 2(1)(b) of Directive 2009/65/EC <i>or a self-managed UCITS.</i>	(f) 'UCITS management company' means a management company as defined in Article 2(1)(b) of Directive 2009/65/EC <i>or a self-managed UCITS.</i>	
44.	Article 2 - title	Article 2 Requirements for marketing communications	Article 2 Requirements for marketing communications	Article 2 Requirements for marketing communications	
45.	Art. 2 - para 1	1. AIFMs or UCITS management companies shall ensure that all marketing communications to investors shall be identifiable as such, present risks and rewards of purchasing units or shares of an AIF or of an UCITS in an equally prominent manner and that all information included in marketing communications is fair, clear and not misleading.	1. AIFMs, <i>EuVECA managers, EuSEF managers</i> and UCITS management companies shall ensure that all marketing communications to investors shall be identifiable as such, present risks and rewards of purchasing units or shares of an AIF or of an UCITS in an equally prominent manner and that all information included in marketing communications is fair, clear and not misleading.	1. AIFMs, <i>EuVECA managers, EuSEF managers</i> and UCITS management companies shall ensure that all marketing communications to investors shall be identifiable as such, present <i>a detailed account of</i> risks and rewards of purchasing units or shares of an AIF or of an UCITS in an equally prominent manner and that all information included in marketing communications is fair, clear and not misleading.	
45a					1a. AIFMs, <i>EuVECA managers, EuSEF managers</i> and UCITS

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					management companies shall ensure that all marketing communications to investors contain clear information that the manager may take a commercial decision to de-notify its intention to use the arrangements made for the marketing of its collective investment funds in which case it will make this intention public in accordance with point (c) of Article 93a (1) of Directive 2009/65/EC and point (c) of Article 32a (1) of Directive 2011/61/EU.
46.	Art. 2 - para 2	2. UCITS management companies shall ensure that no marketing communication that contains specific information about a UCITS contradicts the information, or diminishes its significance, contained in the prospectus referred to in Article 68 of Directive 2009/65/EC and the key investor information referred to in Article 78 of that Directive. UCITS management companies shall ensure that all marketing communications indicate that a prospectus exists and that the key investor information is available. The marketing communication shall specify where, how and in which language investors or potential investors can obtain the prospectus and the key investor information.	2. UCITS management companies shall ensure that no marketing communication that contains specific information about a UCITS contradicts the information, or diminishes its significance, contained in the prospectus referred to in Article 68 of Directive 2009/65/EC and the key investor information referred to in Article 78 of that Directive. UCITS management companies shall ensure that all marketing communications indicate that a prospectus exists and that the key investor information is available. The marketing communication shall specify where, how and in which language investors or potential investors can obtain the prospectus and the key investor information.	2. UCITS management companies shall ensure that no marketing communication that contains specific information about a UCITS contradicts <i>or diminishes the significance of</i> the information contained in the prospectus referred to in Article 68 of Directive 2009/65/EC and the key investor information referred to in Article 78 of that Directive. UCITS management companies shall ensure that all marketing communications indicate that a prospectus exists and that the key investor information is available. The marketing communication shall specify where, how and in which language investors or potential investors can obtain the prospectus and the key investor	

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				information <i>and shall provide hyperlinks to those documents.</i>	
47.	Art. 2 – para 2a (new)			2a. Marketing communications referred to in paragraph 2 shall also specify where, how and in which language investors or potential investors can obtain a summary of investor rights and shall provide a hyperlink to such a summary, which shall include, as appropriate, access to Union level and national collective redress mechanisms in the event of litigation.	
48.	Art. 2 - para 3	3. AIFMs shall ensure that no marketing communication comprising an invitation to purchase units or shares of an AIF that contains specific information about an AIF makes any statement that contradicts the information that needs to be disclosed to the investors in accordance with Article 23 of Directive 2011/61/EU, or diminishes its significance.	3. AIFMs, <i>EuVECA managers and EuSEF managers</i> shall ensure that no marketing communication comprising an invitation to purchase units or shares of an AIF that contains specific information about an AIF makes any statement that contradicts the information that needs to be disclosed to the investors in accordance with Article 23 of Directive 2011/61/EU, or, <i>respectively, with Article 13 of Regulation 345/2013 or with Article 14 of Regulation 346/2013, or</i> diminishes its significance.	3. AIFMs, <i>EuVECA managers and EuSEF managers</i> shall ensure that no marketing communication comprising an invitation to purchase units or shares of an AIF that contains specific information about an AIF makes any statement that contradicts the information that needs to be disclosed to the investors in accordance with Article 23 of Directive 2011/61/EU, or, <i>respectively, with Article 13 of Regulation 345/2013 or with Article 14 of Regulation 346/2013, or</i> diminishes its significance.	
49.	Art. 2 - para 4	4. Paragraph 2 of this Article shall apply <i>mutatis mutandis</i> to AIFs which publish a prospectus in accordance with Regulation 2017/1129 of the European	4. Paragraph 2 of this Article shall apply <i>mutatis mutandis</i> to AIFs which publish a prospectus in accordance with Regulation 2017/1129 of the European	4. Paragraph 2 of this Article shall apply <i>mutatis mutandis</i> to AIFs which publish a prospectus in accordance with Regulation 2017/1129 of the European	

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		Parliament and the Council, or in accordance with national law, or apply rules on the format and content of the key investor information referred to in Article 78 of Directive 2009/65/EC.	Parliament and the Council, ²¹ or in accordance with national law, or apply rules on the format and content of the key investor information referred to in Article 78 of Directive 2009/65/EC.	Parliament and the Council, or in accordance with national law, or apply rules on the format and content of the key investor information referred to in Article 78 of Directive 2009/65/EC.	
50.	Art. 2 - para 5 – subpara 1	5. By [<i>PO: Please insert date 24 months after the date of entry into force</i>] ESMA shall issue guidelines, and thereafter update those guidelines periodically, on the application of the requirements for marketing communications referred to in the first paragraph, taking into account on-line aspects of marketing communications	5. By [<i>PO: Please insert date 24 months after the date of entry into force</i>] ESMA may issue guidelines, and thereafter update those guidelines periodically, on the application of the requirements for marketing communications referred to in the first paragraph, taking into account on-line aspects of marketing communications.	5. ■ ESMA shall develop draft regulatory technical standards to specify the requirements for marketing communications referred to in the first paragraph, taking into account on-line aspects of marketing communications.	
51.	Art. 2 - para 5 – subpara 1a (new)			ESMA shall submit those draft regulatory technical standards to the Commission by ... [<i>PO: Please insert date 18 months after the date of entry into force of this amending Regulation</i>].	
52.	Art. 2 - para 5 – subpara 1b (new)			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.	

²¹ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

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53.	Article 3 - title	Article 3 Publication of national provisions concerning marketing requirements	Article 3 Publication of national provisions concerning marketing requirements	Article 3 Publication of national provisions concerning marketing requirements	
54.	Art. 3 - para 1	1. Competent authorities shall publish and maintain on their websites central databases containing all applicable national laws, regulations and administrative provisions governing marketing requirements for AIFs and UCITS, and the summaries thereof, in at least a language customary in the sphere of international finance.	1. Competent authorities shall publish and maintain <i>up to date</i> on their websites <i>complete information on the</i> applicable national laws, regulations and administrative provisions governing marketing requirements for AIFs and UCITS, and the summaries thereof, in at least a language customary in the sphere of international finance.	1. Competent authorities shall publish and maintain <i>up-to-date</i> on their websites <i>complete information on the</i> applicable national laws, regulations and administrative provisions governing marketing requirements for AIFs and UCITS, and the summaries thereof, in at least a language customary in the sphere of international finance.	
55.	Art. 3 - para 2 - subpara 1	2. Competent authorities shall notify to ESMA the laws, regulations and administrative provisions, and the summaries thereof, referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published.	2. Competent authorities shall notify to ESMA the summaries thereof, referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published	2. Competent authorities shall notify to ESMA the hyperlinks to the websites of competent authorities where <i>the</i> information <i>referred to in paragraph 1</i> is published.	
56.	Art. 3 - para 2 - subpara 2	Competent authorities shall notify to ESMA any change in the information provided under the first subparagraph of this paragraph without delay.	<i>deleted</i>	Competent authorities shall notify to ESMA any change in the information provided under the first subparagraph of this paragraph without <i>undue</i> delay.	
57.	Art. 3 - para 3 - subpara 1	3. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the notifications under this Article.	3. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the <i>publications and</i> notifications under this Article.	3. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the <i>publications and</i> notifications under this Article.	
58.	Art. 3 - para 3 - subpara 2	ESMA shall submit those draft implementing standards to the Commission by [PO: Please insert	ESMA shall submit those draft implementing standards to the Commission by [PO: Please insert	ESMA shall submit those draft implementing standards to the Commission by [PO: Please insert	

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		<i>date 18 months after the date of entry into force</i>].	<i>date 18 months after the date of entry into force</i>].	date 18 months after the date of entry into force <i>of this amending Regulation</i>].	
59.	Art. 3 - para 3 - subpara 3	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.	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.	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.	
60.	Art. 3 - para 4	4. By [PO: Please insert date 48 months after the date of entry into force] ESMA shall examine in a report the marketing requirements referred to in paragraph 1 and inform the Commission thereof. ESMA shall update that report every two years	<i>deleted</i>	4. By ... [PO: Please insert date 42 months after the date of entry into force <i>of this amending Regulation</i>] ESMA shall examine in a report the marketing requirements referred to in paragraph 1 and inform <i>the European Parliament, the Council and</i> the Commission thereof. ESMA shall update that report every two years.	
61.	Article 4 - title	Article 4 ESMA central database on national provisions concerning marketing requirements	Article 4 ESMA central database on national provisions concerning marketing requirements	Article 4 ESMA central database on national provisions concerning marketing requirements	
62.	Art. 4	By [PO: Please insert date 30 months after the date of entry into force], ESMA shall publish and maintain on its website a central database containing the national laws, regulations and administrative provisions concerning marketing requirements, and the summaries	By [PO: Please insert date 30 months after the date of entry into force], ESMA shall publish and maintain on its website a central database containing the ■ summaries thereof <i>as referred to in Article 3(1),</i> and the hyperlinks to the websites of	By ... [PO: Please insert date 24 months after the date of entry into force <i>of this amending Regulation</i>], ESMA shall publish and maintain on its website a central database containing ■ the hyperlinks to the websites of competent authorities <i>referred to in Article 3(2).</i>	

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		thereof, and the hyperlinks to the websites of competent authorities.	competent authorities <i>as referred to in Article 3(2)</i> .		
63.	Article 5 - title	Article 5 Verification of marketing communications	Article 5 <i>Ex-ante</i> verification of marketing communications	Article 5 <i>Ex-ante</i> verification of marketing communications	
64.	Art. 5 - para 1 - subpara 1	1. For the sole purpose of verifying compliance with this Regulation and with national provisions concerning marketing requirements, competent authorities may require systematic notification of marketing communications which the UCITS management companies intend to use directly or indirectly in their dealings with investors.	1. For the sole purpose of verifying compliance with this Regulation and with national provisions concerning marketing requirements, competent authorities may require prior notification of marketing communications which the management companies intend to use directly or indirectly in their dealings with investors	1. For the sole purpose of verifying compliance with this Regulation and with national provisions concerning marketing requirements, competent authorities may require prior notification of marketing communications which the management companies intend to use directly or indirectly in their dealings with investors.	
65.	Art. 5 - para 1 - subpara 2	The systematic notification referred to in the first subparagraph shall not constitute a prior condition for the marketing of units of UCITS.	The requirement for prior notification referred to in the first subparagraph shall not constitute a prior condition for the marketing of units of UCITS and is not part of the notification procedure referred to in Article 93 of Directive 2009/65/EC .	The requirement for prior notification referred to in the first subparagraph shall not constitute a prior condition for the marketing of units of UCITS and shall not be part of the notification procedure referred to in Article 93 of Directive 2009/65/EC .	
66.	Art. 5 - para 1 - subpara 3	Where competent authorities require notification of marketing communications referred to in the first subparagraph, they shall, within 10 working days, starting on the working day following that of the receipt of a notification, inform the UCITS management company of any	In cases where competent authorities require prior notification of marketing communications referred to in the first subparagraph with the purpose of ex-ante verification , they shall, within 10 working days, starting on the working day following that of the receipt of marketing communications , inform	In cases where competent authorities require prior notification of marketing communications referred to in the first subparagraph for the purpose of ex-ante verification , they shall, within 10 working days, starting on the working day following that of the receipt of marketing communications , inform	

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		request to amend its marketing communications.	the UCITS management company of any request to amend its marketing communications.	the UCITS management company of any request to amend its marketing communications.	
67.	Art. 5 - para 1 - subpara 3a (new)		<i>The prior notification referred to in the first subparagraph may be required on a systematic basis or in accordance with any other verification practices and is without prejudice to further supervisory powers to verify marketing communications ex-post.</i>	<i>The prior notification referred to in the first subparagraph may be required on a systematic basis or in accordance with any other verification practices and is without prejudice to further supervisory powers to verify marketing communications ex-post.</i>	
68.	Art. 5 - para 2	2. Competent authorities that require systematic notification of marketing communications shall establish, apply, and publish on their websites, procedures for the systematic notification of marketing communications. The internal rules and procedures shall ensure transparent and non-discriminatory treatment of all UCITS, regardless of the Member States in which the UCITS are authorised.	2. Competent authorities that require prior notification of marketing communications shall establish, apply, and publish on their websites, procedures for the prior notification of marketing communications. The internal rules and procedures shall ensure transparent and non-discriminatory treatment of all UCITS, regardless of the Member States in which the UCITS are authorised.	2. Competent authorities that require prior notification of marketing communications shall establish, apply, and publish on their websites, procedures for the prior notification of marketing communications. The internal rules and procedures shall ensure transparent and non-discriminatory treatment of all UCITS, regardless of the Member States in which the UCITS are authorised.	
69.	Art. 5 - para 3	3. Where Member States allow AIFMs to market to retail investors units or shares of AIFs in their territories, paragraphs 1 and 2 of this Article shall apply <i>mutatis mutandis</i> to those AIFMs.	3. Where ■ AIFMs, <i>EuVECA or EuSEF managers</i> market to retail investors units or shares of ■ their <i>AIFs</i> , paragraphs 1 and 2 of this Article shall apply <i>mutatis mutandis</i> to those AIFMs, <i>EuVECA or EuSEF managers</i> .	3. Where ■ AIFMs, <i>EuVECA managers or EuSEF managers</i> market to retail investors units or shares of ■ their <i>AIFs</i> , paragraphs 1 and 2 ■ shall apply <i>mutatis mutandis</i> to those AIFMs, <i>EuVECA managers or EuSEF managers</i> .	
70.	Art. 5a (new) - title		Article 5a <i>ESMA report on marketing communications</i>		

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71.	Art. 5 - para 4 - subpara 1	4. Competent authorities that require systematic notification of marketing communications as referred to in paragraph 1 shall, by 31 March of each year, report to ESMA on the decisions taken in the preceding year rejecting or requesting adaptations to marketing communications.	1. Competent authorities ■ shall, by 31 March of <i>every second</i> year <i>starting from [PO: Please insert date 24 months after the date of entry into force]</i> , report <i>the following information</i> to ESMA ■ :	4. Competent authorities ■ shall, by 31 March of <i>every second</i> year <i>starting from ... [PO: Please insert date 24 months after the date of entry into force of this amending Regulation]</i> , report <i>the following information</i> to ESMA:	
72.	Art. 5 - para 4 - subpara 2	The report to ESMA shall include the following information:	■	■	
73.	Art. 5 - para 4 - subpara 2 - point a	(a) the total number of decisions taken, clearly distinguishing the most frequent breaches, including the description of the subject matter;	(a) the ■ number of <i>requests for amendments of marketing communications made on the basis of ex-ante verification, where applicable</i> ;	(a) the ■ number of <i>requests for amendments of marketing communications made on the basis of ex-ante verification, where applicable</i>	
74.	Art. 5 - para 4 - subpara 2 - point b	(b) the outcomes of each decision;	(b) the <i>number of requests for amendments and decisions taken on the basis of ex-post checks, clearly distinguishing the most frequent breaches, including a description and the nature of these breaches</i> ;	(b) the <i>number of requests for amendments and decisions taken on the basis of ex-post checks, clearly distinguishing the most frequent breaches, including a description and the nature of those breaches</i> ;	
75.	Art. 5 - para 4 - subpara 2 - point ba (new)		(ba) <i>a description of the most frequent breaches of the requirements referred to in Article 2</i> ;	(ba) <i>a description of the most frequent breaches of the requirements referred to in Article 2</i> ;	
76.	Art. 5 - para 4 - subpara 2 - point c	(c) one concrete example for each of the breaches referred to in point (a).	(c) one concrete example for each of the breaches referred to in point (a).	(c) one concrete example for each of the breaches referred to in point (a).	
77.	Art. 5 - para 4 - subpara 3	By 30 June of each year, ESMA shall submit a report to the Commission analysing the effects of	2. By 30 June of <i>every second</i> year <i>starting from [PO: Please insert date 12 months after the date of</i>	<i>deleted</i>	

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		national laws, regulations and administrative provisions governing marketing communications.	<i>entry into force</i>], ESMA shall submit a report to the Commission <i>which presents an overview of marketing requirements in all Member States referred to in Article 3, paragraph 1 and contains an analysis of</i> the effects of national laws, regulations and administrative provisions governing marketing communications <i>based also on the information received in accordance with paragraph 1.</i>		
78.	Article 6 - title	Article 6 Common principles concerning fees or charges	Article 6 Common principles concerning fees or charges	Article 6 Common principles concerning fees or charges	
79.	Art. 6 - para 1	1. Fees or charges levied by competent authorities shall be proportionate to the expenditure relating to the authorisation or registration and the performance of the supervisory and investigatory powers pursuant to Articles 44, 45 and 46 of Directive 2011/61/EU and Articles 97 and 98 of Directive 2009/65/EC.	1. <i>In cases where</i> fees or charges <i>are</i> levied by competent authorities <i>in carrying out their duties in relation to the crossborder activity of AIFMs, EuVECA managers, EuSEF managers and UCITS management companies, fees or charges</i> shall be <i>consistent with the overall cost relating to the performance of the functions of the competent authority.</i>	1. Fees or charges levied by <i>a</i> competent <i>authority in carrying out its duties in relation to the cross-border activity of AIFMs, EuVECA managers, EuSEF managers and UCITS management companies shall be consistent with the actual costs incurred by the competent authority for carrying out its functions with respect to these duties.</i>	1. <i>In cases where</i> fees or charges <i>are</i> levied by competent authorities <i>in carrying out their duties in relation to the crossborder activity of AIFMs, EuVECA managers, EuSEF managers and UCITS management companies, fees or charges</i> shall be <i>consistent with the overall cost relating to the performance of the functions of the competent authority.</i>
80.	Art. 6 - para 2	2. Competent authorities shall send an invoice for the given financial year to the registered office of the AIFM or UCITS management company. The invoice shall indicate the fees or charges referred to in paragraph 1, the	2. Competent authorities shall send an invoice, <i>an individual payment statement or a payment instruction to the address indicated in [second subparagraph of Article 93 (1) of Directive 2009/65/EC or point (i) of Annex IV of Directive 2011/61/EU]</i>	2. Competent authorities shall send an invoice, <i>an individual payment statement or a payment instruction to the address indicated in [second subparagraph of Article 93(1) of Directive 2009/65/EC or point (I) of Annex IV of Directive 2011/61/EU].</i>	

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		means of payment and the date when payment is due.	for the fees or charges referred to in paragraph 1, the means of payment and the date when payment is due.	The invoice shall indicate the fees or charges referred to in paragraph 1, the means of payment and the date when payment is due.	
81.	Article 7 - title	Article 7 Publication of national provisions concerning fees and charges	Article 7 Publication of national provisions concerning fees and charges	Article 7 Publication of national provisions concerning fees and charges	
82.	Art. 7 - para 1	1. By [PO: Please insert date 6 months after the date of entry into force], competent authorities shall publish and maintain on their websites central databases listing the fees or charges referred to in Article 6(1), or, where applicable, the calculation methodologies for those fees or charges, in at least a language customary in the sphere of international finance.	1. By [PO: Please insert date 6 months after the date of entry into force], competent authorities shall publish and maintain up to date information on their websites listing the fees or charges referred to in Article 6(1), or, where applicable, the calculation methodologies for those fees or charges, in at least a language customary in the sphere of international finance.	1. By ... [PO: Please insert date 6 months after the date of entry into force of this amending Regulation], competent authorities shall publish and maintain up-to-date information on their websites listing the fees or charges referred to in Article 6(1), or, where applicable, the calculation methodologies for those fees or charges, in at least a language customary in the sphere of international finance.	
83.	Art. 7 - para 2 - subpara 1	2. Competent authorities shall notify to ESMA the levels of fees or charges referred to in Article 6(1), and where applicable, the calculation methodologies for those fees or charges.	2. Competent authorities shall notify to ESMA the hyperlinks to the websites of competent authorities where the information referred to in paragraph 1 is published .	2. Competent authorities shall notify to ESMA the hyperlinks to the websites of competent authorities where the information referred to in paragraph 1 is published .	
84.	Art. 7 - para 2 - subpara 2	Competent authorities shall notify to ESMA any change in the information provided under the first subparagraph without delay.	deleted	Competent authorities shall notify to ESMA any change in the information provided under the first subparagraph without undue delay.	
85.	Art. 7 - para 3 - subpara 1	3. ESMA shall develop draft regulatory technical standards to specify the information to be notified	deleted	3. ESMA shall develop draft regulatory technical standards to specify the information to be notified	

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		to ESMA by the competent authorities under this Article.		to ESMA by the competent authorities under this Article.	
86.	Art. 7 - para 3 - subpara 2	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: Please insert date 18 months after the date of entry into force].	<i>deleted</i>	ESMA shall submit those draft regulatory technical standards to the Commission by ...[PO: Please insert date 12 months after the date of entry into force of this amending Regulation].	
87.	Art. 7 - para 3 - subpara 3	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.	<i>deleted</i>	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.	
88.	Art. 7 - para 4 - subpara 1	4. ESMA shall develop draft implementing technical standards to determine the standard forms, templates and procedures for the notifications under this Article.	4. ESMA shall develop draft implementing technical standards to determine the standard forms, templates and procedures for the publications and notifications under this Article.	4. ESMA shall develop draft implementing technical standards to determine the standard forms, templates and procedures for the notifications under this Article.	
89.	Art. 7 - para 4 - subpara 2	ESMA shall submit those draft implementing standards to the Commission by [PO: Please insert date 18 months after the date of entry into force].	ESMA shall submit those draft implementing standards to the Commission by [PO: Please insert date 18 months after the date of entry into force].	ESMA shall submit those draft implementing standards to the Commission by ... [PO: Please insert date 18 months after the date of entry into force of this amending Regulation].	
90.	Art. 7 - para 4 - subpara 3	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.	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.	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.	

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91.	Article 8 - title	Article 8 ESMA interactive database on fees and charges	Article 8 ESMA publication on fees and charges	Article 8 ESMA database on fees and charges	
92.	Art. 8 - para 1 - subpara 1	By [PO: Please insert date 30 months after the date of entry into force] ESMA shall publish and maintain on its website an interactive database, publicly accessible in at least a language customary in the sphere of international finance, listing the fees or charges referred to in Article 6(1), or, where applicable, the calculation methodologies for those fees or charges.	1. By [PO: Please insert date 30 months after the date of entry into force] ESMA shall publish and maintain on its website hyperlinks to the websites of competent authorities as referred to in Article 7(2).	In order to enhance the transparency of fees and charges by ... [PO: Please insert date 30 months after the date of entry into force of this amending Regulation] ESMA shall publish and maintain on its website a database, publicly accessible in at least a language customary in the sphere of international finance, listing hyperlinks to the websites of the competent authorities referred to in Article 7(2).	
93.	Art. 8 - para 1 - subpara 2	The interactive database shall contain the hyperlinks to the websites of competent authorities referred to in Article 7(1).	2. By [PO: Please insert date 30 months after the date of entry into force], ESMA shall develop, make available and maintain on its website an interactive tool publicly accessible in at least a language customary in the sphere of international finance that provides an indicative calculation of the fees and charges referred to in Article 6(1).	By ... [PO: Please insert date 30 months after the date of entry into force of this amending Regulation], ESMA shall develop and make available on its website an interactive tool publicly accessible in at least a language customary in the sphere of international finance that provides an indicative calculation of the fees and charges referred to in Article 6(1) . That tool shall be kept up to date.	
94.	Art. 8 – para 2 – subpara 2 (new)		The interactive tool shall constitute a part of the database referred to in paragraph 1.		

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95.	Article 9 - title	Article 9 ESMA interactive tool on fees and charges	<i>deleted</i>	<i>deleted</i>	
96.	Art. 9 - para 1	By [<i>PO: Please insert date 30 months after the date of entry into force</i>] ESMA shall develop, make available and maintain on its website an interactive tool publicly accessible in at least a language customary in the sphere of international finance presenting the fees and charges referred to in Article 6(1).	<i>deleted</i>	<i>deleted</i>	
97.	Art. 9 - para 2	The interactive tool shall constitute a part of the interactive database referred to in Article 8.	<i>deleted</i>	<i>deleted</i>	
98.	Article 10 - title	Article 10 ESMA central database on AIFMs, UCITS management companies, AIFs and UCITS	Article 10 ESMA central database on <i>crossborder marketing of</i> AIFs and UCITS	Article 10 ESMA central database on <i>cross-border marketing of</i> AIFs and UCITS	

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99.	Art. 10 - para 1	By [<i>PO: Please insert date 30 months after the date of entry into force</i>] ESMA shall publish and maintain on its website a central database, publicly accessible in a language customary in the sphere of international finance, listing all AIFMs, UCITS management companies, AIFs and UCITS which those AIFMs and UCITS management companies manage and market, as well as the Member States in which those funds are marketed.	<i>1. By [PO: Please insert date 30 months after the date of entry into force], ESMA shall publish and maintain up to date on its website a central database for the cross-border marketing of AIFs and UCITS, publicly accessible in a language customary in the sphere of international finance, listing ■ :</i>	By ... [<i>PO: Please insert date 24 months after the date of entry into force of this amending Regulation</i>], ESMA shall publish on its website a central database for the cross-border marketing of AIFs and UCITS , publicly accessible in a language customary in the sphere of international finance, listing:	
100.	Art. 10 – para 1 – point a (new)		<i>(a) all AIFs that are marketed in another Member State, their AIFMs, and a list of Member States in which they are marketed; and</i>	<i>(a) all AIFs that are marketed in another Member State, their AIFMs, EUSEF manager or EUVECA manager, and a list of Member States in which they are marketed; and</i>	
101.	Art. 10 – para 1 – point b (new)		<i>(b) all UCITS that are marketed in another Member State, their UCITS management companies and a list of the Member States in which they are marketed.</i>	<i>(b) all UCITS that are marketed in another Member State, their UCITS management companies, AIFs and UCITS which those AIFMs and UCITS management company and a list of the Member States in which they are marketed.</i>	
102.	Art. 10 – para 1a (new)			<i>That central database shall be kept up to date.</i>	
103.	Art. 10 – para 1b (new)		<i>2. The database referred to in paragraph 1 is without prejudice to the list referred to in the second subparagraph of Article 6(1) of</i>	<i>The information contained in the database referred to in the first paragraph shall be without prejudice to the list referred to in</i>	

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			<i>Directive 2009/65/EC, the central public register referred to in the second subparagraph of Article 7(5) of Directive 2011/61/EU, the central database referred to in Article 17 of Regulation (EU) No 345/2013 and the central database referred to in Article 18 of Regulation (EU) No 346/2013.</i>	<i>the second subparagraph of Article 6(1) of Directive 2009/65/EC, the central public register referred to in the second subparagraph of Article 7(5) of Directive 2011/61/EU, the central database referred to in Article 17 of Regulation (EU) No 345/2013 and the central database referred to in Article 18 of Regulation (EU) No 346/2013.</i>	
104.	Article 11 - title	Article 11 Standardisation of notifications to ESMA	Article 11 Standardisation of notifications to ESMA	Article 11 Standardisation of notifications to ESMA	
105.	Art. 11 - para 1 – subpara -1a (new)			<i>1. In order to facilitate the exchange of information between ESMA and competent authorities, ESMA shall establish a system for the regular exchange of information relevant to cross-border marketing activities of AIFMs and UCITS management companies.</i>	
106.	Art. 11 - para 1 - subpara 1	1. The competent authorities of the home Member States shall transmit to ESMA any notification, any notification letter, any written notice or any information referred to in paragraphs 3 and 8 of Article 17, paragraphs 2 and 4 of Article 18, paragraphs 3 and 8 of Article 93 and Article 93a(3) of Directive 2009/65/EC and paragraphs 2 and 4 of Article 31, paragraphs 3 and 7 of Article 32, Article 32a(3) and	1. The competent authorities of the home Member States shall <i>communicate</i> to ESMA <i>quarterly the information which is necessary for creating and maintaining the central database referred to in Article 10 regarding</i> any notification, notification letter or information referred to <i>in the first subparagraph of Article 93(1), Article 93a(2)</i> of Directive	<i>Competent authorities shall notify ESMA of changes relating to cross-border marketing activities and communicate to ESMA, on a quarterly basis, the information which is necessary for the creation and maintenance of the central database referred to in Article 10 of this Regulation regarding any notification, notification letter or information referred to in Article 93(1), Article 93a(2) of Directive</i>	

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		paragraphs 2 and 3 of Article 33 of Directive 2011/61/EU without delay.	2009/65/EC, <i>and in Article 31(2), Article 32(2), Article 32a(2)</i> of Directive 2011/61/EU, <i>and any changes to this information, if these changes would result in a change to the information in the central database referred to in Article 10.</i>	2009/65/EC and <i>in Article 31(2), Article 32(2), Article 32a(2)</i> and of Directive 2011/61/EU, <i>and any changes to that information, if such changes would result in a change to the information in that central database.</i>	
107.	Art. 11 - para 2 - subpara 1	2. ESMA shall develop draft regulatory technical standards to specify information to be notified in accordance with paragraphs 1, 2, 3, 8 and 9 of Article 17, paragraphs 1, 2 and 4 of Article 18, paragraphs 1, 2 and 8 of Article 93 and Article 93a(2) of Directive 2009/65/EC and Article 32a(2) and paragraphs 2, 3 and 6 of Article 33 of Directive 2011/61/EU.	<i>deleted</i>	2. ESMA shall <i>establish a notification portal into which each competent authority shall upload all documents referred to in paragraph 1 and through which all transfers of such documents between competent authorities shall take place.</i>	
108.	Art. 11 - para 2 - subpara 2	ESMA shall submit those draft regulatory technical standards to the Commission by [<i>PO: Please insert date 18 months after the date of entry into force</i>].	<i>deleted</i>	<i>deleted</i>	
109.	Art. 11 - para 2 - subpara 3	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.	<i>deleted</i>	<i>deleted</i>	
110.	Art. 11 - para 3 - subpara 1	3. ESMA shall develop draft implementing technical standards to specify the forms, templates and procedures for the transmission of	2. ESMA shall develop draft implementing technical standards to specify the <i>information to be communicated, as well as the</i> forms,	3. ESMA shall develop draft <i>regulatory</i> technical standards to specify the <i>technical arrangements necessary</i> for the <i>functioning of the</i>	

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		the information referred to in paragraphs 1, 2, 3, 8 and 9 of Article 17, paragraphs 1, 2 and 4 of Article 18, paragraphs 1, 2 and 8 of Article 93 and Article 93a(2) of Directive 2009/65/EC and paragraphs 2 and 4 of Article 31, paragraphs 2 and 7 of Article 32, Article 32a(2) and paragraphs 2, 3 and 6 of Article 33 of Directive 2011/61/EU, including the procedure of transmission of the information by the competent authorities for the purposes of paragraph 1.	templates and procedures for communication of the information by the competent authorities for the purposes of paragraph 1.	<i>notification portal referred to in paragraph 2.</i>	
111.	Art. 11 - para 3 - subpara 2	ESMA shall submit those draft implementing technical standards to the Commission by [<i>PO: Please insert date 18 months after the date of entry into force of this Regulation</i>].	ESMA shall submit those draft implementing technical standards to the Commission by [<i>PO: Please insert date 18 months after the date of entry into force of this Regulation</i>].	ESMA shall submit those draft regulatory technical standards to the Commission by [<i>PO: Please insert date 18 months after the date of entry into force of this amending Regulation</i>].	
112.	Art. 11 - para 3 - subpara 3	Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.	Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.	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.	
113.	Article 11a (new) – title		Article 11a Powers of competent authorities	Article 11a Powers of competent authorities	
114.	Art. 11a (new) – para 1		1. Competent authorities shall have all supervisory and investigatory powers that are necessary for the	1. Competent authorities shall have all supervisory and investigatory powers that are necessary for the	

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			<i>exercise of their functions pursuant to this Regulation.</i>	<i>exercise of their functions pursuant to this Regulation.</i>	
115.	Art. 11a (new) – para 2		2. The powers conferred on competent authorities in accordance with Directive 2009/65/EC, Directive 2011/61/EU, Regulation 345/2013 and Regulation 346/2013, Regulation 2015/760 including those related to penalties, shall also be exercised with respect to the managers referred to in Article 2 of this Regulation.	2. The powers conferred on competent authorities in accordance with Directive 2009/65/EC, Directive 2011/61/EU, Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013, Regulation (EU) 2015/760 including those related to penalties, shall also be exercised with respect to the managers referred to in Article 2 of this Regulation.	
116.	Article 12 - title	Article 12 Amendments to Regulation (EU) No 345/2013 on European venture capital funds	Article 12 Amendments to Regulation (EU) No 345/2013 on European venture capital funds	Article 12 Amendments to Regulation (EU) No 345/2013 on European venture capital funds	
117.	Art. 12 - para 1	Regulation (EU) No 345/2013 is amended as follows:	Regulation (EU) No 345/2013 is amended as follows:	Regulation (EU) No 345/2013 is amended as follows:	
118.	Art. 12 - para 1 - point 1 - intro	(1) in Article 3, the following point (o) is added:	(1) in Article 3, the following point (o) is added:	(1) in Article 3, the following point (o) is added:	
119.	Art. 12 - para 1 - point 1 Art. 3 – para 1 - point o	‘(o)‘pre-marketing’ means a direct or indirect provision of information on investment strategies or investment ideas by the manager of a qualifying venture capital fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not	‘(o)‘pre-marketing’ means a direct or indirect provision of information or communication on investment strategies or investment ideas by the manager of a qualifying venture capital fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not yet	‘(o)‘pre-marketing’ means a direct or indirect provision of information or communication on investment strategies or investment ideas by the manager of a qualifying venture capital fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not yet	

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		yet registered qualifying venture capital fund”;	<i>established</i> qualifying venture capital fund, <i>or a qualifying venture capital fund, which is established, but not yet notified in accordance with Article 15, 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 qualifying venture capital fund”;</i>	registered qualifying venture capital fund <i>or in a qualifying venture capital fund which is established, but not yet notified for marketing in accordance with Article 15, 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 qualifying venture capital fund”;</i>	
120.	Art. 12 - para 1 - point 2 - intro	(2) the following Article 4a is inserted:	(2) the following Article 4a is inserted:	(2) the following Article 4a is inserted:	
121.	Art. 12 - para 1 - point 2 Art 4a - title	‘Article 4a	‘Article 4a	‘Article 4a	
122.	Art. 12 - para 1 - point 2 Art 4a - para 1 - intro	1. Managers of qualifying venture capital funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	1. Managers of qualifying venture capital funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	1. Managers of qualifying venture capital funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	
123.	Art. 12 - para 1 - point 2	(a) relates to established qualifying venture capital funds;	<i>deleted</i>	<i>deleted</i>	

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	Art 4a - para 1 - point a				
124.	Art. 12 - para 1 - point 2 Art 4a - para 1 - point b	(b) contains any reference to established qualifying venture capital funds;	<i>deleted</i>	<i>deleted</i>	
125.	Art. 12 - para 1 - point 2 Art 4a - para 1 - point c	(c) enables investors to commit to acquiring units or shares of particular qualifying venture capital funds;	(c) enables investors to commit to acquiring units or shares of particular qualifying venture capital funds;	(c) enables investors to commit to acquiring units or shares of particular qualifying venture capital funds;	
126.	Art. 12 - para 1 - point 2 Art 4a - para 1 - point d	(d) amounts to a prospectus, constitutional documents of not yet registered qualifying venture capital funds, offering documents, subscription forms or similar documents whether in a draft or a final form allowing investors to take an investment decision.	(d) amounts to ■ subscription forms or similar documents whether in a draft or a final form ■ ;	(d) amounts to <i>the final form of</i> a prospectus, constitutional documents <i>or offering documents</i> of not yet registered qualifying venture capital funds, <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 a qualifying venture capital fund. For already established qualifying venture capital funds, the final form of a prospectus may be provided.</i>	
127.	Art. 12 - para 1 - point 2		<i>(da) amounts to constitutional documents, a prospectus or offering documents of a not-yet-registered</i>		

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	Art 4a - para 1 - point da (new)		<i>qualifying venture capital fund in a final form.</i>		
128.	Art. 12 - para 1 - point 2 Art 4a - para 1 – subpara 1a (new) - intro		<i>Where a draft prospectus or offering documents are provided, such documents shall not contain all relevant information allowing investors to take an investment decision and shall clearly state that:</i>	<i>Where a draft prospectus or offering document as referred to in point (d) of the first subparagraph is provided, such documents shall clearly state that the document does not constitute an offer or an invitation to subscribe to units or shares of a qualifying venture capital fund.</i>	
129.	Art. 12 - para 1 - point 2 Art 4a - para 1 – subpara 1a (new) – point a		<i>(a) the document does not constitute an offer or an invitation to subscribe to units or shares of a qualifying venture capital fund;</i>		
130.	Art. 12 - para 1 - point 2 Art 4a - para 1 – subpara 1a (new) – point b		<i>(b) the information presented in those documents should not be relied upon because it is incomplete and may be subject to change.</i>		
131.	Art. 12 - para 1 - point 2	2. Competent authorities shall not require managers of qualifying venture capital funds to notify their intention to engage in pre-marketing.	2. Competent authorities shall not require managers of qualifying venture capital funds to notify their intention to engage in pre-marketing.	<i>2. Managers of qualifying venture capital funds shall send a simple, informal letter in paper form or by electronic means before it engages</i>	

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	Art 4a - para 2 – subpara 1			<i>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>	
132.	Art. 12 - para 1 - point 2 Art 4a - para 2 - subpara 1a (new)			Competent authorities shall not require managers of qualifying venture capital funds to notify <i>the content or the addressees of the</i> pre-marketing.	
133.	Art. 12 - para 1 - point 2 Art 4a - para 3 – subpara 1	3. Subscription by investors to units or shares of qualifying venture capital funds registered following the pre-marketing in accordance with paragraph 1 or to the units or shares of qualifying venture capital funds managed and marketed by managers of qualifying venture capital funds that engaged in pre-marketing of not yet registered qualifying venture capital funds with the similar features shall be considered the result of marketing.	3. <i>Managers</i> of qualifying venture capital <i>funds shall ensure that investors do not acquire units or shares of a qualifying venture capital fund through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in a qualifying venture capital fund in accordance with Article 15.</i>	3. <i>Managers</i> of qualifying venture capital <i>funds shall ensure that investors do not acquire units or shares in a qualifying venture capital fund through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that qualifying venture capital fund under marketing permitted under Article 14, 14a or 15.</i>	
134.	Art. 12 - para 1 - point 2		<i>In particular, any subscription by investors to units or shares, within 18 months after the manager of a</i>	<i>Subscription by investors that were subject to pre-marketing, within 18 months of the managers of</i>	

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	Art 4a - para 3 – subpara 1a (new)		<i>qualifying venture fund engaged in pre-marketing, of a qualifying venture capital fund referred to in the information provided in the context of pre-marketing, or of a qualifying venture capital fund established as a result of the pre-marketing shall be considered the result of marketing.</i>	<i>qualifying venture capital funds becoming engaged in pre-marketing, to units or shares of qualifying venture capital funds referred to in the information provided in the context of pre-marketing activities by the manager of qualifying venture capital funds or on its behalf, or of a qualifying venture capital fund registered as a result of those pre-marketing activities, shall be considered the result of marketing and shall be subject to the applicable notification and shall comply, where applicable, with Articles 14, 14a and 15.</i>	
135.	Art. 12 - para 1 - point 2 Art 4a - para 3a (new)			<i>3a. Member States shall ensure that a manager of qualifying venture capital funds makes appropriate arrangements such that information relating to its pre-marketing activities is available, and provided upon request, to the competent authorities of its home Member State and to the competent authorities of those Member States in which it has engaged in pre-marketing activities. A manager of qualifying venture capital funds shall ensure that its pre-marketing activities are adequately documented, including references to the Member States and the periods of time during which the pre-</i>	

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				<i>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 qualifying venture capital funds presented</i>	
136.	Art. 12 - para 1 - point 2 Art 4a - para 3b (new)			<i>3b. A third party shall only engage in activities referred to in paragraph 1 in a host Member State on behalf of a registered manager of qualifying venture capital funds 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>	
137.	Art. 12 - para 1 - point 2 Art. 4a - para 4	4. Managers of qualifying venture capital funds offering for subscription units or shares of qualifying venture capital funds that were the object of pre-marketing shall inform the competent authority in accordance with Article 15.'	4. Managers of qualifying venture capital funds offering for subscription units or shares of qualifying venture capital funds that were the object of pre-marketing shall inform the competent authority in accordance with Article 15.'	<i>deleted</i>	
138.	Art. 12 - para 1 - point 2		<i>5. For the purposes of paragraph 3, the manager of a qualifying venture fund shall ensure that its pre-</i>		

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	Art. 4a - para 4a (new) – subpara 1		<i>marketing activity is adequately documented.</i>		
139.	Art. 12 - para 1 - point 2 Art. 4a - para 4a (new) – subpara 2		<i>Managers of qualifying venture fund shall ensure that information relating to 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>		
140.	Article 13 - title	Article 13 Amendments to Regulation (EU) No 346/2013 on European social entrepreneurship funds	Article 13 Amendments to Regulation (EU) No 346/2013 on European social entrepreneurship funds	Article 13 Amendments to Regulation (EU) No 346/2013 on European social entrepreneurship funds	
141.	Art. 13 - para 1	Regulation (EU) No 346/2013 is amended as follows:	Regulation (EU) No 346/2013 is amended as follows:	Regulation (EU) No 346/2013 is amended as follows:	
142.	Art. 13 - para 1 - point 1 - intro	(1) in Article 3, the following point (o) is added:	(1) in Article 3, the following point (o) is added:	(1) in Article 3, the following point (o) is added:	
143.	Art. 13 - para 1 - point 1 Art. 3 - para 1 - point o	‘(o) ‘pre-marketing’ means a direct or indirect provision of information on investment strategies or investment ideas by the manager of a qualifying social entrepreneurship fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not yet	‘(o) ‘pre-marketing’ means a direct or indirect provision of information or communication on investment strategies or investment ideas by the manager of a qualifying social entrepreneurship fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not yet established	‘(o) ‘pre-marketing’ means a direct or indirect provision of information or communication on investment strategies or investment ideas by the manager of a qualifying social entrepreneurship fund, or on its behalf, to potential investors domiciled or with a registered office in the Union in order to test their interest in a not yet registered	

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		registered qualifying social entrepreneurship fund’;	qualifying social entrepreneurship fund <i>or a qualifying social entrepreneurship fund, which is established, but not yet notified in accordance with Article 16, 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 social entrepreneurship fund’;</i>	qualifying social entrepreneurship fund <i>or in a qualifying social entrepreneurship fund which is established, but not yet notified for marketing in accordance with Article 16, 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 qualifying social entrepreneurship fund’;</i>	
144.	Art. 13 - para 1 - point 2 - intro	(2) the following Article 4a is inserted:	(2) the following Article 4a is inserted:	(2) the following Article 4a is inserted:	
145.	Art. 13 - para 1 - point 2 Art 4a - title	‘Article 4a	‘Article 4a	‘Article 4a	
146.	Art. 13 - para 1 - point 2 Art. 4a - para 1 - intro	1. Managers of qualifying social entrepreneurship funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	1. Managers of qualifying social entrepreneurship funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	1. Managers of qualifying social entrepreneurship funds may engage in pre-marketing in the Union, excluding where the information presented to potential investors:	
147.	Art. 13 - para 1 - point 2	(a) relates to established qualifying social entrepreneurship funds;	<i>deleted</i>	<i>deleted</i>	

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	Art. 4a - para 1 - point a				
148.	Art. 13 - para 1 - point 2 Art. 4a - para 1 - point b	(b) contains any reference to established qualifying social entrepreneurship funds;	<i>deleted</i>	<i>deleted</i>	
149.	Art. 13 - para 1 - point 2 - intro Art. 4a - para 1 - point c	(c) enables investors to commit to acquiring units or shares of particular qualifying social entrepreneurship funds;	(c) enables investors to commit to acquiring units or shares of particular qualifying social entrepreneurship funds;	(c) enables investors to commit to acquiring units or shares of particular qualifying social entrepreneurship funds;	
150.	Art. 13 - para 1 - point 2 Art. 4a - para 1 - point d	(d) amounts to a prospectus, constitutional documents of not yet registered qualifying social entrepreneurship funds, offering documents, subscription forms or similar documents whether in a draft or a final form allowing investors to take an investment decision.	(d) amounts to ■ subscription forms or similar documents whether in a draft or a final form ■ ;	(d) amounts to <i>the final form of</i> a prospectus, constitutional documents <i>or offering documents</i> of not yet registered qualifying social entrepreneurship funds, <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 a qualifying social entrepreneurship fund. For already established qualifying social entrepreneurship funds, the final form of a prospectus may be provided.</i>	

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151.	Art. 13 - para 1 - point 2 Art. 4a - para 1 - point da (new)		<i>(da) amounts to constitutional documents, a prospectus or offering documents of a not-yet-registered qualifying social entrepreneurship fund in a final form.</i>		
152.	Art. 13 - para 1 - point 2 Art. 4a - para 1 – subpara 1a (new) - intro		<i>Where a draft prospectus or offering documents are provided, such documents shall not contain all relevant information allowing investors to take an investment decision and shall clearly state that:</i>	<i>Where a draft prospectus or offering document as referred to in point (d) of the first subparagraph is provided, such documents shall clearly state that the document does not constitute an offer or an invitation to subscribe to units or shares of a qualifying social entrepreneurship fund.</i>	
153.	Art. 13 - para 1 - point 2 Art. 4a - para 1 – subpara 1a (new) – point a		<i>(a) the document does not constitute an offer or an invitation to subscribe to units or shares of a qualifying social entrepreneurship fund;</i>		
154.	Art. 13 - para 1 - point 2 Art. 4a - para 1 – subpara 1a (new) – point b		<i>(b) information presented in those documents should not be relied upon because it is incomplete and may be subject to change.</i>		

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155.	Art. 13 - para 1 - point 2 Art. 4a - para 2 – subpara 1	2. Competent authorities shall not require managers of qualifying social entrepreneurship funds to notify their intention to engage in pre-marketing.	2. Competent authorities shall not require managers of qualifying social entrepreneurship funds to notify their intention to engage in pre-marketing.	2. <i>Managers of qualifying social entrepreneurship funds shall send 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>	
156.	Art. 13 - para 1 - point 2 Art. 4a - para 2 - subpara 1a (new)			Competent authorities shall not require managers of qualifying social entrepreneurship funds to notify the content or the addressees of the pre-marketing.	
157.	Art. 13 - para 1 - point 2 Art. 4a - para 3 - subpara 1	3. Subscription by investors to units or shares of qualifying social entrepreneurship funds registered following the pre-marketing in accordance with paragraph 1 or to the units or shares of qualifying social entrepreneurship funds managed and marketed by managers of qualifying social entrepreneurship funds that engaged in pre-marketing of not yet registered qualifying social entrepreneurship funds with the	3. <i>Managers of qualifying social entrepreneurship funds shall ensure that investors do not acquire</i> units or shares <i>of a</i> qualifying social entrepreneurship <i>capital fund through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that qualifying social entrepreneurship capital fund in accordance with Article 16.</i>	3. <i>Managers of qualifying social entrepreneurship funds shall ensure that investors do not acquire</i> units or shares <i>in a</i> qualifying social entrepreneurship <i>fund through pre-marketing activities and that investors contacted as part of pre-marketing may only acquire units or shares in that qualifying social entrepreneurship fund under marketing permitted under Article 15, 15a or 16.</i>	

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		similar features shall be considered the result of marketing.			
158.	Art. 13 - para 1 - point 2 Art. 4a - para 3 - subpara 1a (new)		<i>In particular, any subscription by investors to units or shares, within 18 months after the manager of a qualifying social entrepreneurship fund engaged in pre-marketing, of a qualifying venture capital fund referred to in the information provided in the context of pre-marketing, or of a qualifying social entrepreneurship fund established as a result of the pre-marketing shall be considered the result of marketing.</i>	<i>Subscription by investors that were subject to pre-marketing, within 18 months of the managers of qualifying social entrepreneurship funds engaged in pre-marketing, to units or shares of qualifying social entrepreneurship funds referred to in the information provided in the context of pre-marketing activities by the manager of qualifying social entrepreneurship funds or on its behalf, or of a qualifying social entrepreneurship fund registered as a result of those pre-marketing activities shall be considered the result of marketing and shall be subject to the applicable notification and shall comply, where applicable, with Articles 15, 15a and 16.</i>	
159.	Art. 13 - para 1 - point 2 Art. 4a - para 3a (new)			<i>3a. Member States shall ensure that the manager of qualifying social entrepreneurship funds makes appropriate arrangements such that information relating to its pre-marketing activities is available, and provided upon request, to the competent authorities of its home Member State and to the competent authorities of the Member States in which it has engaged in pre-marketing activities. A manager of qualifying social entrepreneurship</i>	

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				<i>funds shall ensure that its pre-marketing activities are adequately documented, including references to the Member States, the periods of time in which the pre-marketing activities took place, as well as a brief summary description of those activities, including the information on the investment strategies presented and, where relevant, a list of the qualifying social entrepreneurship funds presented.</i>	
160.	Art. 13 - para 1 - point 2 Art. 4a - para 3b (new)			<i>3b. A third party shall only engage in activities referred to in paragraph 1 in a host Member State on behalf of a registered manager of qualifying social entrepreneurship funds 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>	
161.	Art. 13 - para 1 - point 2 Art. 4a - para 4	4. Managers of qualifying social entrepreneurship funds offering for subscription units or shares of qualifying social entrepreneurship funds that were the object of pre-marketing shall inform the	4. Managers of qualifying social entrepreneurship funds offering for subscription units or shares of qualifying social entrepreneurship funds that were the object of pre-marketing shall inform the	<i>deleted</i>	

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		competent authority in accordance with Article 16.’	competent authority in accordance with Article 16.’		
162.	Art. 13 - para 1 - point 2 Art. 4a - para 4a (new) - subpara 1		<i>5. For the purposes of the paragraph 3, the manager of a qualifying social entrepreneurship fund shall ensure that its pre-marketing activity is adequately documented.</i>		
163.	Art. 13 - para 1 - point 2 Art. 4a - para 4a (new) – subpara 2		<i>Managers of qualifying social entrepreneurship fund shall ensure that information relating to 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>		
164.	Article 13 a (new) – title			<i>Article 13a Amendment to Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)</i>	<i>Article 13a Amendment to Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)</i>
165.	Art. 13a (new) – para 1 - intro			<i>Regulation (EU) No 1286/2014 is amended as follows:</i>	<i>Regulation (EU) No 1286/2014 is amended as follows:</i>
166.	Art. 13a (new) –			<i>(1) in Article 32(1), “31 December 2019” is replaced by “31 December 2021”;</i>	<i>(1) in Article 32(1), “31 December 2019” is replaced by “31 December 2021”;</i>

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	para 1 – point 1 Art. 32 – para 1				
167.	Art. 13a (new) – para 1 – point 2 Art. 33 – para 1			<i>(2) in Article 33(1), “31 December 2018” is replaced by “31 December 2019”;</i>	<i>(2) in Article 33(1), “31 December 2018” is replaced by “31 December 2019”;</i>
168.	Art. 13a (new) – para 1 – point 3 Art. 33 – para 2			<i>(3) in Article 33(2), “31 December 2018” is replaced by “31 December 2019”;</i>	<i>(3) in Article 33(2), “31 December 2018” is replaced by “31 December 2019”;</i>
169.	Art. 13a (new) – para 1 – point 4 Art. 33 – para 4			<i>(4) in Article 33(4), “31 December 2018” is replaced by “31 December 2019”.</i>	<i>(4) in Article 33(4), “31 December 2018” is replaced by “31 December 2019”.</i>
170.	Article 14 - title	Article 14 Evaluation	Article 14 Evaluation	Article 14 Evaluation	
171.	Art. 14 – para 1 - subpara 1	By [PO: Please insert date 60 months after the date of entry into force] the Commission shall, on the basis of a public consultation and in light of discussions with ESMA and competent authorities, conduct an	By [PO: Please insert date 60 months after the date of entry into force] the Commission shall, on the basis of a public consultation and in light of discussions with ESMA and competent authorities, conduct an	By ... [PO: Please insert date 60 months after the date of entry into force of this amending Regulation] the Commission shall, on the basis of a public consultation and in light of discussions with ESMA and	

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		evaluation of the application of this Regulation.	evaluation of the application of this Regulation.	competent authorities, conduct an evaluation of the application of this Regulation.	
172.	Art. 14 – para 1 - subpara 1a (new)			<i>By ... [PO: Please insert date 24 months after the date of entry into force of this amending Regulation] the Commission shall, on the basis of a consultation of competent authorities, ESMA and other relevant stakeholders, submit a report to the European Parliament and to the Council on the phenomenon of reverse solicitation and demand on the own initiative of an investor, specifying the extent of this form of subscriptions to funds, its geographical distribution, including third countries, and its potential to be used to circumvent provisions connected to the passport.</i>	
173.	Article 15 - title	Article 15 Entry into force	Article 15 Entry into force	Article 15 Entry into force	
174.	Art. 15 - para 1	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
175.	Art. 15 - para 2	It shall apply from [PO: Please insert the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>], except for paragraphs 1 and 4 of Article 2, paragraph 1 and 2 of	It shall apply from [PO: Please insert the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>], except for paragraphs 1 and 4 of Article 2, paragraph 1 and 2 of	It shall apply from [PO: Please insert the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>], except for paragraphs 1 and 4 of Article 2, paragraph 1 and 2 of	

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		Article 3, Article 12 and Article 13, which shall apply from [<i>PO: Please insert date 24 months after the date of entry into force</i>].	Article 3, Article 12 and Article 13, which shall apply from [<i>PO: Please insert date 24 months after the date of entry into force</i>] and paragraph 2 of Article 5a which shall apply from [<i>PO: Please insert date 48 months after the date of entry into force</i>] .	Article 3, Article 12 and Article 13, which shall apply from ... [<i>PO: Please insert date 24 months after the date of entry into force of this amending Regulation</i>].	
176.	Art. 15 - para 3	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	
177.		Done at Brussels,	Done at Brussels,	Done at Brussels,	