

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 (Text with EEA relevance)

CHAPTER VI

RIGHTS OF EU AIFMs TO MARKET AND MANAGE EU AIFs IN THE UNION

Article 31

Marketing of units or shares of EU AIFs in the home Member State of the AIFM

1 Member States shall ensure that an authorised EU AIFM may market units or shares of any EU AIF that it manages to professional investors in the home Member State of the AIFM as soon as the conditions laid down in this Article are met.

Where the EU AIF is a feeder AIF the right to market referred to in the first subparagraph is subject to the condition that the master AIF is also an EU AIF which is managed by an authorised EU AIFM.

2 The AIFM shall submit a notification to the competent authorities of its home Member State in respect of each EU AIF that it intends to market.

That notification shall comprise the documentation and information set out in Annex III.

3 Within 20 working days following receipt of a complete notification file pursuant to paragraph 2, the competent authorities of the home Member State of the AIFM shall inform the AIFM whether it may start marketing the AIF identified in the notification referred to in paragraph 2. The competent authorities of the home Member State of the AIFM shall prevent the marketing of the AIF only if the AIFM's management of the AIF does not or will not comply with this Directive or the AIFM otherwise does not or will not comply with this Directive. In the case of a positive decision, the AIFM may start marketing the AIF in its home Member State from the date of the notification by the competent authorities to that effect.

In so far as they are different, the competent authorities of the home Member State of the AIFM shall also inform the competent authorities of the AIF that the AIFM may start marketing units or shares of the AIF.

4 In the event of a material change to any of the particulars communicated in accordance with paragraph 2, the AIFM shall give written notice of that change to the competent authorities of its home Member State at least 1 month before implementing the change as regards any changes planned by the AIFM, or immediately after an unplanned change has occurred.

If, pursuant to a planned change, the AIFM's management of the AIF would no longer comply with this Directive or the AIFM would otherwise no longer comply with this Directive, the relevant competent authorities shall inform the AIFM without undue delay that it is not to implement the change.

If a planned change is implemented notwithstanding the first and second subparagraphs or if an unplanned change has taken place pursuant to which the AIFM's management of the AIF no longer complies with this Directive or the AIFM otherwise no longer

complies with this Directive, the competent authorities of the home Member State of the AIFM shall take all due measures in accordance with Article 46, including, if necessary, the express prohibition of marketing of the AIF.

5 In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to determine:

- a the form and content of a model for the notification letter referred to in paragraph 2; and
- b the form of the written notice referred to in paragraph 4.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

6 Without prejudice to Article 43(1), Member States shall require that AIFs managed and marketed by AIFMs be marketed only to professional investors.