

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

Last Update: 01.03.2023

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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 stat 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)
1 st August 2019	<ul style="list-style-type: none"> • Chapter I – Implementation of the CBDF regulation
17 th December 2021	<ul style="list-style-type: none"> • Amendments due to CBDF implementation (Federal Law Gazette BGBl. I 198/2021).
1 st March 2023	<ul style="list-style-type: none"> • Amendments due to PRIIPs 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). 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 and 1a 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
- Annual and semi-annual reports (if applicable)
- Point of contact details (Facility according to Art. 139 para 8 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

All 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. POINT OF CONTACT (FACILITY PURSUANT TO ART. 139 PARA 8 INVFG 2011)

In each Member State in which it intends to market its units, the UCITS shall provide facilities for the performance of the following functions (Art. 139 para 8 InvFG 2011):

1. Processing subscription, repurchase, and redemption orders and making other payments to unit holders for units of the UCITS in accordance with the requirements set forth in the UCITS prospectus and the customer information document;
2. Information to investors on how the orders referred to in item 1 can be placed and how repurchase and redemption proceeds are paid out;
3. Facilitation of the handling of information and access to procedures and arrangements pursuant to Art. 11 InvFG 2011 with respect to the exercise of investor rights arising from investments in UCITS in the Member State in which the UCITS is marketed;
4. Providing investors with the information and documents listed in Chapter IX of Directive 2009/65/EC in accordance with the conditions set out in Art. 94 of Directive 2009/65/EC for inspection and copying;
5. Providing investors with relevant information related to the functions performed by the entities in a durable medium; and
6. Act as a point of contact for communication with the competent authorities.

Pursuant to Art. 139 para 9 InvFG 2011, the UCITS shall ensure that the facilities are also provided for the electronic fulfillment of the tasks specified in para 8, namely:

1. In the official language or one of the official languages of the Member State in which the UCITS is marketed or in a language approved by the competent authorities of that Member State;
2. by the UCITS itself, by a third party subject to the regulations and supervision applicable to the functions to be performed, or by both.

For the purposes of item 2, if the tasks are to be performed by a third party, the designation of such third party shall be agreed upon in a written contract which shall specify which of the tasks referred to in para 8 are not to be performed by the UCITS and that the third party shall receive all relevant information and documents from the UCITS.

The contact point must be indicated in the prospectus or in the annex to the prospectus.

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 Art. 140 of the Austrian Investment Fund Act (InvFG 2011).

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

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 contact point for Austria must be indicated in the prospectus or in the annex to the prospectus. Furthermore, the FMA recommends listing the subfunds admitted to public distribution in the prospectus.

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 item 4 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:

- 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 and, if expedient, at the registered office of the contact point; 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 contact point.

If the publication is made pursuant to Art. 136 para 4 item 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 point of contact (facility according to Art. 139 para 8 InvFG 2011). This obligation is fulfilled, if there is a link on the website of the point of contact to the website of the management company with reference to the specific fund.

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 item 4 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 (Art. 140 para 4 InvFG 2011).

In the case of a change in the information about marketing arrangements in the notification letter referred to in Art. 139 para 1 item 1 InvFG 2011 or a change in the share classes or investment compartments marketed in accordance with Art. 139 para 1 item 2 InvFG 2011, an UCITS approved in another member state in accordance with Art. 140 InvFG 2011 shall give the FMA written notice of at least one month before implementing any such change (Art. 140 para 5 InvFG 2011).

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. REVOCATION OF DISTRIBUTION (“DE-NOTIFICATION”) PURSUANT TO ART. 141 InvFG 2011

A. GENERAL INFORMATION

The marketing of units of a UCITS authorized by another Member State may be revoked in Austria as soon as the complete documentation and information pursuant to Art. 139a para 1 InvFG 2011 have been submitted to the FMA by the competent authority of the UCITS home Member State.

The UCITS shall provide the investors who maintain their investments in the UCITS with the information pursuant to Art. 142 para 1 InvFG 2011.

Pursuant to Art. 141 para 3 InvFG 2011, the FMA has duties and powers within the scope of enforcement, as well as the possibility to demand the submission of information necessary to supervise compliance with the provisions governing these UCITS for which the FMA is responsible and to take measures in the event of a violation.

B. INFORMATION ON FEES

A fee of EUR 750 shall be paid to the FMA for processing the notification pursuant to Art. 141 para 1 InvFG 2011. This fee shall be increased in the case of funds containing several sub-funds (umbrella funds) by EUR 150 for each additional sub-fund from the second to the tenth sub-fund and by EUR 100 for each additional sub-fund from the eleventh to the fifteenth sub-fund.

Fee contributions that have not been paid by the due date at the latest shall be enforceable. The FMA shall issue a statement of arrears, which shall be valid as an execution order. This shall contain the name and address of the party liable to pay the fee, the amount of the debt and a note stating that the debt has become enforceable. Failure to pay the fee in due time shall be grounds for prohibiting distribution pursuant to Art. 162 para 3 InvFG 2011.

The fees pursuant to Art. 141 para 4 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 de-notification relates should be indicated as **reference** in the payment order.