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Newsflash

CSSF Regulation 15-03 laying down implementation rules of Article 46 of the AIFM law in relation to marketing of foreign alternative investment funds (AIFs) to retail investors in Luxembourg

Any authorised AIFs manager (**AIFM**), established in Luxembourg or abroad, willing to market to retail investors in Luxembourg foreign AIFs* (**Foreign-law AIFs**) it manages will have to comply with CSSF Regulation.

It is to be noted that CSSF Regulation does not apply to Foreign law AIFs commercialised in Luxembourg to non-retail investors and that AIFM established in a third country should however wait for the third-country passport which is not yet applicable.

Foreign-law AIFs shall obtain CSSF authorisation before initiating any marketing activities or actions towards retail investors in Luxembourg.

Authorisation is granted on the basis of compulsory documentation listed by CSSF Regulation and any complementary information CSSF may deem necessary, as well as prior completion of the notification procedure required for the marketing to professional investors as per the provisions of the applicable AIFM law and the AIFM directive.

Where the Foreign-law AIF is a feeder AIF, the master AIF shall in addition be subject in its home country to permanent supervision by competent authority set up by law for the purpose of protecting investors and co-operation between the CSSF and the supervisory authority of said master AIF has to be assured.

In terms of Foreign-law AIFs typology, only those determining the subscription and redemption prices of their units/shares at least once a month and applying an appropriate risk spreading to their portfolio of investments may be admitted for marketing to retail investors in Luxembourg. In line with CSSF Regulation, such risk spreading requirement may generally be deemed complied with when consistent with securities/properties and borrowing risk spreading requirements applied in practice to AIFs subject to Part II of the law of December 20, 2010 on UCIs, as amended.

CSSF Regulation 15-03 will enter into force the first day of the month following its publication in the Luxembourg Gazette.

* established either in another EU Member State or in a third-country.