

FMA Instruction 2017/4 on the UCITS notification procedure

Reference:	FMA-I 2017/4
Addresses:	UCITS management companies
Re.:	Articles 96 et seqq. of the UCITS Act
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These Instructions provide an overview of the documents to be submitted and the procedure for marketing undertakings for collective investment in transferable securities (UCITS) units to the public in Liechtenstein and in other EEA Member States in accordance with Articles 96 to 102 of the Liechtenstein Act of 28 June 2011 on Certain Undertakings for Collective Investment in Transferable Securities (*Gesetz vom 28. Juni 2011 über bestimmte Organismen für gemeinsame Anlagen in Wertpapieren, UCITSG*; hereinafter referred to as the "UCITS Act") and Articles 107 to 110 of the Liechtenstein Ordinance of 5 July 2011 on Certain Undertakings for Collective Investment in Transferable Securities Ordinance (*Verordnung vom 5. Juli 2011 über bestimmte Organismen für gemeinsame Anlagen in Wertpapieren, UCITSV*; hereinafter referred to as the "UCITS Ordinance").

A) FMA as home Member State authority: notification procedure for Liechtenstein UCITS

1. Notification requirement

Liechtenstein management companies shall notify the Financial Market Authority Liechtenstein (hereinafter referred to as the "FMA") of their intention to market a UCITS on a cross-border basis. Notifications must be submitted electronically (Article 98(1) of the UCITS Act).

The FMA requires notification letters to be submitted in English. Whether translations of any other documents must be submitted will depend on the host Member State involved. Applicants are advised to obtain information to this effect from the relevant host Member State. Applicants are responsible for obtaining information on national marketing rules and other national rules and regulations that apply in the relevant country of marketing.

The fund must have been authorised by the FMA as a UCITS and the management company as a UCITS management company prior to notification.

2. Documents to be submitted

All documents must be sent by e-mail to the following address: fonds@fma-li.li.

- A notification letter, notifying the intention to market units, which must be completed in English and sent as Excel and PDF files; the template is available on the FMA website
- The UCITS constitutive documents as PDF files
- Any additional documents referred to in the notification letter (latest annual report, latest semi-annual report, etc.)

3. Procedure

The FMA will forward the documents to the authorities in the country of marketing, enclosing an attestation with regard to the UCITS.

4. Fees

In accordance with Article 127 of the UCITS Act in conjunction with Article 30(1) of the Liechtenstein Financial Market Supervision Act (*Finanzmarktaufsichtsgesetz, FMAG*; hereinafter referred to as the “FMA Act”) and Appendix 1(C)(2a)(d)(oo), first indent of the FMA Act, a fee of CHF 500 for each sub-fund or single fund, is payable in respect of processing notifications under Article 98 of the UCITS Act. An invoice will be sent for payment of the fee.

5. Updating documents and notifying changes

The UCITS management company responsible for managing the UCITS in Liechtenstein must, on its own initiative, inform the authorities in the country of marketing immediately of any amendments to the constitutive documents.

B) FMA as host Member State authority: notification procedure for EEA UCITS

1. Notification requirement

EEA UCITS management companies shall submit a notification letter to the authorities in their home country for any EEA UCITS they intend to market in Liechtenstein. The FMA accepts documents in German or English.

The authorities in the relevant home country may send documents by e-mail to the following address: passport.ucits@fma-li.li.

Authorisation of the EEA UCITS by the authorities in the relevant home country is a prerequisite for notification.

2. Documents to be submitted

EEA UCITS management companies shall submit the requisite documents to the authorities in their home country.

3. Procedure

The FMA will receive the relevant notification from the authorities in the home country of the EEA UCITS. Once the notification has been received, the EEA UCITS may be marketed in Liechtenstein in accordance with Article 99(3) in conjunction with Article 98(3)(c) of the UCITS Act. The FMA will add the EEA UCITS to the list of EEA UCITS approved for marketing in Liechtenstein.

4. Fees and charges

A one-off administration fee will be charged for processing notifications under Article 99 of the UCITS Act. An annual base fee will also be payable for all EEA UCITS approved for marketing in Liechtenstein.

4.1 Administration fee applying to notifications

In accordance with Article 127 of the UCITS Act in conjunction with Article 30(1) of the FMA Act and Appendix 1(C)(2a)(d)(oo), second indent of the FMA Act, a fee of CHF 500 for each sub-fund or single fund, is payable in respect of processing notifications under Article 99 of the UCITS Act.

4.2 Annual supervisory fee

The FMA will charge non-Liechtenstein EEA UCITS with no sub-funds and each sub-fund under umbrella structures, which are subject to FMA oversight, an annual base fee of CHF 1,250 (Article 127 of the UCITS Act in conjunction with Article 30(1) of the FMA Act and Appendix 2.II.(K)(a) and (b) of the FMA Act.

The annual base fee will be billed during the year in which it falls due and is payable (without bank charges) using the payment slip enclosed with the invoice.

4.3 Payment instructions

The administration fee for notifications (section 4.1) is to be transferred in advance to the following account of the FMA:

Beneficiary: Finanzmarktaufsicht (FMA)

Bank: Liechtensteinische Landesbank AG, 9490 Vaduz

BIC: LILALI2XXXX

Clearing No.: 8800

IBAN: LI89 0880 0000 0219 7559 2

The names of the UCITS and EEA UCITS management company to which the notification relates is to be provided as a reference for the fee.

Proof of payment is to be enclosed with the notification.

5. Updating documents and notifying changes

The EEA management company or Liechtenstein paying agent for the UCITS must, on its own initiative, inform the FMA of any amendments to the constitutive documents (see Article 99(4) of the UCITS Act).