



BANKING AND FINANCE

Public consultation on the main barriers to the cross-borders distribution of investment funds across the EU

CMU action on cross-border distribution of funds (UCITS, AIF, ELTIF, EuVECA and EuSEF) across the EU

Fields marked with * are mandatory.

Introduction

Creating a deeper single market for capital - a Capital Markets Union (CMU) which will strengthen Europe's economy and encourage investment in all 28 Member States is one of the European Commission's key priorities. The CMU is intended to mobilise capital in Europe and channel it to companies, including SMEs, and infrastructure projects that need it to expand and create jobs. By linking savings with growth, it will offer new opportunities for savers and investors.

Cross-border investment funds have an important role to play in achieving this aim. If funds can do business more easily cross border, they can grow and become more efficient, allocate capital efficiently across the EU, and compete within national markets to deliver better value and greater innovation for consumers.

The EU has a successful track of promoting the cross-border distribution of funds. The [1985 Directive \(85/611/CEE\)](#) introduced a marketing passport for funds for the first time and a legislative regime where the most important aspects are now harmonised. Accordingly there should be no restriction on their sale across the European Union. Since then, and following several legislative updates, the UCITS market has grown to €8 trillion assets under management. Around 80% of UCITS funds are marketed cross-border (Source: European Commission staff calculation). More recently, the Alternative Investment Fund Managers Directive (AIFMD), agreed in 2013, introduced a passport for non-UCITS funds. There are currently about €5 trillion of asset under management for AIFs, with 40% of funds marketed across border (Source: European Commission staff calculation). AIFs which are managed by authorised AIFM in accordance with AIFMD should, in accordance with that Directive, be freely available for sale to professional investors in the European Union. Overall, 57 % of the funds (UCITS and AIFs) are marketed on cross-border basis (Source: European Commission staff calculation).

However, there is more that can be done to deepen the single market for funds: one third of UCITS that are marketed cross-border are only sold in one Member State in addition to their home country, and mainly back to the Member State where the Asset Management Company is domiciled. Another third is not sold in more than four Member States outside of their home country. EU UCITS funds are also significantly smaller than US mutual funds. There are more than 30,000 UCITS funds available for sale in Europe in contrast to 7000 mutual funds in the US and while the average European mutual fund is valued at approximately €200 million, its counterparts in the US are almost seven times as large. This has consequences for the economies of scale these funds can reap and fund costs. The costs of marketing across borders may fall disproportionately on smaller, start-up or more specialised funds.

The remaining barriers to cross-border distribution are varied – and may include the impact of concentrated fund distribution channels in individual member states, cultural preferences for funds managed in investors' home states, and a lack of incentives for managers to compete cross-border. However, one obstacle that has been consistently cited, and which may be relatively more important for smaller managers, are the regulatory barriers to distribution. Regulatory barriers have been identified in response to the [Capital Markets Union green paper](#) (Green Paper: Building a Capital Markets Union, [COMM\(2015\)063](#)) and to the [Call for Evidence on the EU Regulatory Framework for Financial Services](#) (Call for Evidence: EU Regulatory Framework for Financial Services, Commission Services, 2015) as including burdensome registration procedures, costly and diverse marketing requirements, inconsistent administrative arrangements and tax obstacles. Eliminating unjustified barriers would support fund managers to engage more in cross-border marketing of their funds, increase competition and choice, and reduce costs for investors.

The Commission is seeking further details and evidence from stakeholders including fund managers, investors and consumer representatives in order to understand where and how the cross-border distribution of funds could be improved. Input from distributors is also welcome in order to build a fuller picture of the barriers to distribution. In order to build upon earlier responses to the CMU consultation and to the Call for Evidence on the EU regulatory framework for financial services, specific examples and where possible quantitative and financial evidence on the financial impact of the barriers, would be welcome. This includes the impact of marketing rules, administrative arrangements imposed by host countries, regulatory fees and notification procedures and also the most pertinent features of the tax environment. The Commission will use this information in its assessment on taking action to address the barriers, supporting the development of the CMU and increasing choice.

This consultation seeks feedback in the following areas:

- **Marketing restrictions:** EU funds marketed cross-border are usually required to comply with national requirements set by host Member States, which differ across the EU. Significant costs can be incurred in researching each EU Member State's financial promotion and consumer protection regime, and providing appropriate materials on an on going basis.
- **Distribution costs and regulatory fees:** EU funds can be subject to regulatory fees imposed by home and host Member States that vary significantly in both scale and how they are calculated. The costs themselves and the need to research them are reported as acting as a barrier to cross-border distribution.
- **Administrative arrangements:** Where EU funds using the marketing passport are sold to retail investors, host Member States sometimes introduce special administrative arrangements intended to make it easier for investors to subscribe, redeem and receive related payments from those funds, as well as receive tailored information to support them in doing so. These are an additional burden that may not always be justified by the value added for local investors.
- **Distribution networks:** With increasing use of online platforms to distribute funds, we want to understand the barriers that hinder the use of online and direct distribution across borders.
- **Notification processes:** Where funds are marketed on a cross-border basis and there is a need for documentation to be updated or modified, asset managers are required to give written notice to the competent authority of the host Member State. This can add cost and time to the process.
- **Taxation:** differential tax treatments can sometimes create barriers to cross border business. Feedback is sought on how best to promote best practice and avoid discriminatory tax treatment.

The Commission is grateful for the input of respondents informing the next stage of this work. The public consultation is open from 2 June 2016 to 2 October 2016.


This consultation complements other work by the Commission work seeking to improve the single market for investment products and asset management and improve outcomes for consumers and investors:

- As set out in the CMU action plan, the Commission will undertake a comprehensive assessment of European markets for retail investment products, including distribution channels and investment advice, drawing on expert input. The assessment will identify ways to improve the policy framework and intermediation channels so that retail investors can access suitable products on cost-effective and fair terms. The assessment will examine how the policy framework should evolve to benefit from the new possibilities offered by online based services and fintech.
- The Green Paper on retail financial services, which seeks to identify the specific barriers that consumers and firms face in making full use of the Single Market and ways in which those barriers could be overcome, including by making best use of new technology, subject to appropriate safeguards.
- The Call for Evidence (CfE) on the EU regulatory framework for financial services, which is assessing the evidence and feedback received on rules affecting the ability of the economy to finance itself and grow, unnecessary regulatory burdens, interactions, inconsistencies and gaps, and rules giving rise to unintended consequences.
- In parallel, following up on a call from the ECOFIN, the Commission has established a Member State Expert Group on barriers to free movement of capital, with the aim to map national barriers, identify the most damaging to the internal market and find the most efficient ways to remove them, including through voluntary commitments by Member States. National barriers to cross-border distribution of funds will also be discussed in that context. Through a collaborative process with Member States, a Report on barriers and a Roadmap for lifting or easing them is foreseen for adoption by end 2016.

In addition, the Commission has wider initiatives underway on the Single Market and Digital Market. The Single Market Strategy comprises targeted actions in three key areas: creating opportunities for consumers, professionals and businesses, encouraging modernisation and innovation and ensuring practical delivery that benefits consumers and businesses in their daily lives. It aims to facilitate cross-border provision of services and to address key barriers for business services and construction. The Digital Single Market strategy intends to ensure, among other goals, better access for consumers and businesses to online goods and services across Europe. It also addresses the issue of the "level-playing field" between various service providers and envisages a comprehensive assessment of online platforms.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-cross-borders-investment-funds@ec.europa.eu.

More information:

- [on this consultation](#)
- [on the protection of personal data regime for this consultation](#) 

1. Information about you

*Are you replying as:

- ☐ a private individual
- ☒ an organisation or a company
- ☐ a public authority or an international organisation

*Name of your organisation:

The Association of Real Estate Funds (AREF)

Contact email address:

The information you provide here is for administrative purposes only and will not be published

info@aref.org.uk

*Is your organisation included in the Transparency Register?

(If your organisation is not registered, [we invite you to register here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#))

- ☒ Yes
- ☐ No

*If so, please indicate your Register ID number:

5804781152-61

*Type of organisation:

- | | |
|---|---|
| <input type="radio"/> Academic institution | <input type="radio"/> Company, SME, micro-enterprise, sole trader |
| <input type="radio"/> Consultancy, law firm | <input type="radio"/> Consumer organisation |
| <input checked="" type="radio"/> Industry association | <input type="radio"/> Media |
| <input type="radio"/> Non-governmental organisation | <input type="radio"/> Think tank |
| <input type="radio"/> Trade union | <input type="radio"/> Other |

*Where are you based and/or where do you carry out your activity?

United Kingdom

*Field of activity or sector (*if applicable*):

at least 1 choice(s)

- ☐ Banking
- ☐ Distributors / platform
- ☐ Family office
- ☐ Institutional investors
- ☐ Insurance
- ☒ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Law firm
- ☐ Legal advisors
- ☐ Market infrastructure operation (e.g. Stock exchanges)
- ☐ Pension provision
- ☐ Retail investors
- ☐ Retail investors representatives
- ☐ Other
- ☐ Not applicable

Choice of questions

*I want to see the following part(s) of this consultation:

- ☒ only questions relevant to **asset managers**
- ☐ only questions relevant to **distributors**
- ☐ only questions relevant to **investors**
- ☐ **all questions** including those relevant to fund managers, distributors, investors and other respondents



Important notice on the publication of responses

*Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?

([see specific privacy statement](#) )

- ☒ Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
- ☐ No, I do not want my response to be published

More questions about you

The following questions are addressed in particular to asset managers and where appropriate, distributors (professional associations are invited in addition to consolidate information on behalf of their Members).

Question 1.1 - What types of funds do you market and to which types of investors do you market directly?

UCITS / type of investors

	Yes	No
Retail investors (who are neither high net worth individuals nor professional investors)	<input type="radio"/>	<input type="radio"/>
High net worth individuals	<input type="radio"/>	<input type="radio"/>
Asset Management Company	<input type="radio"/>	<input type="radio"/>
Insurances	<input type="radio"/>	<input type="radio"/>
Banks	<input type="radio"/>	<input type="radio"/>
Pension funds	<input type="radio"/>	<input type="radio"/>
Other professional investors	<input type="radio"/>	<input type="radio"/>

AIFs (excluding EuVECA, EuSEF and ELTIF) / type of investors

	Yes	No
Retail investors	<input type="radio"/>	<input type="radio"/>
High net worth individuals	<input type="radio"/>	<input type="radio"/>
Asset Management Company	<input type="radio"/>	<input type="radio"/>
Insurances	<input type="radio"/>	<input type="radio"/>
Banks	<input type="radio"/>	<input type="radio"/>
Pension funds	<input type="radio"/>	<input type="radio"/>
Other professional investors	<input type="radio"/>	<input type="radio"/>

EuVECA / type of investors

	Yes	No
High Net worth individuals	<input type="radio"/>	<input type="radio"/>
Asset Management Company	<input type="radio"/>	<input type="radio"/>
Insurances	<input type="radio"/>	<input type="radio"/>
Banks	<input type="radio"/>	<input type="radio"/>
Pension funds	<input type="radio"/>	<input type="radio"/>
Other professional investors	<input type="radio"/>	<input type="radio"/>

EuSEF / type of investors

	Yes	No
High Net worth individuals	<input type="radio"/>	<input type="radio"/>
Asset Management Company	<input type="radio"/>	<input type="radio"/>
Insurances	<input type="radio"/>	<input type="radio"/>
Banks	<input type="radio"/>	<input type="radio"/>
Pension funds	<input type="radio"/>	<input type="radio"/>
Other professional investors	<input type="radio"/>	<input type="radio"/>

ELTIF / type of investors

	Yes	No
Retail investors	<input type="radio"/>	<input type="radio"/>
High net worth individuals	<input type="radio"/>	<input type="radio"/>
Asset Management Company	<input type="radio"/>	<input type="radio"/>
Insurances	<input type="radio"/>	<input type="radio"/>
Banks	<input type="radio"/>	<input type="radio"/>
Pension funds	<input type="radio"/>	<input type="radio"/>
Other professional investors	<input type="radio"/>	<input type="radio"/>

Question 1.1.a - If you have a general policy of differentiating between high net worth individuals and other retail investors then please also provide information on this:

Question 1.1.b – Which channels do you use to distribute funds cross-border? Does your cross-border distribution policy differ depending on the type of investor you wish to address and the Member State?

	Yes	No
Direct marketing	<input type="radio"/>	<input type="radio"/>
Online marketing (website, online platform,etc.)	<input type="radio"/>	<input type="radio"/>
National distributors network: Insurance	<input type="radio"/>	<input type="radio"/>
National distributors network: Bank	<input type="radio"/>	<input type="radio"/>
National distributors network: Financial advisors	<input type="radio"/>	<input type="radio"/>
National distributors network: Others	<input type="radio"/>	<input type="radio"/>

Question 1.1c – Please expand upon your response to question 1.1, 1.1a and 1.1b:

Question 1.2 – Please provide your definition of high net worth retail individuals. Does this definition vary from one national market to another one?

Question 1.3 – What is the sum of Assets under Management of these funds?

UCITS / type of investors

	AuM in €
Pure retail investors	
High net worth individuals	
Asset management company	
Insurances	
Banks	
Pension funds	
Other professional investors	

AIFs (excluding EuVECA, EuSEF and ELTIF) / type of investors

	AuM in €
Pure retail investors	
High net worth individuals	
Asset management company	
Insurances	
Banks	
Pension funds	
Other professional investors	

EuVECA / type of investors

	AuM in €
High net worth individuals	
Asset management company	
Insurances	
Banks	
Pension funds	
Other professional investors	

EuSEF / type of investors

	AuM in €
High net worth individuals	
Asset management company	
Insurances	
Banks	
Pension funds	
Other professional investors	

ELTIF / type of investors

	AuM in €
Pure retail investors	
High net worth individuals	
Asset Management Company	
Insurances	
Banks	
Pension funds	
Other professional investors	

Question 1.4 – Where are your funds mainly domiciled?

(In % of the number of your UCITS and AIFs)

	% UCITS	% AIF
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.5 – Do you use the UCITS passport in order to market your UCITS funds in other EU Member States?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 1.5a – If you do not use the UCITS passport, please explain why this is:

Question 1.6 – Do you use the AIFMD passport in order to market your EU AIFs in other EU Member States?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 1.6a – If you do not use the AIFMD passport, please explain why this is:

Question 1.7 – Do you use a marketing passport for all your UCITS, AIF, ELTIF, EuVECA and EuSEF?

	Yes	No
UCITS	<input type="radio"/>	<input type="radio"/>
AIF	<input type="radio"/>	<input type="radio"/>
ELTIF	<input type="radio"/>	<input type="radio"/>
EuVECA	<input type="radio"/>	<input type="radio"/>
EuSEF	<input type="radio"/>	<input type="radio"/>

Question 1.7a - What percentage of your funds have you received permission to be marketed in

- (a) at least one other Member State
- and (b) at least two other Member States

with the passport? What value of Assets under Management do these represent?

	% of your funds	Value of assets it represents
In at least one other Member State		
In at least two other Member States		

Question 1.8 - In how many Member States, if any, do you market your funds (including sub-funds) on a cross border basis?

- ☐ 1 member State
- ☐ 2 member States
- ☐ 3 member States
- ☐ 4 member States
- ☐ 5 member States
- ☐ 6 member States
- ☐ 7 member States
- ☐ 8 member States
- ☐ 9 member States
- ☐ 10 member States
- ☐ 11 member States
- ☐ 12 member States
- ☐ 13 member States
- ☐ 14 member States
- ☐ 15 member States
- ☐ 16 member States
- ☐ 17 member States
- ☐ 18 member States
- ☐ 19 member States
- ☐ 20 member States
- ☐ 21 member States
- ☐ 22 member States
- ☐ 23 member States
- ☐ 24 member States
- ☐ 25 member States
- ☐ 26 member States
- ☐ 27 member States
- ☐ 28 member States

Question 1.8a – Please provide an aggregate figures or an estimate:

Question 1.9 - In which Member States do you actively market your UCITS and AIFs?

	UCITS	AIF
Austria	<input type="checkbox"/>	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>	<input type="checkbox"/>
Croatia	<input type="checkbox"/>	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>	<input type="checkbox"/>
Denmark	<input type="checkbox"/>	<input type="checkbox"/>
Estonia	<input type="checkbox"/>	<input type="checkbox"/>
Finland	<input type="checkbox"/>	<input type="checkbox"/>
France	<input type="checkbox"/>	<input type="checkbox"/>
Germany	<input type="checkbox"/>	<input type="checkbox"/>
Greece	<input type="checkbox"/>	<input type="checkbox"/>
Hungary	<input type="checkbox"/>	<input type="checkbox"/>
Iceland	<input type="checkbox"/>	<input type="checkbox"/>
Ireland	<input type="checkbox"/>	<input type="checkbox"/>
Italy	<input type="checkbox"/>	<input type="checkbox"/>
Latvia	<input type="checkbox"/>	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>	<input type="checkbox"/>
Malta	<input type="checkbox"/>	<input type="checkbox"/>
Norway	<input type="checkbox"/>	<input type="checkbox"/>
Poland	<input type="checkbox"/>	<input type="checkbox"/>
Portugal	<input type="checkbox"/>	<input type="checkbox"/>
Romania	<input type="checkbox"/>	<input type="checkbox"/>
Slovakia	<input type="checkbox"/>	<input type="checkbox"/>

Slovenia	<input type="checkbox"/>	<input type="checkbox"/>
Spain	<input type="checkbox"/>	<input type="checkbox"/>
Sweden	<input type="checkbox"/>	<input type="checkbox"/>
Switzerland	<input type="checkbox"/>	<input type="checkbox"/>
The Netherlands	<input type="checkbox"/>	<input type="checkbox"/>
United Kingdom	<input type="checkbox"/>	<input type="checkbox"/>

Question 1.9a – Please provide the UCITS allocation between Member States. If this is not straightforward to obtain, please provide an estimate.

	Number of UCITS funds / sub-funds	Asset under Management
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.9aa – Please provide any further details (e.g. assumptions your estimate is based upon) to your answer to question 1.9a:

Question 1.9b - Please provide the EU AIF allocation between Member States. If this is not straightforward to obtain, please provide an estimate.

	Number of AIFM funds / sub-funds	Asset under Management
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.9bb – Please provide any further details (e.g. assumptions your estimate is based upon) to your answer to question 1.9b:

Question 1.9c - Please provide the ELTIF allocation between Member States. If this is not straightforward to obtain, please provide an estimate.

	Number of ELTIF funds / sub-funds	Asset under Management
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.9cc – Please provide any further details (e.g. assumptions your estimate is based upon) to your answer to question 1.9c:

Question 1.9d - Please provide the EuVECA allocation between Member States. If this is not straightforward to obtain, please provide an estimate.

	Number of EuVECA funds / sub-funds	Asset under Management
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.9dd - Please provide any further details (e.g. assumptions your estimate is based upon) to your answer to question 1.9d:

Question 1.9e – Please provide the EuSEF allocation between Member States. If this is not straightforward to obtain, please provide an estimate.

	Number of EuSEF funds / sub-funds	Asset under Management
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 1.9ee - Please provide any further details (e.g. assumptions your estimate is based upon) to your answer to question 1.9e:

2. General overview

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, distributors who market or advise funds to investors.

Other respondents are welcome to respond to some or all of the questions below.

Question 2.1 – What are the reasons for any limitation on the cross-border distribution of your funds?

	Regulatory costs and/or marketing requirements costs are too high	Lack of demand outside your home market	Host Market size is too small	Tax issues	Other
Austria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Croatia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Denmark	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Estonia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Finland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
France	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Germany	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greece	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hungary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Iceland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ireland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Italy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Latvia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Malta	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Norway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Poland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Portugal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Romania	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Slovakia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sweden	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Switzerland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Netherlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
United Kingdom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the openness of the distribution network to third parties is a reason for a limitation on the cross-border distribution of your funds, please rank it from 1 (being the less open market) to 5 (being the most open market):

	1 (less open)	2	3	4	5 (most open)
Austria	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Belgium	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bulgaria	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Croatia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cyprus	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Czech Republic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Denmark	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Estonia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Finland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
France	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Germany	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Greece	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hungary	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Iceland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ireland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Italy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Latvia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Liechtenstein	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lithuania	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Luxembourg	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Malta	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Norway	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Poland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Portugal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Romania	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Slovakia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Slovenia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Spain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sweden	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Switzerland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Netherlands	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
United Kingdom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 2.1a – Please expand upon and provide more detail on your response to questions 2.1 and 2.1a - please explain what the issues are and how they limit the cross-border distribution of funds? Please cite the relevant provisions of the legislation concerned if possible:

Question 2.2 – In your experience, which of the following issues are the major regulatory and tax barriers to the cross-border distribution of funds in the EU?

For the issues you consider to be major barriers, please rank them in order of importance (1 - most important; 6 - relatively less important).

	1 (most important)	2	3	4	5	6 (relatively less important)	Not an issue
Different definitions across the EU of what marketing is	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Marketing requirements imposed by host Member States							
Regulatory fees imposed by host Member States							
Administrative arrangements (see section 6 for further details on administrative arrangements) imposed by host Member States							
Lack of efficiency of notification process							
Difficult /cumbersome refund procedures for claiming relief from withholding taxes on distributions by the UCITS, AIFs, ELTIF, EuVECA or EuSEF							
Higher taxation of investment funds located elsewhere in the EU/EEA than of domestic funds							
Differences between the tax treatment of domestic and foreign fund managers as regards withholding tax/income reporting responsibilities and opportunities on income distributed by UCITS, AIF, ELTIF, EuVECA or EuSEF							

Differences between Member States in tax reporting	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. Marketing requirements

Where EU funds are marketed to investors, they are usually required to comply with national requirements set by host Member States. These marketing requirements, especially those relating to the content of communications*, differ across the EU. For example, some Member States require ex-ante approval of the marketing communications whether other Member States monitor the communications ex-post, and some Member States adopt a principles-based approach whereas others apply detailed rules.

Respondents to the CMU consultation viewed that these varying national requirements as a significant barrier to marketing funds cross-border, with significant costs incurred in researching each EU Member State's financial promotion and consumer protection regime, and providing appropriate materials on an on-going basis.

In the case of UCITS, the current disclosure regime has been established over a number of years, based on home Member State control with a maximum harmonisation regime (except for language translation) applying to the key investor information. However, anecdotal evidence suggests that at least some Member States require additional disclosures or review material before a UCITS may be marketed. While any consideration of this issue should give due attention to the concerns which have led regulators to require additional disclosures and to review marketing material, it may be better that any concerns, where justified, are addressed at the EU level, in order to eliminate barriers to the further development of the single market in this area.

* Marketing communications comprise an invitation to purchase investment funds that contains specific information about the funds. In other word, this includes all the marketing materials that are used in order to promote or advertise a specific investment funds. For the purpose of these questions, the prospectus and the Key Information Documents are not considered as marketing communications.

The following questions are addressed to all respondents.

Question 3.1a – Are you aware of member state interpretations of marketing that you consider to go unreasonably beyond of what should be considered as marketing under the UCITS Directive*?

* Article 91 to 96 of the [Directive 2009/65/EC](#) of the European Parliament and of the Council of 13 July 2009

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 3.1aa – Please explain your answer to question 3.1a:

Question 3.1b – Are you aware of member state interpretations of marketing that you consider to go unreasonably beyond the definition of marketing in AIFMD?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 3.1bb – Please explain your answer to question 3.1b:

A number of EU Member States define marketing so broadly that no activities that are normally considered “pre-marketing” are allowed. Countries such as Spain and Italy, for example, do not allow discussions of general fund strategy with investors before a marketing passport is in hand, even though the fund may not have even been established yet. This interpretation is not used in other EU countries and is commercially unreasonable.

Question 3.1c – Are you aware of any of the practices described above having had a material impact upon the cross-border distribution of investment funds?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 3.1cc – Please explain your answer to question 3.1c:

This practice of not allowing “pre-marketing”, or discussions with investors prior to the launch of a fund, has a material impact on the cross-border distribution of real estate investment funds. It makes it very difficult to do a broad cross-border launch of a fund.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, distributors who market or advise funds to investors and National Competent Authorities

Other respondents are welcome to respond to some or all of the questions below.

Question 3.2 – Which of the following, if any, is a particular burden which impedes the use of the marketing passport?

	Yes	No
Different interpretations across Member States of what constitutes marketing?	<input checked="" type="radio"/>	<input type="radio"/>
Different methods across Member States for complying with marketing requirements (e.g. different procedures)?	<input checked="" type="radio"/>	<input type="radio"/>
Different interpretations across Member States of what constitutes a retail or professional investors?	<input type="radio"/>	<input checked="" type="radio"/>
Additional requirements on marketing communications imposed by host Member States?	<input type="radio"/>	<input checked="" type="radio"/>
Translation requirements imposed by host Member States?	<input type="radio"/>	<input checked="" type="radio"/>
Other domestic requirements	<input checked="" type="radio"/>	<input type="radio"/>

Please specify what other domestic requirements are a particular burden which impedes the use of the marketing passport:

Spain requires the appointment of a local agent. This requirement seems to have been taken from UCITS but is not in AIFMD. Not only is it an additional expense, but the time required to enter into an arrangement with a local Spanish agent can be quite long.

Many EU Member States impose unreasonable fees which impedes the use of the marketing passport. Some Member States impose no fees at all, and some impose reasonable fees, but in other cases, the fees appear to be arbitrary, based on intransparent methodologies and/or subject to automatic annual increases unrelated to costs. To give a few examples, Italy imposes a fee of EUR 4,000 per fund, which can be extremely expensive for an AIFM marketing a number of funds. Malta imposes a fee of EUR 2,500 per fund each year, which is also prohibitively expensive given the small number of potential investors there. Austria imposes an initial fee of EUR 1,100 per fund and an annual fee of EUR 600 per fund, with additional fees charged in both cases for each sub-fund. Croatia charges an initial fee of EUR 2,900 per manager as an annual fee of EUR 1,800 per fund.

We see no good policy reason why managers should be prevented from approaching professional investors in a jurisdiction to gauge interest in a possible product which has not yet been established and its terms remain under negotiation. Investors should be sufficiently protected if registration requirements are complied with prior to investors receiving final documentation which is capable of being subscribed to.

Finally, some countries seem to impose a requirement that local legal representatives be used. While this requirement may not be explicitly stated in local regulations, unreasonable delays are often incurred when attempting to use non-local legal representatives when exercising passporting authority.

Question 3.2a – Please explain your answer to question 3.2:

The interpretations and practices noted as impeding the use of passport authority, together result in many fund managers marketing their funds only in larger Member States with a significant investor base. Smaller Member States are therefore less able to access a diverse pool of suitable investment products that could be a good liability matching investment or well suited to their risk-return preferences.

However, Member States that do not charge fees for exercising passport authority avoid this consequence. Examples of these Member States include Bulgaria, Cyprus, Czech Republic, Ireland, Greece, The Netherlands, Norway and Poland.

Question 3.3 – Have you seen any examples of Member States applying stricter marketing requirements for funds marketed cross-border into their domestic market than funds marketed by managers based in that Member State?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 3.3a – Please explain your answer to question 3.3:

Question 3.4 – Are domestic rules in each Member State on marketing requirements (including marketing communications) easily available and understandable?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 3.4a – If your answer to question 3.4 is no, please specify in which Member State(s) the rules are not easily available and understandable:

- | | | | |
|----------------------------------|---|--|---|
| <input type="checkbox"/> Austria | <input type="checkbox"/> Belgium | <input type="checkbox"/> Bulgaria | <input type="checkbox"/> Croatia |
| <input type="checkbox"/> Cyprus | <input type="checkbox"/> Czech Republic | <input type="checkbox"/> Denmark | <input type="checkbox"/> Estonia |
| <input type="checkbox"/> Finland | <input type="checkbox"/> France | <input type="checkbox"/> Germany | <input type="checkbox"/> Greece |
| <input type="checkbox"/> Hungary | <input type="checkbox"/> Iceland | <input type="checkbox"/> Ireland | <input type="checkbox"/> Italy |
| <input type="checkbox"/> Latvia | <input type="checkbox"/> Liechtenstein | <input type="checkbox"/> Lithuania | <input type="checkbox"/> Luxembourg |
| <input type="checkbox"/> Malta | <input type="checkbox"/> Norway | <input type="checkbox"/> Poland | <input type="checkbox"/> Portugal |
| <input type="checkbox"/> Romania | <input type="checkbox"/> Slovakia | <input type="checkbox"/> Slovenia | <input type="checkbox"/> Spain |
| <input type="checkbox"/> Sweden | <input type="checkbox"/> Switzerland | <input type="checkbox"/> The Netherlands | <input type="checkbox"/> United Kingdom |

Question 3.4ab – If your answer to question 3.4 is no, please provide details and explain why the rules are not easily available and understandable in this/these Member State(s):

Question 3.5 – When you actively market your funds on a cross–border basis to **retail investors/High Net worth retail individuals/Professional investors** do you use marketing communications (Leaflet, flyers, newspaper or online advertisement, etc.)?

	Yes	No
Retail investors	<input type="radio"/>	<input type="radio"/>
High net worth individuals	<input type="radio"/>	<input type="radio"/>
Professional investors	<input type="radio"/>	<input type="radio"/>

Question 3.5a – Please provide the percentage of your funds marketed on a cross–border basis using marketing communications in the host country:

	% of your funds marketed on a cross–border basis using marketing communications in the host country
Retail Investors	
High net worth retail individuals	
Professional investors	

Question 3.5b – To what extent are marketing communications important in marketing your funds to **retail investors, high net worth individuals and professional investors**? Please explain your answer:

Question 3.6 – What types of marketing communication do you use for retail investors?

	Yes	No
Leaflet / flyer	<input type="radio"/>	<input type="radio"/>
Short booklet	<input type="radio"/>	<input type="radio"/>
Newspaper advertisement	<input type="radio"/>	<input type="radio"/>
TV advertisement	<input type="radio"/>	<input type="radio"/>
Radio advertisement	<input type="radio"/>	<input type="radio"/>
On line advertisement	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>

The following questions are addressed to all respondents.

Question 3.15 – Do you consider that rules on marketing communications* should be more closely aligned in the EU?

* Marketing communications comprise an invitation to purchase investment funds that contains specific information about the funds. In other word, this includes all the marketing materials that are used in order to promote or advertise a specific investment funds. For the purpose of these questions, the prospectus and the Key Information Documents are not considered as marketing communications

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 3.15a – Please explain your answer to question 3.15 – and if appropriate, to what extent do you think they should be harmonised:

For real estate management houses, this question is related almost entirely to the different interpretations of what activities constitute marketing.

Question 3.16 – Is there a case for harmonising marketing communications for other types of investment products (other than investment funds)?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 3.16a – Please explain your answer to question 3.16 and what should the other products be:

Question 3.17 – What role do you consider that ESMA – vis-a-vis national competent authorities – should play in relation to the supervision and the monitoring of marketing communications and in the harmonisation of marketing requirements? If you consider both should have responsibilities, please set out what these should be.

ESMA should issue guidance on what the AIFM regulations should be and to monitor their implementation, rather than leave national regulators to adopt interpretations (which could be inconsistent).

4. Costs

Respondents to the CMU and CfE noted the relatively high cost of distributing funds – in terms of work to comply with regulation, fees charged by regulators and distribution costs. This section asks about the overall costs to asset managers wishing to market cross-border, and section 5 asks about fees charged by the regulatory authorities specifically.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, distributors who market or advise funds to investors.

Other respondents are welcome to respond to some or all of the questions below.

Question 4.1 – What proportion of your overall fund costs relate to regulation and distribution depending on the Member State where the fund is marketing regardless where it is domiciled? If this is not straightforward to obtain, please provide an estimate. Alternatively, please provide man hours spent on each.

REGULATORY COSTS (in % of your overall costs or in man hours)

	Legal costs: Third party (Law firms, consultants agency, etc.)	Legal costs: Internal legal analysis	Regulatory fees	Administrative arrangements	Marketing requirements	Others
Austria						
Belgium						
Bulgaria						
Croatia						
Cyprus						
Czech Republic						
Denmark						
Estonia						
Finland						
France						
Germany						
Greece						
Hungary						
Iceland						
Ireland						
Italy						
Latvia						
Liechtenstein						
Lithuania						
Luxembourg						
Malta						
Norway						

Poland						
Portugal						
Romania						
Slovakia						
Slovenia						
Spain						
Sweden						
Switzerland						
The Netherlands						
United Kingdom						

DISTRIBUTION COSTS (in % of your overall costs or in man hours)

	Traditional Network distribution	Online Network distribution
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		

Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

OTHERS COSTS - linked to taxation system

	Costs in order to get the information	Costs to fulfil the obligation
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

5. Regulatory fees

As noted in section 4, the range of regulatory fees charged by host Member States have been referred to by a number of respondents to the public consultations as hindering the development of the cross-border marketing of funds across the EU. A formal notification process applies in respect of the passporting of all EU investment funds. In many cases national competent authorities apply a fee to the processing of such notifications. A preliminary assessment by the Commission services shows that the level of fees levied by host Member State on asset managers varies considerably, both in absolute amount and how they are calculated, including some Member States who may not apply fees.

Notification procedures contained in the various fund legislation do not currently include any reference to regulatory fees. In some cases, such as EUVECA and EUSEF, all supervisory powers are reserved to the home competent authority and host authorities expressly prohibited from imposing any requirements or administrative procedures in relation to marketing. The Commission services are interested in views as to whether notification fees are compatible with an efficient notification procedure, the passporting rights provided for in legislation and, if fees were to be allowed, how to ensure that they are proportionate and not excessive.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members)

Other respondents are welcome to respond to some or all of the questions.

Question 5.1 – Does the existence and level of regulatory fees imposed by host Member States materially affect your distribution strategy?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 5.2 – In your experience, do any Member States charge higher regulatory fees to the funds domiciled in other EU Members States marketed in their Member State compare to domestic funds?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 5.2a – Please explain your answers to question 5.2 and provide evidence:

Member States appears to set passporting fees at a similar level to domestic fees.

Question 5.3 – Across the EU, do the relative levels of fee charged reflect the potential returns from marketing in each host Member State?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

Question 5.3a – Please explain your answers to question 5.3 and provide examples:

Question 5.4 – How much would it cost you, in term of regulatory fees [one-off fees and ongoing], to market a typical UCITS with 5 sub-funds to retail investors in each of the following Member States (this excludes any commission paid to distributors)?

Please respond for each Member State where you market your UCITS funds.

	One off fees (in €)	On-going fees (in €)
Austria		
Belgium		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Malta		
Norway		
Poland		
Portugal		
Romania		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The Netherlands		
United Kingdom		

Question 5.5 – How much would it cost you in terms of regulatory fees [one-off fees and ongoing], to market a typical AIF with 5 sub-funds to professional investors in each of the following Member States (this excludes any commission paid to distributors)?

Please respond for each Member State where you market your AIFs.

	Cost in €
Austria	
Belgium	
Bulgaria	
Croatia	
Cyprus	
Czech Republic	
Denmark	
Estonia	
Finland	
France	
Germany	
Greece	
Hungary	
Iceland	
Ireland	
Italy	
Latvia	
Liechtenstein	
Lithuania	
Luxembourg	
Malta	
Norway	
Poland	
Portugal	
Romania	
Slovakia	
Slovenia	
Spain	
Sweden	
Switzerland	
The Netherlands	
United Kingdom	

Questions addressed to National competent Authorities

Questions addressed in particular to:

- **asset managers (professional associations are invited in addition to consolidate information on behalf of their Members)**
 - **and National Competent Authorities.**

Other respondents are welcome to respond to some or all of the questions below.

Question 5.8 – Where ongoing fees are charged, are they related to use of the passport?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 5.9 – Do differing national levels of, and bases for, regulatory fees hinder the development of the cross-border distribution of funds?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

Question 5.9a – Please explain your answer to question 5.7

Our view that the fees charged are a barrier to the cross-border marketing of funds relates more to the absolute level of the fees rather than the differing levels.

Question 5.10 – On who are regulatory fees are charged: managers or funds? Please describe if there are different practices across the EU:

Where Member States charge fees (not all do), they are typically based on the number of funds and sometimes even the number of sub-funds.

6. Administrative arrangements

Where EU funds using the marketing passport are sold to retail investors, host Member States sometimes introduce special administrative arrangements intended to make it easier for investors to subscribe, redeem and receive related payments from those funds, as well as receive tailored information to support them in doing so. Examples cited in earlier evidence include a requirement for UCITS funds to appoint a paying agent located in the host Member State, and a requirement for information contacts to be located in the host state. These have advantages for investors in allowing them to deal with local organisations, but a number of respondents to the CMU green paper viewed these requirements as an additional burden which is not always justified by the value added for local investors, especially when taking into account the development of new technologies. Moreover, UCITS and any funds marketing to retail investors are required in any case to have arrangements in place which allow investors to be confident that they know how to go about subscribing and redeeming to the fund. However the infrastructure through which payments are made and received and through which information is provided may generally no longer require a physical presence in a host Member State. Clarification that infrastructure can be provided through technical means as well as by local agents may be one way to address this issue. Views are sought on whether this would be likely to reduce costs and support the further integration of the single market.

In order to better assess this potential issue, and other administrative arrangements, it would be very helpful to have tangible evidence from stakeholders. The perspective of retail investors is also particularly welcomed in order to address and consider investor protection issues.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members)

Other respondents are welcome to respond to some or all of the questions below.

Question 6.1 – What are the main barriers to cross-border marketing in relation to administrative arrangements and obligations in Member States? Please provide tangible examples of where you consider these to be excessive:

Question 6.2 – Do you consider requirements imposed by host Member States, in relation to administrative arrangements, to be stricter for foreign EU funds than for domestic funds?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 6.2a – Please explain your answer to question 6.2

Question 6.3 – What would be the estimated savings (in term of percentage of your overall costs) if you were no longer required to apply these administrative arrangements in the Member States where you market your units?

between 0 and 100

% of your overall costs

Question 6.4 – In the absence of the administrative arrangements described in your response to Question 6.1, what arrangements would be necessary to support and protect retail investors?

Question 6.5 – Do you consider that the administrative arrangements should differ if the fund is marketed to retail investors or professional investors?

Question 6.6 – What is the impact in term of costs of making these facilities available in each Member State? Please quantify them in relation to each measure and for each Member States where you distribute your funds:

Question 6.7 – Which alternative/additional administrative arrangements would you suggest in order to ensure greater efficiency in cross-border marketing and appropriate levels of investor protection?

Question 6.8 – Are there any measures you would suggest to improve the efficiency and effectiveness of administrative arrangements within and across Member States?

7. Direct and online distribution of funds

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, distributors

Other respondents are welcome to respond to some or all of the questions below.

Question 7.1 – What are the main issues that specifically **hinder the direct distribution of funds** by asset managers?

	Yes	No
Marketing requirements	<input checked="" type="radio"/>	<input type="radio"/>
Administrative arrangements	<input type="radio"/>	<input type="radio"/>
Regulatory fees	<input checked="" type="radio"/>	<input type="radio"/>
Tax rules	<input type="radio"/>	<input type="radio"/>
Income reporting requirements	<input type="radio"/>	<input type="radio"/>
Lack of resources	<input type="radio"/>	<input type="radio"/>
Others	<input type="radio"/>	<input type="radio"/>

Question 7.1a – Please expand on your answers to question 7.1

Question 7.2 – What are the main barriers that hinder the **online distribution of funds** or the setting up new distribution platforms or other digital distribution ways?

Question 7.3 – Are there aspects of the current **European rules** on marketing, administrative arrangements, notifications, regulatory fees and other aspects (such as know your customer requirements) that hinder the development of cross-border digital distribution of funds beyond those described in earlier sections?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 7.3a – What are these aspects of European rules?

Question 7.3b – Are there aspects of the current **national rules** on marketing, administrative arrangements, notifications, regulatory fees and other aspects (such as know your customer requirements) that hinder the development of cross-border digital distribution of funds beyond those described in earlier sections?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 7.3c – What are these aspects of national rules?

Question 7.4 – What do you consider to be the main reasons why EU citizens are unable **to invest in platforms** domiciled in another Member State?

Question 7.5 – What would you consider to be appropriate components of a framework to support cross-border platform distribution of funds? What should be the specifications for the technical infrastructure of the facilities? Please clarify among others how you would address the differences in languages.

8. Notification process

A number of respondents to the CMU green paper and the Call for Evidence noted difficulties with the notification process where funds marketed on a cross-border basis and there is a need for documentation to be updated or modified. Where initial notification in the case of UCITS or AIFM is between national competent authorities, without involvement by asset managers, in the event of a change in the information provided to the competent authority of the home Member States, asset managers are required to give written notice to the competent authority of the host Member State.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, to national competent authorities.

Other respondents are welcome to respond to some or all of the questions below.

Question 8.1 – Do you have difficulties with the UCITS notification process?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 8.2 – If you have difficulties with the UCITS notification process, please describe them:

Question 8.3 – Have you experienced unjustified delay in the notification process before being able to market your UCITS in another Member State?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not relevant

Question 8.3a – Please describe your experiences with such an unjustified delay in the notification process before being able to market your UCITS in another Member State:

Question 8.4 – Do you have difficulties with the AIFMD notification process?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

Question 8.4a – If you have difficulties with the AIFMD notification process, please describe them:

Question 8.5 – Have you experienced unjustified delay in the notification process before being able to market your AIFs in another Member State?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not relevant

Question 8.5a – Please describe your experiences with such an unjustified delay in the notification process before being able to market your AIFs in another Member State:

Question 8.6 – What should be improved in order to boost the development of cross-border distribution of funds across the EU?

We suggest more clarity regarding what contact with investors, if any, can be had during the 20-day waiting period following the notification of a material change.

9. Taxation

Many respondents to the CMU Green Paper pointed to tax issues as impeding the cross-border sale of funds. The issues seem to range from lack of access to tax treaties to difficulties in obtaining refunds of withholding taxes to discrimination of funds established in other Member States.

Provided that their approach is in accordance with EU rules, Member States are free to choose the tax systems that they consider most appropriate. However, in addition to assisting Member States to tackle tax avoidance and evasion, the Commission is seeking to identify and promote best practices around preventing double taxation/double non-taxation and to address any unjustified discrimination. This complements the multinational work underway, in particular at OECD level, in the same areas.

Questions addressed in particular to asset managers (professional associations are invited in addition to consolidate information on behalf of their Members) and where appropriate, distributors

Other respondents are welcome to respond to some or all of the questions below.

Question 9.1 – Have you experienced any difficulties whereby tax rules across Member States impair the cross-border distribution and take-up of your UCITS or AIF or ELTIF or EuVECA or EuSEF?

	Yes	No
UCITS	<input type="radio"/>	<input type="radio"/>
AIF	<input checked="" type="radio"/>	<input type="radio"/>
ELTIF	<input type="radio"/>	<input type="radio"/>
EuVECA	<input type="radio"/>	<input type="radio"/>
EuSEF	<input type="radio"/>	<input type="radio"/>

Question 9.1a – Please describe the difficulties, including whether they relate to discrimination against UCITS or AIF (including ELTIF, EuVECA or EuSEF) sold on a cross-border, and provide examples. Please cite the relevant provisions of the legislation concerned.

For real estate funds withholding taxes are not major issue impeding cross distribution. Those issues arise for traditional asset classes and, in particular, for equity funds resident in certain jurisdictions.

Real estate has different dynamics as territories typically try to tax property income in the jurisdiction in which it is located. The issues are typically local rather than withholding taxes.

Substantial tax and tax treaty access issues for AIFs are expected to arise if the proposed OECD BEPS Action Plan 6 (on the granting of treaty benefits with respect to the income of collective investment vehicles) is implemented by OECD member states without appropriate safeguards to ensure the continued eligibility of tax treaty benefits to AIFs and AIF structures.

In light of the tax treaty access work currently undertaken by the OECD, and to ensure a level playing field, AREF recommends the European Commission coordinate efforts with the OECD with respect to the tax treaty access of AIFs and AIF structures, especially in those cases where the loss of tax treaty benefits results in a distribution barrier in the form of increased withholding and other taxes.

Question 9.2 – Have you experienced any specific difficulties due either to the absence of double taxation treaties or to the non-application of treaties or to terms within those treaties which impede your ability to market across borders?

For example: difficulties in determining the nationality of your investors or difficulties in claiming, or inability to claim, double tax relief on behalf of your investors.

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not relevant

Question 9.2a – Please, describe those difficulties, and if applicable, how these can best be resolved – for example through amendments to double taxation treaties. Please share any examples of best practice that could help to address these issues.

Question 9.3 – Feedback to earlier consultations has suggested that the levying of withholding taxes by Member States has impeded the cross-border distribution of UCITS or AIFs (including ELTIF, EuVECA and EuSEF).

Withholding taxes are usually reduced or even eliminated under double taxation treaties. But in practice it has been claimed that it is difficult for non-resident investors to collect any such withholding tax reductions or exemptions due under double taxation treaties. Have you experienced such difficulties?

Question 9.3a – Please provide examples of the difficulties with claiming withholding tax relief suggest possible improvements and provide information on any best practices existing in any Member States. Please cite the relevant provisions of the legislation concerned.

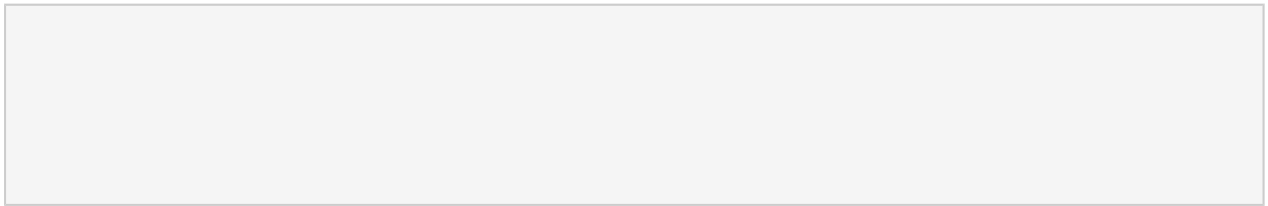
Question 9.4 – What are the compliance costs per Member State (in terms of a percentage of assets under management) of managing its withholding tax regimes (fees for legal and tax advisers, internal costs, etc.)? Do they have a material impact on your UCITS or AIF (including ELTIF, EuVECA and EuSEF) distribution strategy?

Question 9.5 – What if any income reporting or tax withholding obligations do you have in the Member States where the UCITS or AIF (including ELTIF, EuVECA and EuSEF) is located and what if any difficulties to you have with reporting formats?

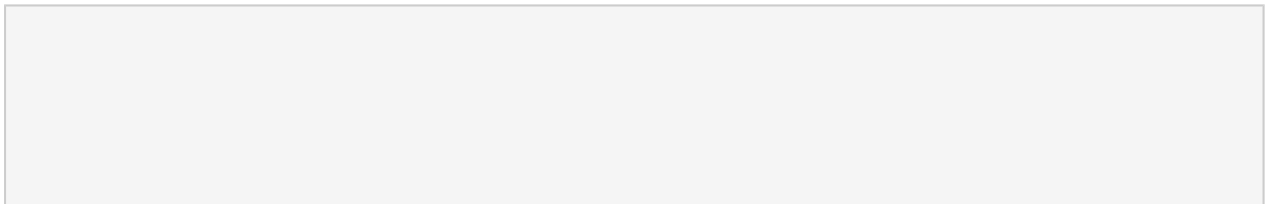
What kind of solutions and best practices, if any, would you suggest to overcome these difficulties?

If a single income reporting format were to be introduced across the EU, what would be the level of costs saved?

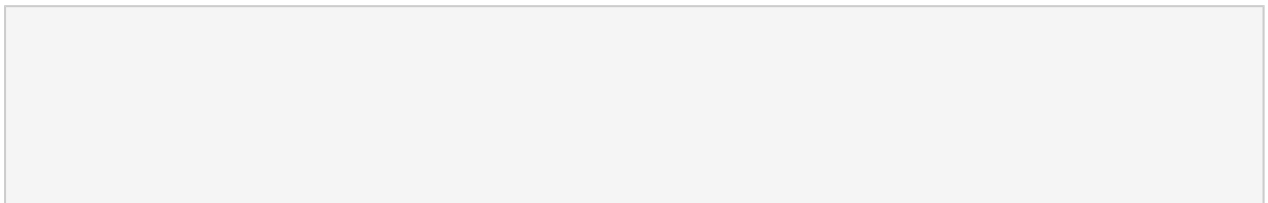
Would this have a material impact on your UCITS or AIF (including ELTIF, EuVECA and EuSEF) distribution strategy?



Question 9.6 – Are there any requirements in your Member State that the UCITS or AIFs (including ELTIF, EuVECA and EuSEF) need to invest in assets located in that Member State in order to qualify for preferential tax treatment of the proceeds of the UCITS or AIF (including ELTIF, EuVECA and EuSEF) received by the investors in the UCITS or AIFs?



Question 9.7 – Have you encountered double taxation resulting from the qualification of the UCITS or AIF (including ELTIF, EuVECA and EuSEF) as tax transparent in one Member State and as non-tax transparent in another Member State?



Question 9.8 – Have you encountered difficulties in selling a UCITS or AIF cross-border because your UCITS or AIF (including ELTIF, EuVECA and EuSEF) or the proceeds produced by the UCITS or AIF (including ELTIF, EuVECA and EuSEF) would not receive national (tax) treatment in the Member State where it was sold? Please provide a detailed description, including quotes of the national provisions leading to the not granting of national treatment.

10. Other questions and additional information

The following questions are addressed to all respondents.

Question 10.1 – Are there any other comments or other evidence you wish to provide which you consider would be helpful in informing work to eliminate barriers to the cross-border distribution of UCITS or AIFs (including ELTIF, EuVECA and EuSEF)?

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

33cf7b5e-d3f5-4200-8da8-e502b34c7795/161006_EC_Consultation_-_Barriers_to_the_cross-borders_distribution_of_investment_funds.pdf

Useful links

[Consultation details \(http://ec.europa.eu/finance/consultations/2016/cross-borders-investment-funds/index_en.htm\)](http://ec.europa.eu/finance/consultations/2016/cross-borders-investment-funds/index_en.htm)
[Specific privacy statement \(http://ec.europa.eu/finance/consultations/2016/cross-borders-investment-funds/docs/privacy-statement_en.pdf\)](http://ec.europa.eu/finance/consultations/2016/cross-borders-investment-funds/docs/privacy-statement_en.pdf)

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Contact

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