

CSSF Has Updated its FAQs on Alternative Investment Fund Managers Relating to PRIIPs



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The Luxembourg financial supervisory authority (Commission de Surveillance du Secteur Financier, “CSSF”) issued on 27 September 2019 a new version of its Frequently Asked Questions concerning the Luxembourg Law of 12 July 2013 on alternative investment fund managers (“FAQs”) providing further clarification with regard to the impact of the Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (“PRIIPs Regulation”).

The CSSF has confirmed in its FAQs that Luxembourg alternative investment funds (“AIFs”) the units of which are being advised on, offered or sold to retail investors benefit from an exemption provided under the PRIIPs Regulation if they have issued a key investor information document within the meaning of the Law of 17 December 2010 relating to undertakings for collective investment, as amended (“Law of 2010”) (a “UCITS-like KIID”).

Such AIFs may issue a UCITS-like KIID in order to be exempted from the obligations of the PRIIPs Regulation until 31 December 2021, provided that the following conditions are complied with:

- The UCITS-like KIID to be issued should comply with requirements laid down in the Law of 2010, as well as with the provisions of Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website,
- The UCITS-like KIID should be issued for each retail share class of the sub-funds of the relevant Luxembourg AIF,

- The offering document of the Luxembourg AIF in question should be amended in order to reflect the distribution of a UCITS-like KIID to all retail investors contemplating an investment in the AIF. The offering document should also mention that the UCITS-like KIID shall be published on the website of the alternative investment fund manager of the Luxembourg AIF and that it shall be available, upon request, in paper form.

The CSSF further clarified in its FAQs the timescale for drawing up a key information document for packaged retail and insurance-based investment products (“PRIIPs KID”):

- From 1 January 2018 on, all AIFs that are advised on, offered or sold to retail investors and that are not exempted under the PRIIPs Regulation need to have in place a PRIIPs KID.
- From 1 January 2022 on, all AIFs that are advised on, offered or sold to retail investors and that were exempted under the PRIIPs Regulation need to have in place a PRIIPs KID.

Finally, the CSSF now strongly recommends in its FAQs that Luxembourg AIFs that are exclusively advised on, offered or sold to professional investors amend their offering documents before in order to include a reference to the fact that their units are solely advised on, offered or sold to professional investors and that, as a consequence, no PRIIPs KID shall be issued. In addition, all specialised investment funds (SIFs), Part II undertakings for collective investment (Part II UCIs) and investment company in risk capital (SICARs) (that are advised on, offered or sold to retail and/or professional investors) are required to complete an on-line assessment available on the new eDesk portal.