

CSSF: Marketing of foreign UCIs other than the closed-ended type

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On 23 December 2020, the Luxembourg financial sector supervisory authority (the **CSSF**) published the Regulation N° 20-10 laying down the implementing measures of Article 100(1) of the amended law of 17 December 2010 (the **UCI Law**) relating to undertakings for collective investment (**UCIs**) (the **Regulation**).

Purpose and scope

Through the Regulation, with effect from 1 January 2021, the CSSF defines the procedure and the conditions applicable to the marketing of foreign UCIs other than the closed-ended type to retail investors in Luxembourg (the **Foreign UCIs**). For the purpose of the Regulation, "Foreign UCIs" means UCIs other than undertakings for collective investment in transferable securities, which are established in a Member State of the European Union other than Luxembourg or in a third country, and "UCIs other than the closed-ended type" is defined as UCIs other than UCIs for which there are no redemption rights in relation to their units or shares in favour of investors. The Regulation applies to the marketing of Foreign UCIs which are not covered by CSSF Regulation N° 15-03 on the marketing of foreign alternative investment funds to retail investors in Luxembourg.

Marketing authorisation

Prior to the marketing of their units or shares to retail investors in Luxembourg, Foreign UCIs (or the compartment(s) thereof) must, request authorisation from the CSSF for marketing, in accordance with the provisions of the article 129 (1) of the UCI Law and the Regulation. Upon granting the authorisation, the CSSF will register the Foreign UCI on a list which is published on the CSSF website.

The Foreign UCI must include in its authorisation request to the CSSF, among other things, the following documents and information: a certificate from the supervisory authorities of the country where the Foreign UCI is established, the prospectus or issuance document of the Foreign UCI containing the specific information for marketing in Luxembourg, key information documents for

packaged retail and insurance-based investment products, the last annual report of the Foreign UCI, and information on the managers of the Foreign UCI and the depository. Any substantial modification of the documents and information included in the authorisation request must be communicated to the CSSF by the Foreign UCI.

The main condition for the CSSF to grant the marketing authorisation is that the Foreign UCI be managed by a manager which is subject in its home state to a regulation and prudential supervision by competent authorities. When the Foreign UCI is a feeder UCI, the master UCI it invests in must be subject in its home state to permanent supervision and there must be cooperation between the CSSF and the supervisory authority of the master UCI.

To be eligible for marketing to retail investors in Luxembourg, a Foreign UCI must:

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Provisions governing payments to investors, redemptions and subscriptions of units or shares as well as dissemination of information

A Foreign UCI authorised to market its units or shares to retail investors in Luxembourg must take measures to ensure that payments to investors as well as redemptions and subscriptions of units or shares are carried out in Luxembourg. Furthermore, it must take the necessary measures to ensure that the information which it is obliged to provide (e.g. prospectus, financial reports, etc.) is made available to investors in Luxembourg, it being noted that it may be provided by means of a website publication.

Termination of marketing

A Foreign UCI must inform the CSSF without delay when it decides to no longer market its units or shares to retail investors in Luxembourg, and the CSSF will therefore remove the Foreign UCI from the list of Foreign UCIs admitted for marketing to retail investors in Luxembourg. Furthermore, the Foreign UCI must publish a notice to investors concerning the termination of its marketing activities in Luxembourg in a Luxembourg newspaper or by means of a website publication. It should be noted that the Foreign UCI continues to be subject to the abovementioned obligation to provide information and documents to investors after the termination of its marketing activities in Luxembourg, as long as investors established or located in Luxembourg continue to hold investments in the Foreign UCI.

The CSSF reserves the right to withdraw the marketing authorisation granted to any Foreign UCI, which no longer complies with the provisions of the UCI Law and the Regulation.

Foreign UCIs which were already authorised prior to 1 January 2021 to market their units or shares

to retail investors in Luxembourg according to article 100(1) of the UCI Law are automatically considered to be authorised under the Regulation.

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