



EUROPEAN
COMMISSION

Brussels, 15.12.2023
C(2023) 8707 final

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of 15.12.2023

**laying down implementing technical standards for the application of
Directive 2011/61/EU of the European Parliament and of the Council with regard to the
form and content of the information to be notified in respect of the cross-border
activities of alternative investment fund managers and the exchange of information
between competent authorities on cross-border notification letters**

(Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of 15.12.2023

laying down implementing technical standards for the application of Directive 2011/61/EU of the European Parliament and of the Council with regard to the form and content of the information to be notified in respect of the cross-border activities of alternative investment fund managers and the exchange of information between competent authorities on cross-border notification letters

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Funds Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010¹, and in particular Article 31(5), second subparagraph, Article 32(8), second subparagraph, and Article 33(8), second subparagraph thereof,

Whereas:

- (1) The exchange of information between competent authorities is part of the administrative procedures in relation to the notifications of alternative investment funds managers (AIFMs) wishing to carry out marketing or management activities, to provide services or to establish a branch in host Member States. To close those administrative procedures in a smooth, fast, unbureaucratic, and reliable way, it is necessary to specify and harmonise the exchange of information between competent authorities by the development of harmonised forms, templates, cooperation procedures and the implementation of communication by electronic means.
- (2) To transmit the huge amount of information, sent and received in regard of the notifications between the Member States, without loss of time and in a reliable, cost-efficient and unbureaucratic manner, it is essential that the information concerned is provided by electronic means. While such information might be provided by e-mail, it should be possible to provide that information also by other, potentially more advanced electronic technology. It is therefore necessary to set out a detailed procedure for those electronic transmissions and for dealing with technical problems that might occur in the process of the transmission of the information between the competent authorities.
- (3) The provisions in this Regulation are closely linked since they deal with the form and content of the information to be exchanged between AIFMs and the national competent authorities of home and host Member States where the AIFM intends to provide cross-border services. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and

¹ OJ L 174, 1.7.2011, p. 1.

efficient access for AIFMs and national competent authorities, it is appropriate to include them in a single regulation.

- (4) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).
- (5) ESMA has conducted open public consultations on the provisions of the draft implementing technical standards on which this Regulation is based relating to the template notification letters for the marketing and the management of alternative investment funds (AIFs) in host Member States, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council².
- (6) To enable AIFMs and competent authorities to adapt to the new requirements laid down in this Regulation, it is appropriate to defer its application,

HAS ADOPTED THIS REGULATION:

Article 1

Form and content of standard model notification letters

1. When notifying the competent authorities of its home Member State of each EU AIF that the EU AIFM intends to market in the home Member State in accordance with Article 31(2) of Directive 2011/61/EU, an EU AIFM shall use the model set out in Annex I to this Regulation.
2. When notifying the competent authorities of its home Member State of each EU AIF that the EU AIFM intends to market in Member States other than its home Member State in accordance with Article 32(2) of Directive 2011/61/EU, an EU AIFM shall use the model set out in Annex II to this Regulation.
3. When communicating the information referred to in Article 33(2) of Directive 2011/61/EU AIFMs shall use the model set out in Annex III and, where the AIFM intends to establish a branch as referred to in Article 33(3) of Directive 2011/61/EU, in addition use the model set out in Annex V to this Regulation.

Article 2

Transmission of the notifications made in accordance with Article 33(2) of Directive 2011/61/EU

1. Competent authorities shall publish on their websites the email address or other communication channel that is to be used to send the notifications made by AIFMs in accordance with Article 33(2) of Directive 2011/61/EU.

² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

2. AIFMs shall send the notifications referred to in paragraph 1 either in a machine-readable format to the email address published in accordance with paragraph 1 or by any other communication channels put in place by competent authorities.

Article 3

Templates to be used for the exchange of information between competent authorities

The competent authorities of an AIFM's home Member State shall use the template set out in Annex IV to this Regulation for the statement referred to in Article 32(3), second subparagraph of Directive 2011/61/EU.

Article 4

Transmission of notifications between competent authorities

1. Competent authorities shall designate a single contact point for the communication and transmission of the information and documents referred to in Article 3. Competent authorities shall notify the details of that contact point, and any modification of that contact point, to every other competent authority.
2. Competent authorities shall ensure that their designated email address, or other communication channel, for receiving notifications is monitored each working day.
3. Competent authorities shall send the information and documents referred to in Article 3 by email or, if other communication channels are chosen, in a machine-readable format, to the contact point referred to in paragraph 1.

Article 5

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from ...[PO please insert the date = 3 months after the date of entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15.12.2023

For the Commission
The President
Ursula VON DER LEYEN