

INFORMATION CONCERNING
THE PUBLIC OFFERING
OF UCITS IN AUSTRIA
PURSUANT TO ART. 140 OF THE
INVESTMENT FUNDS ACT
(InvFG 2011)

Last Update: 1st August 2019

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SUMMARY OF VERSIONS

Date of version	Adaptations
1 st October 2013	<ul style="list-style-type: none"> • Introductory Remarks • Chapter I.1. (List of documents which need to be submitted to the authority of the home member state of the UCITS) • Chapter I.3. (Information to the unit holders according to Art. 141 para 1 InvFG 2011 (paying agent and information centre in Austria)) • Chapter I.4. (Information on the fees pursuant to Art. 140 para 3 InvFG 2011) • Chapter I.7. (Publication of information to the unit holders) • Chapter II.1. (Update of documents) • Chapter II.2. (Notice concerning submission via email) • Chapter III. (Discontinuance of distribution pursuant to Art. 141 para 4 InvFG 2011)
23 th January 2014	<ul style="list-style-type: none"> • Chapter I.3. (Clarification and addition of legal references)
18 th February 2014	<ul style="list-style-type: none"> • Chapter I.3 (Information on the fees pursuant to Art. 140 para 3 InvFG 2011)
17 th March 2014	<ul style="list-style-type: none"> • Renumbering (e.g. Chapter I.1-> Chapter I.A) • Chapter I.A (List of documents which need to be submitted to the authority of the home member state of the UCITS) • Chapter I.C (Information of the paying and information agent in Austria pursuant to Art. 141 para 1 InvFG 2011) • Chapter I.D (Fees pursuant to Art. 140 para 3 InvFG 2011) • Chapter I.F (The prospectus should provide the following information to the unit holders) • Chapter I.G (Publication of information to the unit holders) • Chapter III. (Termination of distribution (“deregistration”) pursuant to Art. 141 para 4 InvFG 2011)
17 th August 2015	<ul style="list-style-type: none"> • Chapter I.G. (Publication of suspension of the fund pursuant to Art. 136 para 4 InvFG 2011)
3 rd March 2016	<ul style="list-style-type: none"> • Chapter I.D (Change of legal reference to Art. 162 para 3 InvFG 2011)
1 st December 2016	<ul style="list-style-type: none"> • Chapter III. (Termination of distribution (“deregistration”) pursuant to Art. 141 para 4 InvFG 2011)
1st August 2019	<ul style="list-style-type: none"> • Chapter I – Implementation of the CBDF regulation

INTRODUCTORY REMARKS

All documents mentioned in this information have to be submitted in German or in English to the Austrian Financial Market Authority (FMA). The Key Investor Information Document (KID) has to be submitted in German. Documents that are in other language than demanded have to be translated by the management company. Resulting translation costs have to be borne by the management company.

I. NOTIFICATION OF PUBLIC OFFERING PURSUANT TO ART. 91 OF THE DIRECTIVE 2009/65/EC

For the notification procedure Annex 1 of the Commission Regulation (EU) No. 584/2010 needs to be sent fully completed in German or in English to the respective authority of the home member state of the UCITS.

Under Art. 140 InvFG 2011, the units of an UCITS approved by another member state may be marketed in Austria as soon as the FMA has received the complete documents and information referred to in Art. 139 para 1 InvFG 2011 as well as the UCITS-attestation referred to in Art. 139 para 2 InvFG 2011 from the competent authorities of the home Member State of the UCITS.

A. LIST OF DOCUMENTS WHICH NEED TO BE SUBMITTED TO THE AUTHORITY OF THE HOME MEMBER STATE OF THE UCITS

- Notification – Annex I (Part A+B+C) (signed)
- Fund rules or statutes, if not applicable in the prospectus
- Prospectus
- KID (Key Investor Information document) in German language
- Annual and semi-annual reports (if applicable)
- Confirmation of the paying agent pursuant to Art. 141 InvFG 2011 (see chapter I.C.)
- Confirmation of the payment of the fees pursuant to Art. 140 para 3 InvFG 2011 (see chapter I.D.)¹

B. LANGUAGE REQUIREMENTS CONCERNING THE DOCUMENTS

The KID needs to be translated into the German language. All other documents and information are accepted in German or in English.

¹ or after the receipt of the payment request pursuant to Article 9 of the CBDF regulation

C. INFORMATION OF THE PAYING AND INFORMATION AGENT IN AUSTRIA PURSUANT TO ART. 141 PARA 1 INVFG 2011

During the notification procedure, a management company has to nominate an Austrian paying and information agent and inform the FMA of its nomination (cf. Art 141 para 1 in conjunction with Art. 41 para 1 InvFG 2011).

The UCITS approved in another Member State shall, in compliance with Art. 55 to 57 InvFG 2011 as well as Art. 128, 132, 133, 136 and 138 InvFG 2011, take such measures as are necessary to ensure that unit-holders in Austria receive the payments from repurchase and redemption of the units and as well as information to be provided by the UCITS. To this purpose, the UCITS shall designate at least one credit institution that meets the conditions set forth under Art. 41 para 1 first sentence InvFG 2011.

D. FEES PURSUANT TO ART. 140 PARA 3 INVFG 2011

Under Art. 140 para 3 InvFG 2011 a one-time registration fee as well as a regular annual fee has to be paid for all foreign investment funds registered for marketing in Austria.

Notification fee: To enable the Austrian Financial Market Authority to start processing the the notification pursuant to Art. 140 para. 1 InvFG 2011 the following fee has to be paid in advance:

- **EUR 1,100** for processing submitted documents (see chapter I.A. to I.C.);
- this fee increases for funds containing several sub-funds (umbrella funds) by **EUR 220** for **each additional sub-fund** starting with the second sub-fund.

Examples: amount of the notification fee for a new single fund = EUR 1,100; for a new umbrella fund with two sub-funds = EUR 1,320; for two new sub-funds of an already notified umbrella fund in Austria = EUR 440

Annual fee: In addition an annual fee has to be paid to the FMA at the beginning of each calendar year for the monitoring of compliance of the obligations under Art. 139 to 142 InvFG 2011 in the amount of

- **EUR 600 for each funds** registered in Austria per 1 January of the respective year;
- this fee increases in the case of umbrella funds, by **EUR 200 for each additional sub-fund** starting with the second sub-fund.

Examples: amount of the annual fee for a single fund = EUR 600; for an umbrella fund with two sub-funds = EUR 800

The annual fee has to be paid **no later than 15th of January** of the respective year.

The fees pursuant to Art. 140 para 3 InvFG 2011 must be **paid to the Account of the Financial Market Authority** (pursuant to the Finanzmarktaufsichtsbehördengesetz – FMABG; Financial Market Authority Act, Federal Law Gazette no. I 97/2001 – sub-account for fee collection), Account Number 1-1552-5, with the Oesterreichische Nationalbank, Otto-Wagner-Platz 3, 1090 Vienna, Austria, Bank Code 00100, IBAN: AT550010000000115525, BIC: NABAATWW.

The name of the fund, investment company and/or the management company to which the fee refers should be indicated as **reference** in the payment order.

It is to be ensured that the whole fee is paid to the account without deduction of bank charges or other costs. If the fee is not paid within the stipulated timeframe, then this is reason for rejection of the notification package.

If you still would like to distribute in Austria after the rejection, a new notification package has to be submitted pursuant to Article 140 of the Austrian Investment Fund Act (InvFG).

Note: The fund is only eligible for distribution in Austria after publication on the FMA homepage!!

E. ADDITIONAL INFORMATION CONCERNING TAX REPRESENTATIVES

The Oesterreichische Kontrollbank Aktiengesellschaft (OeKB) must be notified of the appointment of an Austrian representative towards the fiscal authorities (tax representative, pursuant to Art. 186 para 1 subpara 2 InvFG 2011).

F. THE PROSPECTUS SHOULD PROVIDE THE FOLLOWING INFORMATION TO THE UNIT HOLDERS

The FMA suggests the listing of all sub-funds which are licensed to public marketing as well as the Austrian paying agent and information centre in the prospectus (in a separate Annex for Austria).

G. PUBLICATION OF INFORMATION TO THE UNIT HOLDERS

An UCITS approved in another member state shall ensure that the latest version of all information and documents referred to in Art. 139 para 1 subpara 4 and 5 InvFG 2011 and, if applicable, any translations thereof, are always available on a website accessible to the FMA by electronic means and shall inform the FMA of any change to these documents and their availability by electronic means.

The following documents have to be published in suitable publication media:

- KID (Key Investor Information document) in German language
- Annual and semi-annual reports
- Prospectus
- Issue, sale, redemption or repurchase prices of its units
- Deregistration (see Chapter III.)
- Suspension of the fund (if necessary in the home member state)

Publications may be made:

- in the official gazette "Amtsblatt zur Wiener Zeitung" or otherwise in at least one newspaper with nationwide circulation in Austria; or
- by making the publications available to the public in printed form free of charge at the registered office of the management company as well as expediently at the registered office of the information centre; or
- in electronic form on the management company's website and, where applicable, on the website of the financial intermediaries placing or selling the units, including the paying agents.

If the publication is made pursuant to Art. 136 para 4 subpara 3 InvFG 2011, it is stated that a publication has to be made on the website of the (foreign) management company as well as on the website of the (domestic) paying agent under Art. 141 para 1 InvFG 2011. This obligation is fulfilled, if there is a link on the website of the paying agent to the website of the management company with reference to the specific fund.

Regarding the suspension of funds the following has to be kept in mind:

The information to be submitted to the FMA contains:

- Starting date of the suspension and date of resumption
- Reason for the suspension
- Chosen mean of publication pursuant to Art. 136 para 4 InvFG 2011

- Date of publication
- Published text

Information regarding a suspension has to be provided in accordance with Art. 136 para 4 InvFG 2011 (see Art. 141, Art. 56 para 2 and Art. 142 para 1 subpara 1 InvFG 2011). This principle also applies in the case where the other Member State allows personal information of investors; of course additional personal information of investors is possible.

II. UPDATE OF DOCUMENTS AND NOTIFICATION OF CHANGE

A. UPDATE OF DOCUMENTS

The language requirements of chapter I.B. also apply for the update of documents.

An UCITS approved in another Member State shall ensure that the latest version of all information and documents referred to in Art. 139 para 1 subpara 4 and 5 InvFG 2011 and, if applicable, any translations thereof, are always available on a website accessible to the FMA by electronic means and shall inform the FMA of any change to these documents and their availability by electronic means.

In the case of a change in the information about marketing arrangements in the notification letter referred to in Art. 139 para 1 subpara 1 InvFG 2011 or a change in the share classes or investment compartments marketed in accordance with Art. 139 para 1 subpara 2 InvFG 2011, an UCITS approved in another member state in accordance with Art. 140 InvFG 2011 shall give the FMA written notice before implementing any such change.

B. NOTICE CONCERNING SUBMISSION VIA EMAIL

Please send emails concerning changes to the following address: funds@fma.gv.at. The name of the management company passport and the name of the fund have to be indicated clearly and exactly.

The size limit of the email is limited to 30 MB. Data may be zipped. It is also allowed to split up the documents into several emails.

The FMA accepts all documents via direct link, electronically or physically. The documents should list all changes.

If links are submitted, changes have to be noted and only direct links to the changed document are allowed.

The following document formats should only be used: pdf, doc and docx.

C. PRESENTATION OF A POWER OF ATTORNEY IN THE CASE OF NOTIFICATION BEING SUBMITTED BY THIRD PARTIES

If a notice is submitted by third parties, a power of attorney has to be presented to the FMA. If a person authorised to represent parties intervenes professionally, a service authorisation is sufficient documentation.

III. TERMINATION OF DISTRIBUTION (“DEREGISTRATION”) PURSUANT TO ART. 141 PARA 4 InvFG 2011

An UCITS approved in another Member State that intends to terminate marketing units in Austria shall inform the FMA thereof and publish this fact, accompanied by a statement of the legal consequences. The language requirements of chapter I.B. apply.

The public marketing obligations arising out of this federal act shall expire no sooner than three months after the termination of marketing. In the interests of the unit-holders, the FMA may prescribe an extension of this period and a public notice thereof Art. 142 InvFG 2011 shall remain applicable.

This also applies in the case of the termination of the marketing of a sub-fund.