

INFORMATION PURSUANT TO
ART. 91 PARA 3 OF
DIRECTIVE 2009/65/EC AND
ART. 30 PARA 1 AND 2 OF
COMMISSION
DIRECTIVE 2010/44/EU
(TRANSPOSED IN ARTICLE 155 PARA 2 OF THE
INVESTMENTFONDSGESETZ 2011- InvFG 2011;
INVESTMENT FUND ACT; AS AMENDED)
ON RELEVANT ADMINISTRATIVE
PRACTICE AND LEGAL
REQUIREMENTS PERTAINING
TO THE NOTIFICATION AND
DISTRIBUTION OF UCITS

Last Update: 24th June 2020

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SUMMARY OF VERSIONS

Date of version	Adaptations
17 th March 2014	<ul style="list-style-type: none">• Changing the design
24 th June 2020	<ul style="list-style-type: none">• Actualisation „Protection of designations“ (BGBl I 2018/67)• Information about Regulation (EU) 2019/1156

I. PUBLIC OFFERING

A public offering is a communication to the public in any form that contains sufficient information in order to enable investors to decide on whether to buy or subscribe to a security or make an investment. The communication must make the intention to sell clear and must also include sufficient factual information for the potential investor. It may be made in any form and by any means eg. via media channels, the internet or a press conference.

In contrast to a private placement, a public offering is intended for an unspecified group of persons. An unspecified group of persons means that the names of the parties addressed are unknown prior to any sales activities. However, making personal contact or knowing all persons addressed by name does not in every event qualify them as a specified group of persons.

It is not possible to set an exact number that defines a specified group of persons, but the maximum number of persons should not exceed 149.

The main criteria are the number of persons addressed, their need for protection and their anonymity towards the issuer. Whether an offering constitutes a public offering must be determined on an individual basis on the basis of these criteria.

II. ADVERTISING AND PROTECTION OF NAMES

Any advertising for units of UCITS may only be performed by simultaneously referring to the prospectus (Art. 131 InvFG 2011) published pursuant to Art. 136 para 4 InvFG 2011 and the key investor information document (Art. 134 InvFG 2011) to be provided pursuant to Art. 138 InvFG 2011, and must specify where and in which language the prospectus and key investor information document may be obtained and are accessible by investors or potential investors.

Advertising to investors must be clearly identifiable as such, as well as being fair, clear and not misleading.

In particular, any advertising containing an invitation to purchase units of UCITS that contains specific information about a UCITS must not make any statement that contradicts or reduces the meaning of the information contained in the prospectus and the key investor information document referred to in Art. 134 para 1 InvFG 2011.

Advertising for units of UCITS which refer to the past performance of the fund must include a statement stating that past performance is no reliable indicator for a fund's future performance.

A feeder UCITS must include a statement in every advertising medium that it is a feeder of a particular master UCITS and as such permanently invests 85% or more of its assets in units of that master UCITS.

In addition, the advertising must include a highlighted statement drawing attention to the following facts:

- the UCITS' investment strategy in the case that the UCITS primarily invests in the categories of investment instruments defined in Art. 67 para 1 no. 3 to 5 InvFG 2011 which are non-transferable securities or money market instruments or if it replicates the composition of a certain stock or bond index;
- high volatility, where in the case that the UCITS exhibits high volatility due to its portfolio composition or the portfolio management techniques employed;
- the approval of the fund rules by the FMA in the case of a UCITS as defined under Art. 76 InvFG 2011.

Furthermore, a UCITS as defined under Art. 76 InvFG 2011 must state the member states, local authorities or international public institutions in which the UCITS intends to invest or has invested more than 35% of its assets in the respective securities.

The names "Kapitalanlagegesellschaft" (investment fund management company), "Kapitalanlagefonds" (investment fund), "Investmentfondsgesellschaft" (investment fund company), "Investmentfonds" (investment fund), "Miteigentumsfonds" (co-ownership fund), "Wertpapierfonds" (mutual fund), "Aktienfonds" (share-based investment fund), "Obligationenfonds" (bond fund), "Investmentanteilscheine" (investment units), "Investmentzertifikate" (investment certificates), "Pensionsinvestmentfonds" (pension investment fund), "Spezialfonds" (special fund), "Indexfonds" (index fund), "Anleihefonds" (fixed-income fund), "Rentenfonds" (bond fund), "Dachfonds" (fund of funds), "thesaurierender Kapitalanlagefonds" (investment fund reinvesting its income), "OGAW-ETF" (UCITS-ETF), "UCITS ETF", "ETF", "Exchange-Traded Fund" or similar names or abbreviations of such names may only be used for investment funds and their units, and are only allowed in the company names of management companies. The name "UCITS" may only be used for UCITS and their units. The add-on "mündelsicher" (eligible for trusts) or similar names or abbreviations may only be used in the names of investment funds and their units for UCITS pursuant to Art. 46 para 3 InvFG 2011.

Note:

- National provisions not enforced by the FMA must nonetheless be adhered to (eg. the 1984 Bundesgesetz gegen den unlauteren Wettbewerb – UWG; Law against Unfair Competition, as amended).
- "Requirements for marketing communications" according to Regulation (EU) 2019/1156 shall be binding and directly applicable in all Member States from **2nd August 2021**.