

A Guide to Passporting – Rules on Marketing Alternative Investment Funds in Europe



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The purpose of this publication is to provide a broad overview of key elements of passporting regulations applicable to EEA-AIFs in the countries covered in this guide. The publication makes no claims to completeness and does not constitute legal advice. In the case of AIFMs based in non-EEA (third country) jurisdictions wishing to market their funds in the EEA, you are referred to our **'CMS Guide to Private Placement of Funds'**.

Entities marketing a passported EEA-AIF may additionally need to comply with licence requirements and these requirements are not covered in the publication. The information contained in the publication is no substitute for specific legal advice. If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact or persons mentioned in this publication.

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Introduction

The EU Commission promoted passporting rights as one of the key benefits for hedge, private equity, real estate and other alternative investment fund managers authorised under the Alternative Investment Fund Managers Directive (AIFMD).

However, we are now experiencing impediments to the passporting rights as certain domestic regulators are imposing ‘border controls’, and fund managers need to pay fees and comply with various other requirements in order to market their funds cross-border.

The diversity of the domestic rules makes it challenging for AIFMD authorised managers to assess the costs and various other requirements for penetrating the EU market. This Guide provides a road map, which will hopefully assist managers in understanding the costs and other requirements under AIFMD, other EU directives and domestic regulations.

We are grateful to the numerous contributors of this Guide. If you would like more information about passporting within the AIFMD framework, you are welcome to get in touch with us or – with regard to particular jurisdictions – the contacts of the relevant contributor firms (detailed on pages 37 to 39).

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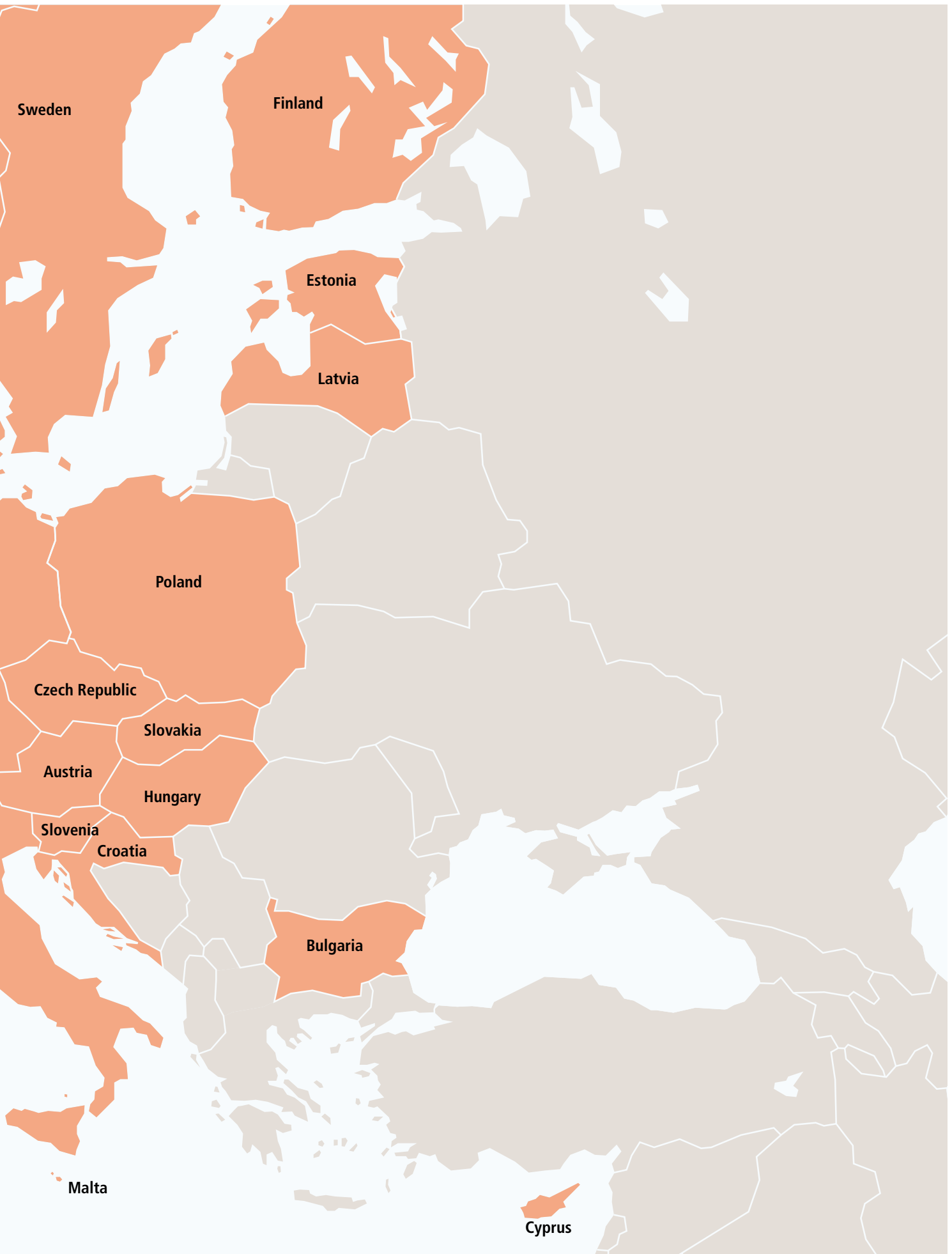
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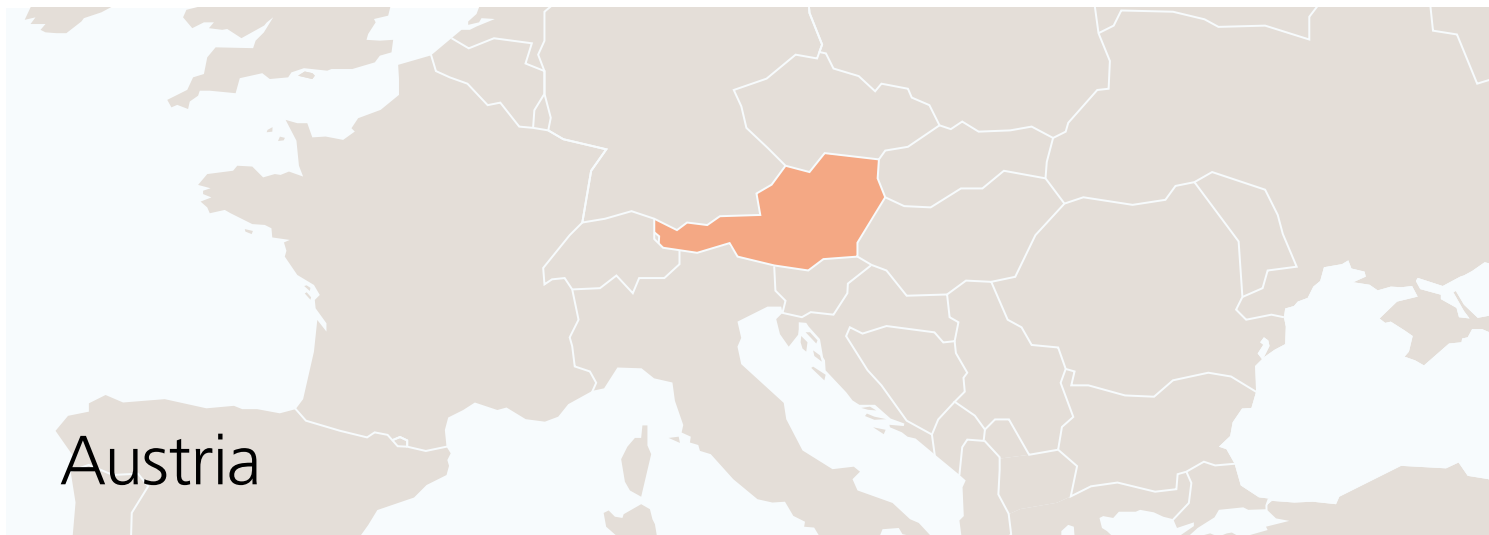
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1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise the right to passport their national license allowing them to manage and market units or shares of AIFs to professional investors in Austria or other EEA States on a services and/or branch basis. The activities of the AIFM may begin as soon as the AIFM receives a confirmation from the competent authority of its home State that the documents and information pursuant to Annex 4 of the Austrian Alternative Investment Funds Act ("**AIFMA**") as well as the certificate of permission pursuant to Section 31 AIFMA have been submitted to the Austrian Financial Market Authority ("**FMA**").

AIFMs are required to submit the aforementioned documents and information to the competent authority of their home State, who will forward them on to the FMA on their behalf.

If an EEA licensed AIFM intends to provide marketing activities for an AIF to retail investors in Austria, the AIFM must also submit a notification containing the information required under Section 49 AIFMA to FMA. According to Section 49 AIFMA, an AIFM must be authorised to market AIFs to retail investors in its home State, as well as to meet the conditions for marketing AIFs to professional investors in Austria. The type of AIF must also be an approved type of fund in order for it to be offered to retail investors. The AIFMA sets out restrictions on the type of funds which can be offered to retail investors.

2. Third country AIFMs

A Non-EEA AIFM must appoint a legal representative in Austria, who will represent the AIFM in and out of court, and is an authorised recipient and contact person of the Non-EEA AIFM in Austria. Any correspondence between the FMA and fund investors, on one side, and the AIFM on the other side, shall be made via the legal representative. The legal representative, together with the Non-EEA AIFM will be responsible for the compliance function, regarding the management and marketing activities. The Non-EEA AIFM must inform the FMA in writing if it intends to market AIFs in Austria. Such notification must contain comprehensive information about the AIFM and the relevant AIFs.

3. Fees

The FMA will charge a fee of EUR 1,100 for processing the documents submitted in accordance with Annex 4 of AIFMA and the certificate of permission (as discussed in paragraph 1 above). In the case of umbrella funds, the fee will increase by EUR 220 per sub-fund, which is calculated from the second sub-fund. In addition, the FMA will charge an annual fee of EUR 600 for monitoring the compliance with the obligations arising from the AIFMA. This fee will increase by EUR 200 per sub-fund which, again, is calculated from the second sub-fund.



Belgium

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management and marketing in Belgium in relation to most types of AIF, on a services and/or branch basis. In order to do so, the Belgian Law on AIFs sets out several conditions to be fulfilled.

Regardless of whether an existing passport to do management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or market an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to the Belgian Financial Services and Markets Authority ("**BFSMA**") on behalf of the EEA AIFM.

EEA AIFMs will need to send any approved persons forms to the BFSMA if they are exercising a branch passport right in Belgium, as well as to approve all persons carrying on controlled functions.

A full scope EEA AIFM wishing to market a Belgian AIF or EEA AIF to retail (as well as professional) investors in Belgium may do so if its home State competent authority has submitted a passport notification to the BFSMA to market the AIF to retail (as well as professional) investors. Please note that in the case of a public offer of the AIF's units in Belgium, registration of the AIF with the BFSMA and approval of a prospectus will be required.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to market AIFs in Belgium will be required to notify the BFSMA with the documents required under (as applicable) Article 39 §5 or 40 §6 of AIFMD. Transitional arrangements have been put in place for AIFMs to be able to continue to carry on Non-EEA activities on the basis of existing requirements.

3. Fees

To date, no application fee for outward or inward AIFMD passport notifications has been announced by the BFSMA. However, each and all financial institutions subject to prudential supervision in Belgium (including AIFs and AIFMs) have to pay annually a variable fee and/or a fixed fee to the BFSMA. In this respect, AIFMs have to pay a variable fee¹ and AIFs have to pay an annual fee between EUR 375 and EUR 3,000².

¹ Each year, a global contribution budget for the operating expenses of the FSMA is fixed (about EUR 68 million in 2013) and each different category of financial institutions has to participate in a fixed proportion to this budget. The category encompassing the AIFMs has to contribute with a 2.49% proportion of the global contribution budget. The 2.49% contribution is itself divided between the financial institutions of that category on the basis of criteria such as their regulatory capital, revenues, and balance sheet.

² Calculated in proportion of the amount of assets under management of the previous year.



1. EEA AIFMs

An AIFM, authorised by the competent authority of its home State may manage and market AIFs in Bulgaria directly and/or through a branch provided that a notification is sent by the competent authority of its home State to the Bulgarian Financial Supervision Commission ("**FSC**"), accompanied by the documents specified in the Collective Investment Schemes and Other Undertakings for Collective Investments Act ("**CISOUCIA**"), and a confirmation that the AIFM is licensed by the competent authority of its home State is received.

Regardless of whether an existing passport to conduct management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to manage or market AIFs on a passported basis.

AIFMs marketing AIFs in Bulgaria are allowed to do so only to professional investors. Marketing to non-professional investors within Bulgaria is permitted only with respect to national investment funds (a new fund structure introduced by the CISOUCIA following the implementation of the AIFMD), which involves the preparation and approval of a prospectus.

2. Third country AIFMs

AIFMs established in Non-EEA jurisdictions may market in Bulgaria AIFs not offered in other EEA jurisdictions provided that certain requirements are met. Such requirements include, amongst others, that (i) the AIFM complies with the requirements of the CISOUCIA, (ii) cooperation arrangements are in place between Bulgaria and the AIF's and/or AIFM's country of origin, and (iii) the marketing by the Non-EEA AIFM has been approved by the FSC.

3. Fees

The FSC tariff has not been updated following the implementation of the AIFMD and as a result the tariff currently does not provide for either fees for AIFM passport notifications or periodic fees for FSC supervision over the regulated activities of AIFMs.



Croatia

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management and marketing in Croatia in relation to those types of AIF for which they have been granted authorisation in their EEA home State. These rights may be exercised directly (i. e. on a services basis) and/or on a branch basis.

EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or market an EEA AIF on a passported basis. The home State competent authority will send the passport notification to the Croatian Financial Services Supervisory Agency (Hrvatska agencija za nadzor finansijskih usluga) (“**HANFA**”) on behalf of the EEA AIFM. The EEA AIFM will be allowed to market AIFs in Croatia to professional investors¹ upon notification by the home State competent authority that the relevant passport notification² has been sent to HANFA.

In order to market AIFs to retail investors, HANFA’s authorisation is required. Documents which need to be translated into Croatian and conditions which need to be fulfilled in that regard are prescribed by the ordinance on issuing authorisation to offer units in AIFs to retail investors in the Republic of Croatia (Official Gazette No. 105/13)³.

2. Third country AIFMs

Generally, Non-EEA AIFMs are allowed to perform their activity in Croatia on a branch basis or directly on a services basis if they have been granted authorisation by the competent authority of the Member State of reference (determined under Articles 157 and 158 of the Croatian Act on AIFs). Non-EEA AIFMs also need HANFA’s authorisation to market AIFs to retail investors. For specific rules applicable to them please see the ordinance on issuing authorisation to offer units in AIFs to retail investors in the Republic of Croatia (Official Gazette no. 105/13).

3. Fees

HANFA charges fees of varying levels in relation to the AIFMD passport notifications on both a branch and services basis. The fees and costs vary depending on the type of passport notification. The fee payable for EEA AIFMs is HRK 22,000 (approximately EUR 2,900) and HRK 66,000 (approximately EUR 8,600) in the case of Non-EEA AIFMs. Full guidance (in Croatian) on fee charges for AIFMD passporting can be found at: http://narodne-novine.nn.hr/clanci/sluzbeni/2014_03_40_719.html.

In addition, HANFA charges fees for supervision on a monthly basis, in the overall annual amount varying from HRK 14,000 to 30,000 (approximately EUR 1,800–4,000) per AIF⁴.

¹ Professional investors are: (i) investors defined as such under Croatian Capital Market Act (clients who possess the experience, knowledge and expertise to make their own investment decisions and properly assess the risks that these incur, including for example investment companies, credit institutions, insurance companies, collective investment schemes, pension funds, etc.) and (ii) persons treated as such at their own request.

² The notification needs to include a programme of operations, stating in particular the services which it intends to perform and identifying the AIFs it intends to manage. In addition, in the case of a branch passport right, the notification needs to include data on organisational structure, address of the branch and data on persons responsible for the management of the branch.

³ Croatian text available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2013_08_105_2371.html.

⁴ For a precise fee structure see: <http://www.hanfa.hr/getfile/40401/Annual%20supervisory%20fees.pdf>.



1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for the management and marketing of most types of AIFs in Cyprus on a services and/or branch basis. In order to do so, the Act on AIFMs (56 I/2013) (“**AIFM Act**”) and the Cyprus Securities and Exchange Commission (“**CySEC**”) Directive on Marketing of AIFs (“**CySEC Marketing Directive**”), which is expected to be passed soon, requires EEA AIFMs to satisfy certain notification and marketing organisation requirements.

Regardless of whether an existing passport to conduct management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to manage or market an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to the CySEC on behalf of the EEA AIFM.

In order to exercise a branch passport right in Cyprus, EEA AIFMs will not need to comply with any additional requirements, other than those provided under Article 33 of the AIFMD.

A full scope EEA AIFM wishing to market a Cypriot AIF, or EEA AIF¹ to retail (as well as professional) investors in Cyprus may do so, provided the following conditions are met:

- In the case of an EEA AIF, prior authorisation for marketing to retail investors has been received by the CySEC and the AIF at issue is not an unregulated AIF;
- In the case of a Cypriot AIF, such AIF must have been authorised by the CySEC as eligible for marketing to retail investors. The extent of such eligibility will depend on the regulatory categorisation of the AIF upon its authorisation;
- In the case of an EEA AIF targeting professional investors in Cyprus, it may do so under observance

of the AIFMD notification procedure, in order to obtain access to the Cypriot market, and observance of the local marketing requirements laid down in the CySEC Marketing Directive, in order to lawfully carry out marketing activities in Cyprus; and

- In the case of a Cypriot AIF targeting professional investors in Cyprus, it may do so provided such AIF falls within the scope of the Cypriot Act on Alternative Investment Funds (“**AIF Act**”).

2. Third country AIFMs

AIFMs based in non-EEA jurisdictions wishing to market AIFs to professional investors in Cyprus will be required to comply with both AIFMD requirements, as transposed by the AIFM Act, and additional national rules. The AIFMD requirements transposed by the AIFM Act comprise non-EEA jurisdiction FATF compliance, regulators’ cooperation arrangements and compliance with the transparency, disclosure, reporting and private equity provisions, where applicable. The additional national rules, laid down in the CySEC Marketing Directive, require the non-EEA AIFM to be licensed in its home jurisdiction and to submit a relevant notification to the CySEC, in which its licensing and AIFMD compliance (as set out above) are certified. Following such notification, marketing to professional investors in Cyprus can commence. Private placement opportunities have been abolished following the enactment of the AIFM Act, whereas reverse solicitation is possible.

3. Fees

Cyprus does not charge an application fee for inward AIFMD passport notifications but it does so for outward passport notifications. EEA AIFMs passporting into Cyprus on a branch basis are not required to pay periodic fees on the regulated activities they are conducting in Cyprus.

¹ Subject to the Cypriot AIF or EEA AIF not being a feeder AIF, the master AIF of which is managed by a non-EEA AIFM or is a non-EEA AIF.



Czech Republic

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management of AIFs in the Czech Republic on a services and/or branch basis. To obtain a passport, the EEA AIFM must notify its home State competent authority, which will then send the passport notification to the Czech National Bank (the “**CNB**”). Once the EEA AIFM has received the notification from its home State competent authority that it has delivered the passport notification to the CNB, the EEA AIFM can manage a Czech based AIF and/or offer units in an EEA AIF that it manages in the Czech Republic.

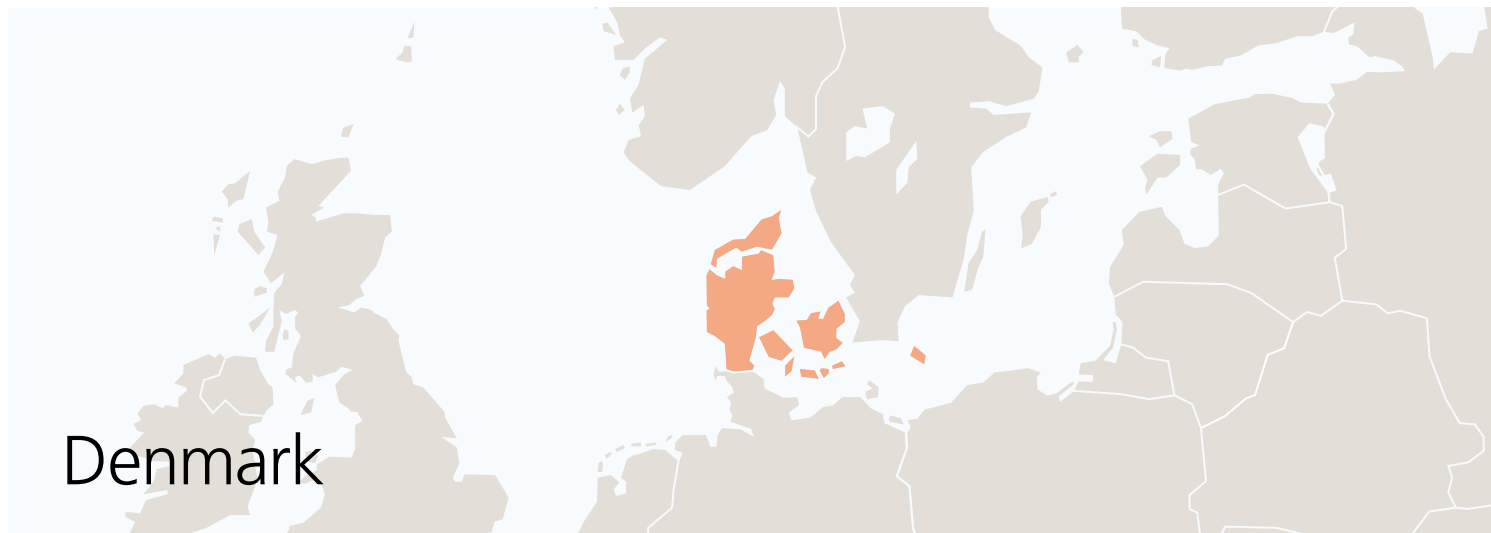
In principle, an investment into an AIF can be publicly offered in the Czech Republic following the registration of such AIF with the CNB. A specific passport notification procedure with the EEA AIFM’s home State competent authority and the CNB (but no registration with the CNB) is required for distribution of units of the EEA AIF in the Czech Republic to professional investors only.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to manage or distribute units of the EEA AIF in the Czech Republic will be required to apply for permission by the CNB. Moreover, an EEA AIF (provided it is not a Czech based AIF) needs to be registered with the CNB before the third country AIFMs may start to offer investments into the AIF.

3. Fees

The CNB does not charge an application fee for outward or inward AIFMD passport notifications. The CNB does not currently charge any periodic fees on the regulated activities the EEA AIFM is conducting in the Czech Republic, or any fees for applications for permission issued by the CNB.



Denmark

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for the marketing of EEA based AIFs to professional investors in Denmark under the passporting regime provided for by the AIFMD.

Regardless of whether an existing passport to conduct management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to market an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to the Danish Financial Supervisory Authority ("**FSA**") on behalf of the EEA AIFM.

An EEA AIFM wishing to market an EEA AIF to retail (as well as professional) investors in Denmark may do so provided that their home State competent authority has (i) submitted a passport notification to the FSA to market the AIF to professional investors and (ii) submitted a separate application to the FSA in accordance with Executive Order No. 797 of 26 June 2014 on Marketing to Retail Investors, together with a number of other documents and information, including the constitutional documents for the AIF, the Private Placement Memorandum, the Subscription Agreement, Key Investor Information Documents, Annual Report and the name of the appointed depository.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to market Non-EEA AIFs to professional investors in Denmark will be required to apply to the FSA for a marketing permission in accordance with Executive Order No. 798 of 26 June 2014 on Marketing of non EEA AIFs to Professional

Investors. Denmark has chosen to 'gold-plate' the AIFMD Article 42 regime by requiring the appointment of a depository to carry out the 'depo-light' functions, and the provision of a reciprocity statement by the AIF's home State regulator or, if unavailable due the characteristics of the AIF, by a qualified lawyer.

Likewise, Non-EEA AIFMs wishing to market EEA AIFs to professional investors in Denmark will be required to apply to the FSA for a marketing permission in accordance with Executive Order No. 799 of 26 June 2014 on Marketing of EEA AIFs to Professional Investors, and provide various information and documentation (as under the Article 42 regime), including documentation evidencing that the AIFM is permitted to manage the AIF. A depository would need to be appointed; however, there is no requirement for a reciprocity statement.

A Non-EEA AIFM may market EEA and/or Non-EEA AIFs to retail investors in Denmark if the AIFM has obtained permission to market the AIF to professional investors in Denmark and has applied to the FSA for a marketing permission in accordance with Executive Order No. 797 of 26 June 2014 on Marketing to Retail Investors, and has provided various information and documentation (as under the Article 42 regime) including, in respect of Non-EEA AIFs, documentation from the supervisory authority in the AIF's home State evidencing that the AIF is subject to supervision. A depository would also need to be appointed.

3. Fees

There is no fee payable for the application or registration itself, but the AIFM is subject to an annual fee of approximately DKK 5,000 (in 2014) per fund or per compartment thereof. The fee is subject to annual adjustments.



Estonia

1. EEA AIFMs

AIFMs who are authorised in their EEA home State may exercise passport rights for management and marketing in Estonia on a cross-border or branch basis. The requirements for passporting are stipulated in the Investment Funds Act and a Regulation of the Minister of Finance issued thereunder.

An EEA AIFM can manage an AIF established in Estonia on a cross-border basis by submitting relevant documents to the Estonian Financial Supervision Authority (the “EFSA”) through the competent authority of its home State. Similarly, in order to establish a branch for managing an AIF in Estonia, an EEA AIFM must submit relevant documents to the EFSA via its home State competent authority. In both cases the EEA AIFM may commence management of an AIF once the EFSA has received proper information from the home State competent authority.

Marketing of an EEA AIF in Estonia is possible through the private placement regime. In order to do this the EEA AIFM must make a notification to the EFSA through its home State competent regulator. After the EFSA has received the proper information, the EEA AIFM may commence marketing.

Marketing of a Non-EEA AIF by an EEA AIFM is possible if the AIF is not marketed in any other EEA state and if the AIF is marketed through a private placement. Submitting a notification with relevant documents to the EFSA is required. The EFSA will notify the EEA AIFM 30 business days after it has received the relevant documents if the EEA AIFM is allowed to commence marketing in Estonia.

Additionally we would like to note that Estonia has implemented Article 43 of the AIFMD into the local law, which allows public placement of an EEA AIF in Estonia

if the public placement of the EEA AIF is also permitted in the home State of the AIF. Estonian regulation regarding public placement applies.

2. Third country AIFMs

Estonia has implemented Article 42 of AIFMD, allowing marketing of a Non-EEA AIF by a Non-EEA AIFM provided that the AIF is not marketed in any other EEA countries and the marketing is done in the course of a private placement. A notification is to be submitted to the EFSA who will inform the Non-EEA AIFM 30 business days after the receipt of the respective documents whether it is allowed to start marketing. Public placement is also available to the Non-EEA AIFM; the relevant provisions of the Investment Funds Act apply.

In addition, Non-EEA AIFMs wishing to market or manage AIFs in Estonia need to comply with local management and placement regimes (i. e. private and public placement).

3. Fees

No fees are payable for the AIFMD notifications by EEA AIFMs and Non-EEA AIFMs (this applies to both management and marketing in the course of private placement). A processing fee of EUR 600 is paid upon application for the registration of public placement (applies to both EEA and Non-EEA AIFMs). EEA AIFMs are required to pay periodic supervision fees in proportion of the share of assets of the AIF managed by its branch in Estonia.

In addition, certain processing and supervision fees are applicable to marketing or managing funds outside the AIFMD passport.



Finland

1. EEA AIFMs

The AIFMD has been implemented in Finland by the Act on Alternative Investment Fund Managers (Fi: laki vaihtoehtorahastojen hoitajista, 162/2014) (the “**AFMA**”), which entered into force on 15 March 2014. The national requirements under the AFMA regarding passporting rights to manage and market AIFs in Finland do not go beyond the requirements of the AIFMD where an AIFM is authorised in its EEA home State.

An EEA AIFM may manage an AIF in Finland without establishing a branch or a subsidiary directly, on a cross-border basis in accordance with the notification procedure set out in Chapter 19, section 2 of the AFMA and based on Article 33 of the AIFMD. Such EEA AIFM should also be entitled to establish a branch in Finland in accordance with Article 33 of the AIFMD. This is, however, not expressly stated in the AFMA and the law does not provide specific organisational requirements for branches of such AIFMs. Furthermore, EEA AIFMs may market EEA AIFs under their management in Finland on a cross-border basis by way of the notification procedure provided for in Chapter 19, section 5 of the AFMA and based on Article 32 of the AIFMD.

If an EEA AIFM intends to also market AIFs under its management to non-professional investors in Finland, it must meet further requirements set out in Chapter 13 of the AFMA in its marketing, including preparing and making available a key investor information document for the AIFs in question. The content requirements of such document are specified in the AFMA and in a separate Decree issued by the Ministry of Finance (228/2014).

EEA AIFMs are required to make a separate passporting notification under the AFMA regardless of whether an existing passport to conduct management business under another regime (such as UCITS) is held.

2. Third Country AIFMs

A Non-EEA AIFM may market in Finland units in an AIF that is established either in an EEA State or a Non-EEA State after submitting a written notification to the Finland Financial Supervisory Authority (Finanssivalvonta) (“**FIN-FSA**”). Marketing may commence once the AIFM has received an acknowledgement thereof from the FIN-FSA. To receive the acknowledgement, Non-EEA AIFMs must comply with the requirements set out in Chapter 20, section 3 of the AFMA (being the national private placement rules), which, as a main rule, correspond to the requirements set out in Article 42 of the AIFMD. Furthermore, for the purposes of the reporting obligations under the AIFMD, FIN-FSA must be provided with information on the AIFM and any AIF managed by it and marketed in Finland.

Where a Non-EEA AIFM markets in Finland, the AIFs can only be marketed to professional investors.

3. Fees:

The processing of notifications in the FIN-FSA is subject to fixed processing fees. The fees charged for various notifications are listed in the relevant schedule. These schedules are available on the webpages¹ of the FIN-FSA.

Furthermore, periodic charges are levied on (i) EEA AIFMs who manage AIFs in Finland either through a branch or without a branch, and (ii) Non-EEA AIFMs marketing AIFs in Finland if the Non-EEA AIFM is operating through a branch in Finland.

¹ http://www.finanssivalvonta.fi/en/About_us/Powers_funding/Funding/Processing_fees/Pages/Default.aspx



France

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management and marketing in France in relation to most types of AIF, on a services and/or branch basis. In order to do so, the French Financial Authority (Autorité des marchés financiers) (“**AMF**”) requires the AIFM to satisfy certain service conditions set out, amongst others things, in the AMF Instruction no. 2008-03.

Regardless of whether an existing passport permitting management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to manage or market an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to the AMF on behalf of the EEA AIFM.

EEA AIFMs will need to send the following documents to their home State competent authority if exercising a branch passport in France:

- A programme of activity detailing the service or services that they wish to provide and identifying the AIFs that they plan to manage;
- The organisational structure of the branch;
- A French address from which documents may be requested along with the names and contact details of the branch’s directors; and
- A statement indicating that their home State competent authority has authorised them under AIFMD.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions who wish to market AIFs in France will be required to request a marketing authorisation from the AMF.

In order to market in France either a Non-EEA AIF or an EEA AIF which is managed by a Non-EEA AIFM, the Non-EEA AIFM must comply with security and transparency rules which are equivalent to those applicable in France. Such marketing of a Non-EEA AIF or an EEA AIF which is managed by a Non-EEA AIFM is also subject to the set-up of a mutual exchange data system related to the Non-EEA AIFM between the AMF and the competent authority of the Non-EEA AIF or EEA AIF.

3. Fees

France does not charge an application fee for outward or inward AIFMD passport notifications. However, as an AIFM is an entity supervised by the AMF, the AMF requires AIFMs that passport into France on a services basis or as a branch to pay periodic fees. Such periodic fees should be paid annually to the AMF. They are calculated on the basis of the amount of the assets under management (i) wherever their localisation at 31 December of the previous year and (ii) notified at the latest on 30 April of the current year, on which a determined rate is applied.



Germany

1. EEA AIFMs

German law distinguishes as to which type of investors the EU AIF shall be distributed to.

a) Distribution to Semi-Professional and Professional Investors in Germany

EU AIFs managed by EU AIFMs may be distributed in Germany by using the European marketing passport stipulated in the AIFMD. The passport permits distribution of the EU AIF to Semi-Professional and Professional Investors in Germany. For EU feeder AIFs the passport is only available if the master AIF is an EU AIF managed by an EU AIFM. In order to obtain such passport for an EU AIF for Germany, its EU AIFM must notify the home State regulator as to every EU AIF which it intends to distribute in Germany. The home State regulator will notify the Federal Financial Supervisory Authority (BaFin) thereof. The requirements are laid down in the national law applicable to the EU AIFM which should be in accordance with Article 32 of the AIFMD. BaFin verifies whether (i) the notification file submitted by the home State regulator is complete, (ii) the home State regulator has issued a statement that the relevant EU AIFM is authorised to manage the relevant AIFs and (iii) the documents have been submitted in a language customarily used in international finance. BaFin further verifies whether the agreements with distribution partners prevent distribution to retail investors. Marketing in Germany may commence as soon as the competent authorities in the EU AIFM's home member State have informed the EU AIFM that its notification has been transmitted to BaFin. Marketing is subject to further requirements vis-à-vis approaching investors, in particular regarding the form of information disclosure.

b) Distribution to retail investors in Germany

An EU AIFM may also notify an EU AIF managed by it for distribution to retail investors in Germany. However, it cannot rely in this respect on the EU marketing passport. In order to obtain such marketing permission, the EU

AIFM must file a notification to BaFin directly indicating its intention to distribute an EU AIF to retail investors in Germany. Approval is only granted if a number of requirements specified in the German Capital Investment Code are adhered to (e.g. more detailed prospectus, adherence to certain structural requirements, etc.). Marketing may not commence until formal approval has been obtained from BaFin.

2. Third country AIFMs

A non-EU AIFM may notify EU AIFs managed by it for distribution to retail, Semi-Professional or Professional Investors in Germany. Distribution notifications must be filed to BaFin directly. BaFin will only grant its approval if certain structural and documentary requirements are fulfilled. The EU AIFM must submit itself to ongoing reporting obligations vis-à-vis the investors and BaFin. Marketing cannot commence until formal approval has been obtained from BaFin.

3. Fees

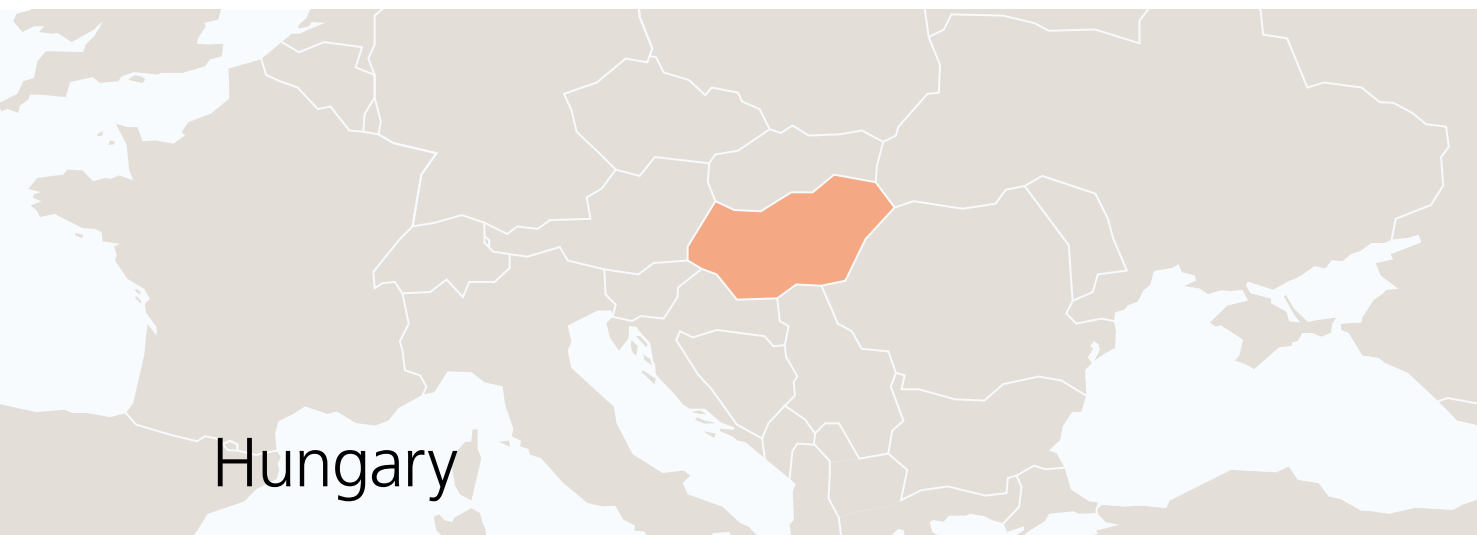
a) Marketing to Semi-Professional and Professional Investors

Fees charged for distribution permission are dependent on the statutory seat of the AIFM and AIF. BaFin charges a one-time fee for the notification by (i) an EU AIFM of EUR 772 per single EU AIF or sub-fund and (ii) a non-EU AIFM of EUR 6,582 per single EU AIF or sub-fund. In addition, in case of a non-EU AIFM BaFin charges EUR 1,088 per EU-AIF or sub-fund p.a.

b) Marketing to retail investors

BaFin charges a fee of EUR 2,520 per EU AIF or sub-fund notified to it. In addition, BaFin charges an annual fee of EUR 204 per EU AIF or sub-fund. Those fees are identical for EU AIFMs and non-EU AIFMs.

Note: Different rules apply to (i) EU AIFM marketing non-EU AIF and (ii) non-EU AIFM marketing non-EU AIF. These are not described herein.



1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for the relevant regulated services (including management and marketing distribution of funds) in Hungary in relation to most types of AIF, on a services and/or branch basis. In order to do so, Act XVI of 2014 on Collective Investment Firms and their Managers (the “**Investment Funds Act**”) requires the AIFM to satisfy certain service conditions.

Regardless of whether an existing passport to conduct management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to manage or market an EEA AIF on a passported basis.

The home State competent authority will send the management passport notification to the Central Bank of Hungary (Magyar Nemzeti Bank) (“**MNB**”) on behalf of the EEA AIFM.

EEA AIFMs will need to comply with Hungarian legal requirements on prudential operations, outsourcing, conflicts of interest and risk management, as set out in the Investment Funds Act, and other laws if they are exercising a branch passport in Hungary.

A full scope EEA AIFM wishing to market either a Hungarian AIF or an EEA AIF¹ to retail (as well as professional) investors in Hungary may do so if their home State competent authority has submitted a passport notification to the MNB to market the AIF to professional investors. However, if the AIF takes the form of an unregulated collective investment scheme, the AIFM may not promote any type of funds (including EEA AIFs) to Hungarian investors.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions who wish to market AIFs in Hungary will be required to comply with the provisions of the Investment Funds Act on operational rules and reporting requirements. The MNB must also have a cooperation agreement in place with the relevant home State regulators and the Non-EEA AIFM may not be incorporated in a jurisdiction which appears on the FATF list as a non-cooperating country.

3. Fees

Hungary does not charge an application fee for outward or inward AIFMD passport notifications. However, EEA AIFMs passporting into Hungary as a branch are required to pay periodic fees on the regulated activities they are conducting in Hungary.

Periodic fees will be based on both gross income and funds under management. EEA AIFMs receive a discount to reflect the reduced scope of the appropriate regulator’s responsibilities in respect of them. The level of the discount varies depending on the fee-block under which the AIFM falls, and according to the division of responsibilities between the home State regulators and the other regulators for AIFMs in each fee-block.

The MNB does not require AIFMs that passport into Hungary on a services basis to pay periodic fees.

¹ So long as it is not a feeder AIF, the master AIF of which is managed by a Non-EEA AIF or is a Non-EEA AIF

Ireland



1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management in Ireland in relation to AIFs in the scope of AIFMD, on a services and/or branch basis, provided that the AIFM is authorised to manage the relevant type of AIF.

Regardless of whether an existing passport to perform management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if they intend to manage an AIF domiciled in Ireland on a passported basis. The home State competent authority will send the management passport notification to the Central Bank of Ireland (“CBI”) on behalf of the EEA AIFM.

In relation to marketing, a full scope EEA AIFM authorised in an EEA State other than Ireland which would like to market an Irish AIF or EEA AIF¹ to professional investors in Ireland may do so in compliance with the requirements set out by its home State competent authority. A full scope EEA AIFM authorised in Ireland which would like to market an Irish AIF or EEA AIF² to professional investors in Ireland may do so by applying to the CBI directly using a prescribed form, which is available from the CBI website: <http://www.centralbank.ie>.

2. Third country AIFMs

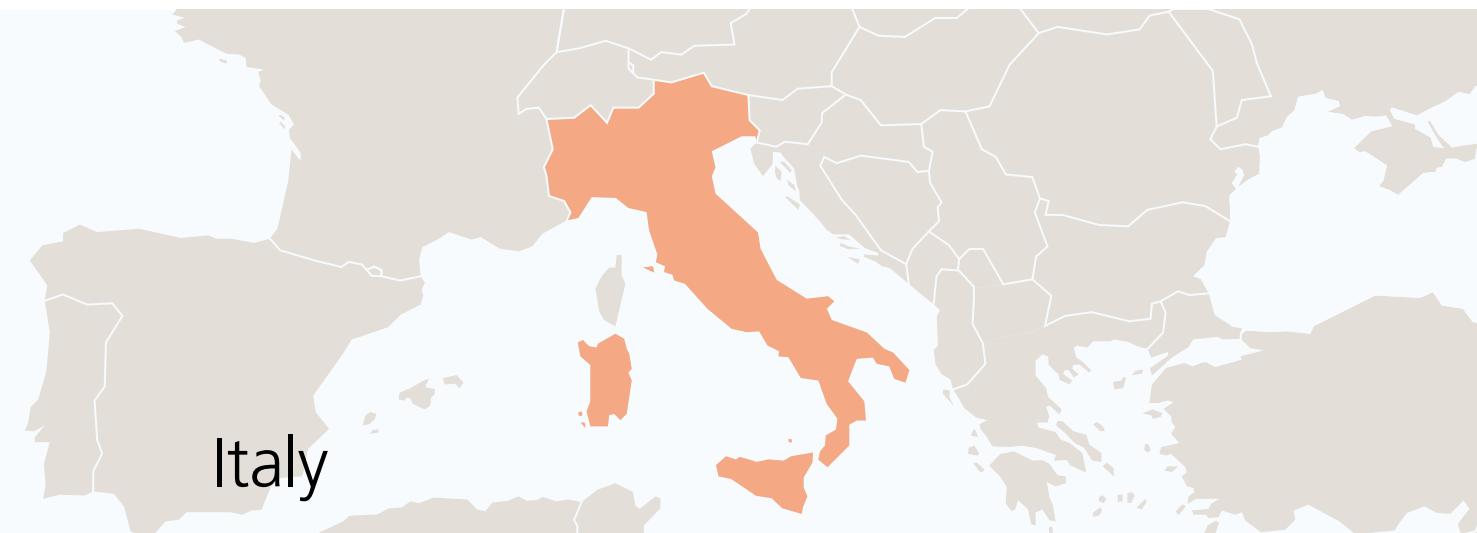
AIFMs based in Non-EEA jurisdictions who wish to market AIFs to professional investors in Ireland must apply to the CBI for approval of those AIFs intended to be marketed in Ireland. Marketing of such an AIF may commence once the CBI confirms receipt of the notification and consents to the marketing.

3. Fees

Ireland does not currently charge an application fee for outward or inward AIFMD passport notifications.

¹ So long as it is not a feeder AIF, the master AIF of which is managed by a Non-EEA AIFM or is a Non-EEA AIF.

² Footnote 1 is also applicable in this case.



1. EEA AIFMs

Asset management companies authorised in their EEA home State as AIFMs under the AIFMD may carry out the asset management activities in Italy, which they are authorised for in their home State, either through a branch or on a cross-border basis.

Under Article 41-ter of the Consolidated Financial Act (Legislative Decree no. 58/1998) (the “CFA”), in order to carry out such asset management activities, prior notification to the Bank of Italy is required. The EEA home State competent authority must inform the Bank of Italy, who will promptly forward such communication to Consob, the Italian Securities Market Supervisory Authority.

Specific requirements apply for the management of Italian AIFs by EEA AIFMs. For example, in order to manage an Italian AIF, EEA AIFMs must be authorised to manage AIFs in their home State with similar characteristics.

EEA AIFMs operating in Italy through a branch must comply with a number of Italian law/regulatory provisions, including conduct rules, conflict of interest provisions, and the disclosure requirements under Article 8 of the CFA.

2. Third country AIFMs

The Bank of Italy, following a consultation with Consob, may authorise Non-EEA AIFMs to manage Italian or other EEA AIFs, or to market in the EU such managed AIFs provided that Italy qualifies as a ‘Member State of Reference’ under Article 4 (z) and Article 37 (4) of AIFMD. Once authorised, the relevant AIFM will be registered in the special section of the Registry of Asset Management Companies held by the Bank of Italy under Article 35 of the CFA.

Non-EEA AIFMs that have been authorised in other EEA countries may manage Italian AIFs either through a branch or on a cross-border basis by following the notification process under Article 41-ter of the CFA (see paragraph 1

above on EEA AIFMs for a further explanation of this process).

Non-EEA AIFMs operating in Italy through a branch must comply with a number of Italian law/regulatory provisions, including conduct rules, conflict of interest provisions, and the disclosure requirements under Article 8 of the CFA.

The Bank of Italy, in agreement with Consob, will issue the implementing provisions regulating the authorisation procedure for Non-EEA AIFMs. First drafts of these regulations were published for public consultation on 26 June 2014 and therefore remain subject to change. The implementation process should complete on 31 December 2014.

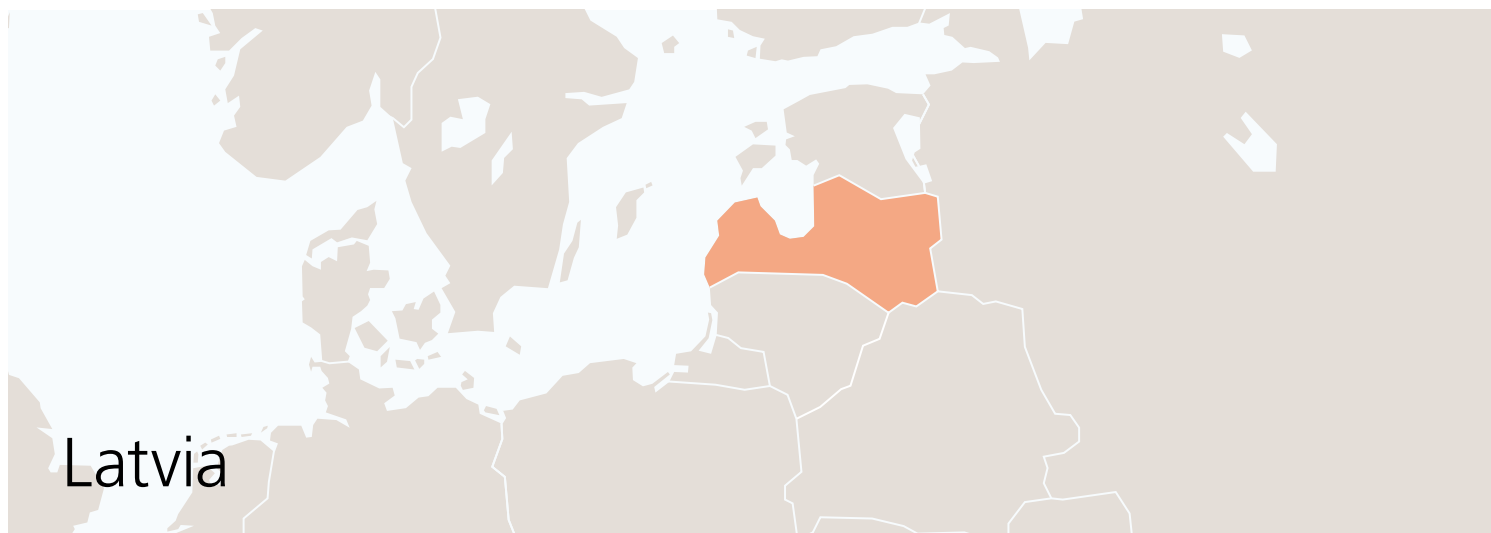
3. Fees

Each year Consob issues specific resolutions determining the fees payable for the following year by supervised entities, including foreign asset management companies operating in Italy, either through a branch or on a services basis.

The relevant Consob resolutions setting out the supervisory fees for the year 2014 were issued on 23 December 2013 and therefore do not contain an express reference to AIFMs, since the AIFMD was implemented in Italy by Legislative Decree n. 44 of 4 March 2014, which amended the provisions of the CFA.

It is expected that the Consob resolutions that will be issued at the end of 2014 to determine the fees for the year 2015 will provide for AIFMs the same annual fees applicable to Italian and foreign asset management companies.

No application fee is payable in respect of outward or inward passport notifications by asset management companies, nor is it expected that such a fee will be introduced in respect of AIFMs following full implementation of the AIFMD.



1. EEA AIFMs

Under the Law on Alternative Investment Funds and their Managers 2013 (“**LAIFM**”) AIFMs may operate either as registered or authorised managers. AIFMs registered in their EEA home State are only entitled to market units or shares to professional investors upon receipt of permission from the Latvian regulator, the Financial and Capital Market Commission (“**FCMC**”). As LAIFM does not provide an opportunity for AIFMs to operate through a branch, marketing may be carried out directly.

Authorised AIFMs may market units or shares of EEA and Non-EEA AIFs to retail and professional investors as soon as the FCMC has received notification by the EEA home State’s competent authority that the relevant passport notification has been sent, along with copies of those documents required for authorisation under AIFMD.

However, authorised AIFMs are only allowed to provide the full scope of services if they manage an AIF which is registered in Latvia. An authorised AIFM may commence respective services directly or through a branch upon receipt of a notification from the home State’s competent authority, along with the documents required for authorisation under AIFMD and an attestation on authorisation in their home State by the FCMC.

2. Third country AIFMs

AIFMs domiciled in Non-EEA jurisdictions wishing to manage an AIF registered in Latvia, or market units or shares of EEA and Non-EEA AIFs in Latvia, must apply for an authorisation from the FCMC. However, certain AIFMs may be exempt from requiring certain documents for authorisation, due to the specific legislative requirements of their domicile jurisdiction. In order to obtain an authorisation, the AIFM must have a representative in Latvia who has the required skills and competencies, as well as the funds to provide the services.

3. Fees

AIFMs are not subject to any fees when operating under the passporting regime, unless they operate through a branch. If operating through a branch, the fee for branch supervision is calculated as a percentage of the gross income generated by the Latvian branch. This fee must be paid to the FCMC on an annual basis.



Luxembourg

1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for management and marketing in Luxembourg in relation to most types of AIFs on a services and/or branch basis. In order to do so, the Luxembourg law transposing the AIFMD into Luxembourg ("**AIFMA**") requires the AIFM to satisfy certain conditions as set out in Article 31 and Article 33.

Regardless of whether an existing passport to do management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or market an EEA AIF on a passported basis.

The home State competent authority will send the management passport notification to the Luxembourg regulator (Commission de Surveillance du Secteur Financier) ("**CSSF**") along with a certificate (as mentioned in Article 33(4) of the AIFMD), on behalf of the EEA AIFM. The EEA AIFM can commence its management activities in Luxembourg from the date of notification by the home State competent authority to the CSSF.

According to Article 31 of the AIFMA, the home State competent authority will send the passport notification and the certificate to the CSSF if the EEA AIFM intends to distribute to investors, Luxembourg AIFs, or EEA AIFs within Luxembourg. The EEA AIFM can commence its distribution activities in Luxembourg from the date of notification by the home State competent authority to the CSSF.

However, if the AIF is an unregulated AIF, it may only promote such activities to professional investors, in accordance with Article 31 of the AIFMA.

2. Third country AIFMs

AIFMs based in Non-EEA (third country) jurisdictions wishing to market AIFs in Luxembourg will be required to conduct distribution on a private placement basis and to observe the financial promotion rules.

The CSSF proceeds on a case by case analysis for AIFMs based in Non-EEA jurisdictions (there is no official list of equivalent countries). A list of the cooperation agreements signed by the CSSF with Non-EU and Non-EEA authorities has however been published¹.

3. Fees

The CSSF will charge a flat fee for each non-Luxembourg AIF marketing within Luxembourg. EEA AIFs with a single compartment will have to pay a lump sum of EUR 2,650 and EEA AIFs with multiple compartments will have to pay a lump sum of EUR 5,000.

The CSSF will charge the same annual flat fee for each EEA AIF.

The CSSF does not charge an application fee for AIFM passport notification.

¹ http://www.cssf.lu/fileadmin/files/AIFM/FAQ_AIFMD.pdf



1. EEA AIFMs

The Investment Services Act (Alternative Investment Fund Manager (Passport) Regulations) applies to Maltese AIFMs providing services in a home State or EEA State as well as to EEA AIFMs providing services in Malta, whether through a branch or under the freedom to provide services.

An EEA AIFM which intends to manage Maltese AIFs directly without a branch must inform its home State regulatory authority of its intention and present a programme of operations which it intends to perform. The documentation received from the EEA AIFM, together with a statement to the effect that the EEA AIFM is authorised by the home State regulatory authority is then transmitted to the Malta Financial Services Authority (“**MFSA**”) following which the EEA AIFM may commence operations in Malta.

Similarly, an EEA AIFM wishing to establish a branch must, in addition to the above mentioned documentation required, provide information to its home State regulatory authority on the organisational structure of the branch, contact details of the management of the branch and on how to obtain documentation on the AIFs being managed. Following the transmission of the documentation to the MFSA the AIFM may commence the provision of its services in Malta.

An EEA AIFM wishing to market an EEA AIF that it manages may do so in accordance with the Investment Services Act (Marketing of Alternative Investment Funds). The EEA AIFM must first present a notification to its home State regulatory authority containing the information set out in Annex IV of the AIFMD. Within twenty working days of receipt of the notification file the MFSA must also receive a statement to the effect that the EEA AIFM is authorised to manage EEA AIFs. Upon transmission of the notification file to the

MFSA, the EEA AIFM may begin marketing the EEA AIF in Malta. Certain additional requirements apply when marketing to retail investors or marketing a European feeder fund.

2. Third country AIFMs

A Non-EEA AIFM may only market a Non-EEA AIF or an EEA AIF which it manages, in Malta to professional investors. The marketing of such AIFs is subject to the rules set out in the Investment Services Act (Alternative Investment Fund Manager) (Third Country) Regulations and is subject to the local private placement regime.

Non-EEA AIFMs which have been authorised in another Member State of reference are entitled to the same passporting rights as EEA AIFMs.

3. Fees

The Investment Services Act (Fees) Regulations set fixed fees in relation to EEA AIFMs passporting through a branch. Such European AIFMs are subject to an application/notification fee of EUR 1,250 as well as an annual/supervisory fee of EUR 4,000. There are no fees applicable when passporting under the freedom to provide services.

Marketing of units or shares of an AIF by an EEA or Non-EEA AIFM is subject to an application/notification fee of EUR 2,500 per AIF and an annual/supervisory fee of EUR 3,000 per AIF. In cases where the AIF has sub-funds, an application/notification fee of EUR 450 and an annual/supervisory fee of EUR 500 per sub-fund is applicable.



The Netherlands

1. EEA AIFMs

AIFMs who are authorised in their EEA home State which has implemented the AIFMD may exercise passport rights for management and marketing of AIFs to professional investors (*professionele beleggers*) in the Netherlands on a services and/or branch basis.

To obtain a passport, the EEA AIFM must notify its home State competent authority, which will then send the passport notification to the Netherlands Authority for the Financial Markets (*Autoriteit Financiële Markten*) (the “**AFM**”). Once the EEA AIFM has received the notification from its home State competent authority that it has sent the passport notification to the AFM, the EEA AIFM can manage a Dutch AIF and/or offer units in an EEA AIF that it manages in the Netherlands.

In the event that an EEA AIFM manages a Dutch AIF and/or offers units in an EEA AIF that it manages in the Netherlands through a Dutch branch, it must comply with certain Dutch law provisions regarding conduct supervision.

Following the Dutch Amendment Act Financial Markets 2015 (*Wijzigingswet financiële markten 2015*), it is anticipated that, as of 1 January 2015, it will also be possible for EEA AIFMs to manage a Dutch AIF that offers units to non-professional investors (*niet-professionele beleggers*) in the Netherlands and/or to offer units in an EEA AIF that it manages to non-professional investors in the Netherlands by means of its passport. If an EEA AIFM offers units in an AIF to non-professional investors, the Dutch ‘top-up’ rules will apply, which are rules concerning the business operations, the information to investors and supervisory authorities, the powers of supervisory authorities, the depository and the proper treatment of investors.

2. Third country AIFMs

Non-EEA AIFMs that wish to offer units in an AIF in the Netherlands and/or manage a Dutch AIF may make use of the Dutch third country regime.

3. Fees

The AFM does not charge any fees for outward or inward AIFMD passport notifications, nor does it charge any periodic fees for EEA AIFMs that passport into the Netherlands. However, it may be that the AFM will charge fees for passport notifications in the future. In the event that a passported EEA AIFM establishes a branch in the Netherlands the AFM will charge fees for the supervision of the applicable provisions regarding conduct supervision under Dutch law, such as for the suitability and reliability test of the daily policymakers, co-policymakers or members of the supervisory board of the EEA AIFM, if applicable.



Norway

1. EEA AIFMs

The AIFMD has not yet been included in the EEA agreement between the EFTA countries (which includes Norway) and the EU. Until this happens, the passporting principles of the AIFMD will not formally be applicable. However, Norway has adopted legislation which is equivalent to the AIFMD passporting provisions, enabling the Norwegian Financial Supervisory Authority (“**Finanstilsynet**”) to apply the AIFMD rules.

AIFMs authorised in their EEA home State may exercise passport rights for management and marketing in Norway in relation to most types of AIF, on a services and/or branch basis.

Regardless of whether an existing passport to do management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or market an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to Finanstilsynet on behalf of the EEA AIFM.

An EEA AIFM wishing to market a Norwegian AIF or EEA AIF¹ to professional investors in Norway may do so if its home State competent authority has submitted a passport notification to Finanstilsynet to market the AIFM. If the EEA AIFM wishes to market a Norwegian AIF or EEA AIF to retail investors in Norway, the EEA AIFM must submit an application to Finanstilsynet documenting that the AIF may be marketed to retail investors in its home State and that applicable Norwegian requirements for such marketing will be complied with, for example, the preparation of a key investor information document and conduct of a suitability test.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to market AIFs in Norway will be required to comply with the Norwegian private placement regime. Transitional arrangements have been put in place for AIFMs to be able to continue to carry on with their present activities until 1 January 2015.

3. Fees

Norway does not charge an application fee for outward or inward AIFMD passport notifications. EEA AIFMs passporting into Norway on a branch basis are required to pay periodic fees on the regulated activities they are conducting in Norway.

Periodic fees will be calculated by Finanstilsynet in accordance with mechanisms decided by the Ministry of Finance. EEA AIFMs will receive a discount to reflect the reduced scope of the Norwegian Regulator’s responsibilities in respect of them.

Finanstilsynet does not require AIFMs that passport into Norway on a services basis to pay periodic fees.

¹ Subject to the Norwegian AIF or EEA AIF not being a feeder AIFM, the master AIFM of which is managed by a Non-EEA AIFM or is a Non-EEA AIFM.



Poland

1. EEA AIFMs

As of 24 July 2014, the AIFMD has not yet been implemented in Poland. However, on 25 March 2014, the Polish government adopted a bill transposing the provisions of the AIFMD.

The AIFMD will come into force in Poland upon the implementation of this bill, whereby it will be possible to determine which entities governed by Polish law will be deemed AIFMs and AIFs. Until implementation of AIFMD takes place in Poland, AIFMD provisions on exemptions, general arrangements for business activity, depositaries, leverage, transparency and supervision will not apply to certain entities.

However, Article 32.1 of the AIFMD (in connection with Article 4.3 of the Treaty on European Union) is directly applicable to non-Polish EEA AIFMs. It gives non-Polish EEA AIFMs a right to request admission of the units of the EEA AIFs managed by them, to trading in Poland to professional investors. EEA home State competent authorities must establish which entities are deemed to be EEA AIFMs. The process of notification to the Polish Financial Supervision Authority by an EEA competent home State authority must be compliant with Article 32 of the AIFMD.

EEA AIFMs intending to market Non-EEA AIFs in Poland should be able to request admission of the Non-EEA AIFs units to trading in the territory of Poland to professional investors. However, the practical application of the AIFMD in this respect will depend on the approach of the Polish Financial Supervision Authority.

2. Third country AIFMs

Non-EEA AIFMs intending to establish their presence in Poland will be restricted from marketing AIFs until the AIFMD is implemented in Poland.

3. Fees

As the AIFMD has not been implemented in Poland, there are currently no regulations regarding fees for AIFMD passport notifications. Hence, Poland will not charge any application fee or other related fees. However, this may change once Polish legislation transposing the AIFMD comes into force.



Portugal

AIFMD has not yet been implemented in Portugal, even though the deadline for implementation expired on 22 July 2013.

According to the information made available it was envisaged that the public consultation process was initialised by the end of 2013. Nevertheless there is no evidence that such consultation has been yet initialised.

In any event, according to EU law, a directive which has not been duly implemented by a Member State following the expiry of the implementation deadline (i.e. 22 July 2013) may under certain conditions still have a direct effect on that Member State. Therefore, whilst the Member State is in the process of adopting acts necessary in order for such Member State to implement the AIFMD, the provisions of the AIFMD may still apply directly to it. Thus, provided that AIFMD's provisions are considered to be unconditional and sufficiently clear and precise for such purpose, AIFMD may still apply directly to Portugal until national acts implementing this directive and regulating its subject matter are adopted by the Portuguese authorities.



1. EEA AIFMs

AIFMs authorised in their EEA home State may exercise passport rights for the management of most types of AIFs in Slovakia on a services and/or branch basis. The establishment and management of AIFMs in Slovakia are subject to the Act no. 203/2011 Coll. on Collective Investment ("**Act on Collective Investment**").

Regardless of whether an existing passport to conduct management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or distribute an EEA AIF on a passported basis. The home State competent authority will send the management passport notification to the National Bank of Slovakia.

An EEA AIFM wishing to distribute securities of a Slovak AIF or an EEA AIF to professional investors through a private placement in Slovakia may do so if the EEA AIFM's home State competent authority has submitted a passport notification to the National Bank of Slovakia to market the AIF to professional investors. For distribution of securities of a Slovak AIF or EEA AIF to retail investors, a separate permission by the National Bank of Slovakia is required.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to distribute AIFs in Slovakia will be required to apply for permission by the National Bank of Slovakia. Non-EEA AIFMs may distribute foreign AIFs in Slovakia based on a notification to the National Bank of Slovakia under the Act on Collective Investment.

3. Fees

The National Bank of Slovakia does not charge an application fee for outward or inward AIFMD passport notifications. However, applications for permission by the National Bank of Slovakia are subject to a fee. More details about the fees are available on the website of the National Bank of Slovakia.



Competent Slovenian authorities have not yet implemented the AIFMD, even though the deadline for implementation expired on 22 July 2013.

According to the Slovenian Ministry of Finance, a draft of the Act on Alternative Investment Fund Managers (which will implement the AIFMD) has already been prepared but it has not been published yet. A public discussion on the legislative proposal is expected to begin in August 2014 and it shall be followed by either a regular or summary legislative procedure. Although the duration of the legislative procedure cannot be adequately estimated, due to the recent elections and changes in the Government of the Republic of Slovenia, it is thought that such legislative procedure will certainly be prolonged.

According to EU law, a directive which has not been duly implemented by a Member State following the expiry of the implementation deadline will still have a direct effect on that Member State. Therefore, whilst the Member State is in the process of adopting acts necessary in order for such Member State to implement the AIFMD, the provisions of the AIFMD will apply directly to it. Thus, provisions of the AIFMD regarding border control will apply directly to Slovenia until national acts implementing this directive and regulating its subject matter are adopted by the Slovenian authorities.



Spain

In Spain, the AIFMD has not yet been transposed into national law. However, the Council of Ministers of Spain has recently published two preliminary draft bills which, whilst still subject to change, will transpose the AIFMD into Spanish law.

1. EEA AIFMs

Based on the draft bills published, AIFMs authorised in their EEA home State will be able to exercise passport rights for, inter alia, the management and marketing of AIFs authorised in the EEA in Spain, on a services and/or branch basis.

EEA AIFMs will be able to manage and market EEA AIFs to both professional and retail investors, subject to certain requirements. In order to market EEA AIFs to professional investors, a passporting process must be completed, which will be similar to that foreseen for UCITS. The process will involve the home State competent authority sending a management passport notification to the Spanish Securities Market Commission (Comisión Nacional del Mercado de Valores) (the “**CNMV**”) on behalf of the EEA AIFM. However, in order to manage and market EEA AIFs to retail investors in Spain, the draft legislation foresees CNMV requiring the completion of an authorisation process. A similar authorisation process will be required where an EEA AIFM intends to manage and market a Non-EEA AIF in Spain.

2. Third country AIFMs

Based on the draft bills published, AIFMs authorised in Non-EEA (third country) jurisdictions wishing to market EEA or Non-EEA AIFs in Spain will have to complete an authorisation process, regardless of whether they will carry out their activities on a services and/or branch basis.

3. Fees

The draft bills are silent on fees. Based on our conversations with the Spanish regulator, it would appear that Spain is unlikely to charge an application fee for AIFM passport notifications.

EEA AIFMs established in Spain as a branch will be charged periodic fees for the regulated activities they are conducting in Spain. However, such fees will not apply to AIFMs passported into Spain on a services basis.

It should be noted that the AIFMs, regardless of whether they intend to conduct their services on a services and/or branch basis, will have to pay an annual fee based on the expected commercialisation volume for the funds managed. We have been informed that this fee will be the same as for passported UCITS. The fee range will be between a minimum of approximately EUR 1,800 and a maximum of approximately EUR 72,000.



1. EEA AIFMs

Please note that the term ‘passporting’ is only used in Sweden for pure notification procedures.

AIFMs authorised as AIFMs in their EEA home State can exercise passporting rights to market AIFs based within the EEA to professional investors in Sweden on a services and/or branch basis. In order to do so, the Swedish Alternative Investment Act (the “**SAIFM Act**”) requires the AIFMs intending to market EEA AIFs to professional investors in Sweden to make a notification to their home State competent authority. The home State competent authority will send the management passport notification to the Swedish Financial Supervisory Authority (the “**SFSA**”) on behalf of the EEA AIFM.

An AIFM intending to market Non-EEA AIFs and/or AIFs to non-professional investors and/or retail clients must apply for a marketing license with the SFSA. Consequently, the passporting rules are not applicable to such AIFs.

2. Third country AIFMs

AIFMs based in Non-EEA jurisdictions wishing to market AIFs in Sweden will be required to apply for a marketing license and to comply with the Swedish prospectus rules.

3. Fees

Sweden does not charge an application fee for inward AIFMD marketing passport notifications. Sweden does however charge an application fee for all license applications.

The SFSA does not require AIFMs that passport into Sweden on a services basis to pay periodic fees.



Switzerland

1. Distribution of AIFs

Switzerland is not a Member State of the EU and thus is not subject to the AIFMD and its respective rules. As matter of principle, any foreign fund, including AIFs as well as UCITS and others, or CIS, may be sold or “distributed” (the legal term used in Switzerland).

However, the law provides

for three different distribution (selling) options, namely:

- (a) Distribution to the public may only occur (amongst other requirements), if the foreign CIS is registered (for passporting) with the Swiss Financial Market Supervisory Authority (“**FINMA**”).
- (b) Without passporting (FINMA registration), foreign CIS may be distributed to qualified investors (as defined by Swiss law), only if (amongst other requirements) the fund or the investment fund manager has appointed a Swiss representative and a Swiss paying agent.
- (c) Without passporting and without such appointments, foreign CIS may only be distributed to prudentially supervised financial intermediaries (as defined by Swiss law).

2. Passporting

Again, as a matter of principle, any foreign CIS may be passported into Switzerland. However, Swiss law requires, for the passporting of foreign CIS, that such CIS is domiciled in a jurisdiction, which:

- (a) Provides for adequate supervision of the CIS, the asset manager and the custodian;
- (b) Provides a regulatory framework which requires sufficient organisation of the CIS, the asset manager and the custodian;

- (c) Provides for adequate investor protection, comparable to the framework applicable to Swiss CIS in Switzerland; and
- (d) If there is a bilateral agreement on exchange of information between FINMA and the supervisory authority at the domicile of the AIF, the AIFM and the custodian.

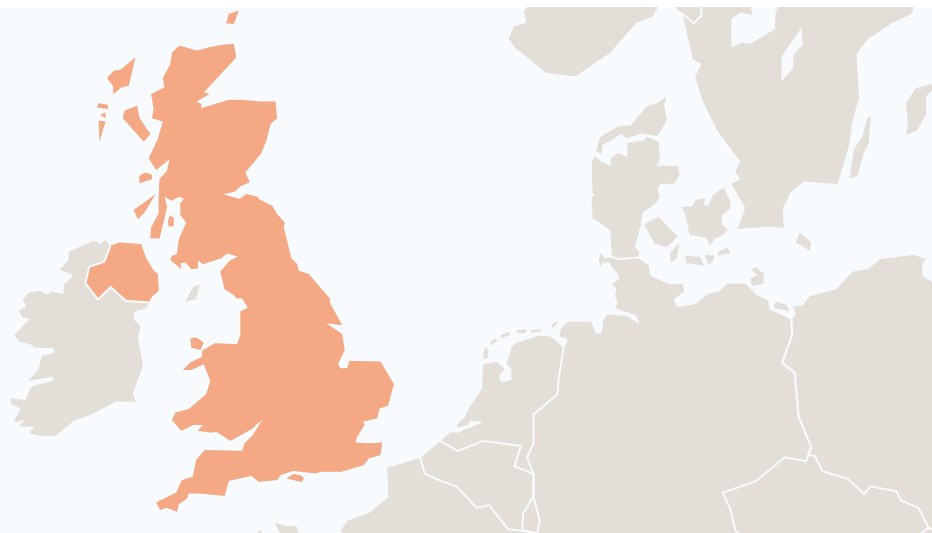
(note that UCITS from an EEA country usually meet this test)

3. Fees

FINMA charges a registration (passporting) fee between CHF 2,000 and CHF 20,000 and in addition a periodic fee of CHF 1,500 (plus CHF 700 for each sub-fund) p.a. and fees for each required filing.

In addition, the Swiss representative and the Swiss paying agent will charge fees, which are subject to negotiation. Possible discounts are available depending on the number of CIS serviced by the representative and paying agent for one manager.

United Kingdom



1. EEA AIFMs

AIFMs, authorised in their EEA home State may exercise passporting rights for management and marketing in the UK in relation to most types of EEA AIF on a services and/or branch basis. In order to do so, the Financial Services and Markets Act 2000 (“**FSMA**”) requires the AIFM to satisfy service conditions set out in Schedule 3 of the Act.

Regardless of whether an existing passport to do management business under another single market directive (such as UCITS) is held, EEA AIFMs are required to make a separate notification to their home State competent authority if intending to manage or market an EEA AIF on a passported basis. The home State competent authority will then send the management passport notification to the UK Financial Conduct Authority (“**FCA**”) on behalf of the EEA AIFM.

EEA AIFMs will need to send any approved persons forms to the FCA if exercising a branch passport right to manage an EEA AIF in the UK and persons carrying on ‘controlled functions’ must be approved by the FCA for these purposes, if not currently approved¹.

A full scope EEA AIFM wishing to market an EEA AIF² to retail (as well as professional) investors in the UK may do so if its home State competent authority has submitted a passport notification to the FCA to market the AIF to professional investors or by applying to the FCA directly using the AIFMD marketing permission in the UK form³. The promotion of the AIF to UK investors must be made in accordance with section 21 FSMA and the financial promotion regime and, if an AIF takes the form of an unregulated CIS, section 238 FSMA (see PERG 8.20G of FCA Handbook).

2. Third country AIFMs

AIFMs based in non-EEA (third country) jurisdictions wishing to market EEA and/or non-EEA AIFs in the UK will be required to comply with the National Private Placement Regime, as well as the financial promotion rules.

3. Fees

The UK does not charge an application fee for outward or inward AIFMD passport notifications.

An EEA AIFM passporting into the UK as a branch is required to pay periodic fees on the regulated activities it is conducting in the UK. Periodic fees will be based on both gross income and funds under management. EEA AIFMs receive a discount to reflect the reduced scope of the FCA’s responsibilities in respect of their oversight. The level of the discount varies depending on the fee-block under which the AIFM falls and according to the division of responsibilities between the home State regulators and other regulators for AIFMs in each fee-block. Information on how periodic fees are calculated for EEA firms can be found in the FCA’s Fees Manual: <http://fshandbook.info/FS/html/FCA/FEES/4/3#DES123>.

The FCA does not require AIFMs that passport into the UK on a services basis to pay periodic fees.

¹ The relevant controlled functions to consider are the money laundering reporting officer [CF11], the customer function [CF30] and possibly the significant management function [CF29].

² So long as it is not a feeder AIFM, the master AIFM of which is managed by a non-EEA AIFM or is a non-EEA AIFM.



Definitions

Act on Collective Investment	Act no. 203/2011 Coll. on Collective Investment (Slovakia)
AFM	Authority for the Financial Markets (<i>Autoriteit Financiële Markten</i>) (The Netherlands)
AFMA	Act on Alternative Investment Fund Managers (Finland)
AIF	Alternative Investment Fund, defined in the AIFMD as: “A collective investment undertaking, including investment compartments of such an undertaking, which – raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of these investors; and does not require authorisation pursuant to Article 5 of the UCITS directive”.
AIF Act	Act on Alternative Investment Funds (Cyprus)
AIFM	Alternative Investment Fund Manager, defined in the AIFMD as a legal person whose regular business is managing on or more AIFs
AIFMA	Alternative Investment Fund Act (Austria)
AIFM Act	Act on Alternative Investment Fund Managers (Cyprus)
AIFMD	Alternative Investment Fund Manager Directive of 8 June 2011 (2011/61/EC)
AMF	French Financial Authority (<i>Autorité des Marchés Financiers</i>)
BaFin	Federal Financial Supervisory Authority (Germany)
BFSMA	Belgian Financial Services and Markets Authority
CBI	Central Bank of Ireland
CFA	Consolidated Financial Act (Italy)
CIS	Collective Investment Scheme(s)
CISOUICIA	Collective Investment Schemes and Other Undertakings for Collective Investments Act (Bulgaria)
CNMV	Spanish Securities Market Commission (<i>Comisión Nacional del Mercado de Valores</i>)
Consob	Italian Securities Market Supervisory Authority (<i>Commissione Nazionale per le Società e la Borsa</i>)

CSSF	Commission de Surveillance du Secteur Financier (Luxembourg)
CySEC	Cyprus Securities and Exchange Commission
CySEC Marketing Directive	Cyprus Securities and Exchange Commission Directive on Marketing of AIFs
EEA	European Economic Area
EEA AIF	AIF which is registered or authorised in an EEA State under the applicable national law or which is not registered in an EEA State but has its registered office and/or head office in an EEA State
EEA AIFM	An AIFM which has its registered office in an EEA State
EFTA	European Free Trade Association
EFSA	Estonian Financial Supervision Authority
EU AIF	Alternative investment fund not governed by German law but by the law of an EEA member state.
EU AIFM	Alternative investment fund manager which has its registered office outside of Germany but within an EEA member state and which does not fulfill the <i>de minimis</i> exemptions mentioned in the AIFMD.
FATF	Financial Action Task Force
FCA	Financial Conduct Authority (United Kingdom)
FCMC	Financial and Capital Market Commission (Latvia)
FIN-FSA	Financial Supervisory Authority (Finland)
Finanstilsynet	Financial Supervisory Authority (Norway)
FINMA	Financial Market Supervisory Authority (Switzerland)
FMA	Financial Market Authority (Austria)
FSA	Financial Supervisory Authority (Denmark)
FSMA	Financial Services and Markets Act 2000
FSC	Financial Supervision Commission (Bulgaria)

FSMA	Financial Services and Markets Authority (Belgium)
HANFA	Financial Services Supervisory Agency <i>(Hrvatska agencija za nadzor financijskih usluga)</i> (Croatia)
Investments Fund Act	Act XVI of 2014 on Collective Investment Forms and their Managers (Hungary)
ISA	Investment Services Act (Malta)
LAIFM	Law on Alternative Investment Funds and its Managers 2013 (Latvia)
LAIFMA	Luxembourg law transposing the AIFMD into Luxembourg
MFSA	Malta Financial Services Authority
MNB	Central Bank of Hungary (<i>Magyar Nemzeti Bank</i>)
Non-EEA	Non-European Economic Area
Non-EEA AIF	An AIF not qualifying as an EEA AIF
Non-EU AIFM	An AIFM which has its registered office in a state which is not an EEA State
NPPR	National Private Placement Regime
Passport Regulations	Investment Services Act (Alternative Investment Fund Manager (Passport) Regulations) (Malta)
Professional Investor	Professional client within the meaning of Annex II to MiFID
SAIFM Act	Swedish Alternative Investment Act
Semi-Professional Investor	Investor who commits himself to invest at least EUR 200,000 and positive assessment by AIFM regarding his sufficient expertise, experience and knowledge and suitability of investment for him (for more details see Section 1 para. 19 no. 33 German Capital Investment Code)
SFSA	Swedish Financial Supervisory Authority
Third Country Regulations	Investment Services Act (Alternative Investment Fund Manager (Third Country) Regulations) (Malta)
UCITS	Undertakings for Collective Investment in Transferable Securities

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