



FOCUS

Cross-Border Fund Distribution

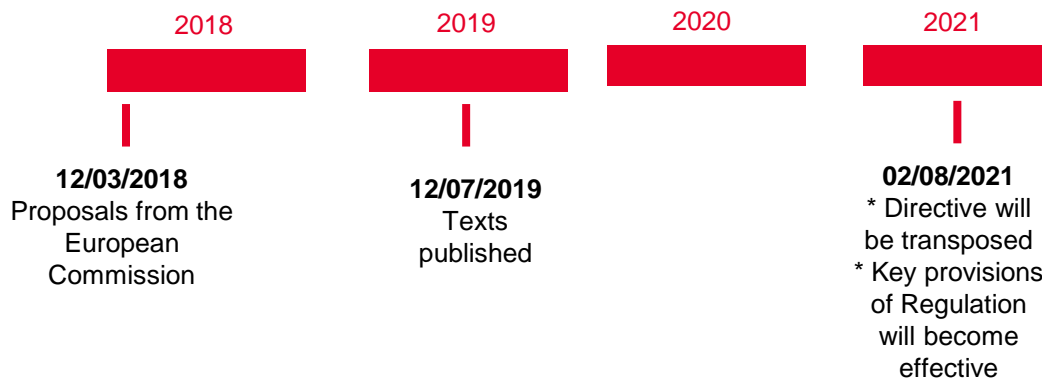
Updated in February 2021

REGULATORY EVOLUTION

- The European Commission (EC) published on 12 March 2018 a regulatory initiative on cross-border fund distribution as part of the implementation of the Capital Market Union (CMU)
- In this legislative package, the EC proposes to amend :
 - AIFM and UCITS directives (draft Directive)
 - and funds regulations including EuVECA -European Venture Capital Funds- and EuSEF -European Social Entrepreneurship funds- regulations (draft Regulation)
- The EC expects a simplification of the procedures for distribution of funds, a reduction of induced costs, and correlatively an increase in the fund cross-border distribution

FOCAL POINTS

- Today, **70% of all assets under management** are held by investment funds **registered for sale only in their domestic market**. Only 37% of UCITS and 3% of AIFs are registered for sale in more than 3 Member States
- The EC's aim is to reduce regulatory obstacles to cross-border distribution of investment funds, notably by:
 - Improving transparency with regard to the legal and administrative requirements (notification, marketing material, local support to investors, etc) requested by the European Union and Member States in this area as well as fees charged by National Authorities
 - Guaranteeing more consistency in the method of calculating these costs
 - Proposing a harmonized definition of pre-marketing
 - Removing the requirements for local / physical presence in Member States allowing Asset Managers to use digital tools to comply



Updated on 4 February 2021

• **2 August 2021:**
**Application of key provisions of the
 Directive and of the Regulation**

STATEMENT

- ❑ 12 July 2019: Directive and Regulation were published in the Official Journal of the UE
- ❑ 01 August 2019: Both the Directive and the Regulation entered into force
- ❑ **By 2 August 2021, Member States must have transposed the Directive into their national law**
- ❑ **From 2 August 2021, the key provisions of the Directive and of the Regulation will become effective, except for some provisions which apply as of 01 August 2019 (such as the check of marketing documents by local regulator)**

FOR YOUR CONSIDERATION

- ❑ 01 February 2021: ESMA published a final report (dated 29 January 2021) on draft Implementing Technical Standards (ITS) under the Regulation on the cross-border distribution of funds. It follows a consultation issued in March 2020. The ITS focus on :
 - publication of marketing requirements by NCAs on their websites
 - publication of regulatory fees by NCAs on their websites
 - ESMA Central database listing funds marketed on a cross-border basis
- ❑ By 02 August 2021, following ESMA consultation issued on 9 November 2020, answers by 8 February 2021, ESMA expects to issue the final Guidelines on marketing communications under the Regulation on cross-border distribution of funds.

Fund managers shall ensure that all marketing communications addressed to investors are identifiable as such, that they describe the risks and rewards of purchasing units or shares of an AIF or units of a UCITS in an equally prominent manner, and that all information included in marketing communications is fair, clear and not misleading. Furthermore, the Guidelines shall take into account the online aspects of marketing communications

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If you want to know more, refer to
 Fiche Cross Border Fund Distribution To Know More

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