

This document contains information on the national laws, regulations and administrative provisions governing the marketing requirements referred to in Article 5(1) of *Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings* applicable to **foreign AIFs which intend to market their shares/ units in Poland** and the summary of the marketing requirements for AIFs.

Date of last update: 20 March 2024

I. CONTACT DETAILS

- e-mail address for the purpose of transmitting the documentation referred to in Article 32 (3) of Directive 2011/61/UE (*initial marketing notifications*): **passport.aifmd@knf.gov.pl**
- e-mail address for the purpose of transmitting the documentation referred to in Article 30a (2) of Directive 2011/61/UE (*pre-marketing*): **passport.aifmd@knf.gov.pl**
- e-mail address for the purpose of transmitting the documentation referred to in Article 32 (7) of Directive 2011/61/UE (*updates to marketing notifications*): **passportchanges.aifmd@knf.gov.pl**
- e-mail address for the purpose of transmitting the documentation referred to in Article 32a (3) of Directive 2011/61/UE (*'de-notifications'*): **passportchanges.aifmd@knf.gov.pl**

II. LEGAL BASIS

- The Polish rules and regulations regarding marketing carried out by foreign AIF in Poland are primarily set out in:
 - *Polish Act of 27 May 2004 on Investment Funds And The Management Of Alternative Investment Funds* (Journal of Laws of 2023, item 681, as amended), hereinafter referred to as "IFA";
 - *Regulation of the Minister of Finance of December of 14 December 2022 on Fees to Cover the Costs of Capital Market Supervision* (Journal of Laws of 2022, item 2748), hereinafter referred to as "FEES REG."

Please find below link to the Polish version of the above-mentioned regulations:

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20041461546/U/D20041546Lj.pdf>,

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210002466/O/D20212466.pdf>.

- ***In addition to above-mentioned act, there may be other Polish legal provisions, which are not specifically dedicated to marketing of foreign AIF in the Republic of Poland, that may apply, depending on the individual case of the foreign AIF.***

DISCLAIMER

- ***The applicability of any other legal requirements, should be assessed before marketing or investing in AIF. Where uncertainty exists, those marketing or investing in AIFs should obtain independent advice as to the applicable requirements to their individual situation.***

DISCLAIMER

- *Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border distribution of collective investment undertakings* has been transposed into Polish law by amendment to Polish Act of 27 May 2004 on Investment Funds And The Management Of Alternative Investment Funds, hereinafter referred to as "Amend. to IFA".

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Please find below link to the Polish version of the *Act of 23 July 2021 amending Polish Act on Investment Funds And The Management Of Alternative Investment Funds and amending certain other Acts* (Journal of Laws of 2021, item 1595):
isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210001595.

III. FOREIGN AIFS ALLOWED TO MARKET THEIR UNITS/ SHARES IN THE REPUBLIC OF POLAND

- An EU AIF may be marketed in the territory of the Republic of Poland among:
 - (1) professional investors;
 - (2) retail investors – in the case of the EU AIF which obtained the permit referred to in Article 5(1) of Regulation 2015/760 ⇒ therefore **distribution of EU AIFs other than ELTIF funds to retail investors in the Republic of Poland is not permitted.**
- **Polish regulations do not allow non-EU AIFM or non-EU AIF to operate in the territory of the Republic of Poland** ⇒ national private placement regime (under Article 36 and Article 42 of the Directive 2011/61/UE) wasn't established in the Republic of Poland, therefore it is not possible for authorised EU AIFMs to market in Poland the units of AIFs from the third country they manage without a passport or for AIFMs from third countries to market in Poland units of funds they manage without a passport.
- If an EU AIF operates as a feeder AIF, it may be marketed in the territory of the Republic of Poland, **provided that a master AIF is an EU AIF or an alternative investment company which are managed by an EU manager.**

ART. 263A (1) IFA

ART. 263A (3) IFA

IV. ADDITIONAL REQUIREMENTS REGARDING MARKETING EU AIF IN THE REPUBLIC OF POLAND TO RETAIL INVESTORS

- **The marketing of an EU AIF in the territory of the Republic of Poland shall require the establishment of the adequate technical and organizational solutions ensuring:**
 - (1) the proper transfer, take-up and repurchase of the units/ shares of the EU AIF in the territory of the Republic of Poland pursuant to the rules contained in the internal regulations of the EU AIF;
 - (2) for the investors – access to the information on the manner of acquisition, take-up or repurchase of units/ shares of the EU AIF in the territory of the Republic of Poland and on the manner of making payments of the amounts related to repurchasing the units/ shares of the EU AIF;

ART. 263A (2A) IFA

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(3) possibility of exercising rights related to the investment in units/ shares of the EU AIF, including lodging complaints, as well as easy access to procedures and information concerning the exercise by investors of the rights related to the investment in the units/ shares of the EU AIF, including the rights related to the measures applied in respect of examination of the complaints;

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(4) for the investors – access to the documents and information referred to in Articles 222a¹, 222b² and 222d³ of IFA in a manner enabling to learn them and to make copies thereof;

¹ **Art. 222a**

1. When transferring the participation units of a specialized open-end investment fund, issuing investment certificates of a closed-end investment fund and marketing an alternative investment company or an EU AIF in the territory of the Republic of Poland, the society, the AIC's managing party pursuing activity on the basis of a permit and the EU manager, respectively, shall make the information available to the investor of the alternative investment fund, enabling it to review the same before acquiring participation units, taking up investment certificates or acquiring or taking up units/shares of an alternative investment company or an EU AIF. The provisions of Article 222, paragraphs 2 and 3 shall apply accordingly.

2. The information for the investor of an alternative investment fund shall be drawn up as a single document and shall include:

1) the business name (name), seat and address of the fund, the alternative investment company or the EU AIF, and if they are:

a) a feeder fund or act as a feeder AIF – also the business name (name), seat and address of the master fund or master AIF;

b) a fund of funds – also the business name (name), seat and address of underlying funds;

2) the business name (name), seat and address of the subject which manages a fund, an alternative investment company or an EU AIF, and of the depository, the audit firm and of other subjects rendering services for the benefit of a fund, an alternative investment company or an EU AIF, together with a description of their duties and rights of the participants of the fund or of investors of the alternative investment company or EU AIF;

3) a description of the object of activity of the fund, alternative investment company or an EU AIF, including a description of their investment objectives and investment policy and investment strategy, in particular a description of the types of assets in which it may invest, the techniques it may employ, types of risk involved in the investment, any investment restrictions, the circumstances in which it may use the AIF's leverage, the types and sources of AIF's leverage permitted and the associated risk and any restrictions on the use AIF's leverage, arrangements regarding collaterals and reuse thereof, and the maximum level of the AIF's leverage which may be employed on their behalf;

4) a description of the procedures by which the fund, the alternative investment company or an EU AIF may change their investment strategy or investment policy;

5) a description of the main legal effects of making the investment for a participant of the fund and an investor of the alternative investment company or an EU AIF;

6) a description of the manner by which the society, the AIC's managing party or the EU manager comply with the requirements concerning the increase in the own capital or the conclusion of an insurance contract against liability arising from failure to discharge or improper discharge of the duties in the field of managing a fund, an alternative investment company or an EU AIF;

7) the information regarding the entrusting by the society, the AIC's managing party or an EU manager of the performance of acts with regard to management of the investment portfolio or risk and regarding the entrusting by the depository of the performance of acts with regard to the storing of assets, including the information about the subjects to which the performance of acts has been entrusted and a description of those acts, as well as a description of any conflicts of interest that may arise from the delegation of performance thereof;

8) the information regarding the scope of the depository's liability and circumstances in which the depository may release itself from such liability or which result in any change of the scope of such liability;

9) the description of the methods and rules of valuation of assets;

10) the description of liquidity management;

11) the description of the procedures for acquiring participation units, taking up investment certificates or acquiring or taking up units/shares of an alternative investment company or an EU AIF;

12) the information on applying the same principles in relation to all participants of the fund and investors of an alternative investment company or an EU AIF or a description of preferential treatment of particular participants and investors, and, where relevant, their legal and economic links with the fund, the alternative investment company or an EU AIF or the subject that manages them, if any;

13) the information on all fees and expenses directly or indirectly borne by participants of the fund and investors of the alternative investment company or an EU AIF and the maximum amounts thereof;

14) the latest AIF's annual statement referred to in Article 222d, or information where such statement is available;

15) the information on the latest net asset value of a fund, of an alternative investment company or of an EU AIF or information on the latest transfer price and repurchase price of the participation unit, the price of the investment certificate or participation right of

an alternative investment company or an EU AIF and information on historical value or price or information where such data are made available;

16) business name (name), seat and address of the prime broker being a contracting party of the fund, alternative investment company or an EU AIF and basic information on how it renders the services and how the conflicts of interest are managed and information about the prime broker's liability;

17) the indication of the manner and time limit for making available the information referred to in Article 222b.

3. Within the scope indicated in paragraph 1, the duty to make the information available shall also refer to any material changes in the information referred to in paragraph 2.

4. The information for the investor of an alternative investment fund shall be enclosed to a proposal for taking up investment certificates or acquiring or taking up units/shares of an alternative investment company or an EU AIF and made available in the place where the transfer is effected not later than on the date on which such transfer is commenced.

5. Where the society, the AIC's managing party pursuing activity on the basis of a permit or an EU manager makes available the following:

1) an information prospectus or the terms of issue of the investment fund;

2) a prospectus or information memorandum of the investment fund or the alternative investment company under the provisions of Regulation 2017/1129 or the Public Offer Act;

3) a prospectus of the EU AIF under the provisions of the law applicable to this AIF.

– the obligation referred to in paragraph 1 shall include the information referred to in paragraph 2 only to the extent that it is not made available in the content of the documents referred to in subparagraphs 1 to 3.

6. In the case referred to in paragraph 5, the information referred to in paragraph 2 shall be made available in the form of a single document additionally containing a note that the information contained therein supplements the issue prospectus, the information memorandum, the information prospectus or terms of issue along with the information on the place, form and date of making those documents available.

7. The provisions of paragraphs 4 and 6 shall apply accordingly in the case of significant changes to the information referred to in paragraph 2.

8. The minister competent for financial institutions may specify, by regulation, a detailed scope of information that the information for the investor of an alternative investment fund should contain as well as the manner of presenting thereof with a view to allowing proper evaluation of the investment policy and the investment strategies of a fund, an alternative investment company or an EU AIF and of the risk involved in the investments they make.

² **Art. 222b**

Where the participation units of a specialized open-end investment fund, the investment certificates of a closed-end investment fund, an alternative investment company or an EU AIF are transferred, issued or marketed, respectively, in the territory of the Republic of Poland, the society, the AIC's managing party pursuing activity on the basis of a permit or EU managers shall make available to the participants of the fund and the investors of an alternative investment company or an EU AIF, respectively, taking into account Article 108 and Article 109 of Regulation No 231/2013:

1) periodically – for each fund, each alternative investment company or each EU AIF, the following information:

a) the percentage share of assets which are subject to special arrangements arising from their illiquid nature;

b) any changes to internal regulations concerning the management of liquidity;

c) the current risk profile and the risk management systems employed by the subject managing this risk;

2) on a regular basis – for a fund, an alternative investment company or an EU AIF employing an AIF's leverage, the following information:

a) any changes to the maximum level of the AIF's leverage which may be employed on their behalf as well as any right of the reuse of collateral or any guarantee granted under the AIF's leverage arrangement;

b) the total amount of the AIF's leverage employed.

³ **Art. 222d**

1. The society shall, within four months from the end of the financial year, submit to the Commission and fund's participants, upon their request, the AIF's annual statements drawn up separately for each specialized open-end investment fund and closed-end investment fund in which it is a body.

2. The society and the AIC's managing party pursuing activity on the basis of a permit shall, within six months from the end of the financial year, submit to the Commission and the investors of an alternative investment company or of an EU AIF, respectively, upon their request, the AIF's annual report drawn up separately for:

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- (5) to participants – making accessible the information concerning the obligations of the EU AIF fulfilled through the established technical and organizational solutions, on a durable information carrier;
- (6) information exchange between the Polish Financial Supervision Authority (hereinafter referred to as “PFSA”) and the EU manager.

- The adopted technical and organizational solutions, including the ones making use of electronic communication means:

- (1) may provide for satisfaction of the above-mentioned requirements directly by the EU manager, by EU AIF managers or through a representative whose activity serving to ensure the satisfaction of those requirements is regulated by provisions of law and supervised by a competent authority;
 - The scope of the duties fulfilled by the representative shall be specified in a contract concluded in writing by and between the EU manager, EU AIF managers and this representative. The contract shall include an obligation of the EU manager and of the EU AIF managers to transmit to the representative the information and documents necessary to perform the entrusted duties;
- (2) are accessible in Polish.

ART. 263A (2B-2C) IFA

1) each alternative investment company it manages – in the case of the AIC’s managing party;

2) each EU AIF they manage.

3. The EU manager shall, within 6 month from the end of the financial year, submit to the investors of an alternative investment company or of an EU AIF, respectively, upon their demand, the AIF’s annual statements drawn up separately for:

1) each alternative investment company it manages;

2) each EU AIF whose participation units it introduced to trading on the territory of the Republic of Poland.

4. The AIF’s annual statement shall, taking into account Articles 103 to 107 of Regulation No 231/2013, at least contain the following:

1) a balance sheet for a given financial year;

2) a profits and loss account for a given financial year;

3) a list of additional information about the company and a list of investments – in the case of an alternative investment company;

4) a report on the alternative investment fund’s activity for a given financial year;

5) a description of material changes in the information listed in the information for the investor of an alternative investment fund that took place during the financial year;

6) the information concerning the situation at the end of the period covered by the annual statement and the activity during the period covered by the annual statement of a company non-listed on a regulated market over which a specialized open-end investment fund, a closed-end investment fund or an alternative investment company acquired control – unless such information is included in the financial statements of such a company non-listed on a regulated market;

7) the information covering:

a) the number of employees of the subject managing an alternative investment fund;

b) the total amounts of remuneration paid by the subject managing an alternative investment fund to employees, indicating separately the total amount of remuneration paid to the persons referred to in Article 47a, paragraph 1 and Article 70j, paragraph 1;

c) the amount of additional remuneration paid from the alternative investment fund’s resources;

8) the information referred to in Article 12(1), sentence 2 and 3 of Regulation No 345/2013 – in the case of an alternative investment fund using the designation “EuVECA”;

9) the information referred to in Article 13, paragraph 1, the second and third sentence and in paragraph 2 of Regulation No 346/2013 – in the case of an alternative investment fund using the designation “EuSEF”.

5. The information referred to in paragraph 4, subparagraphs 1 to 3 shall be included in the AIF’s annual statements as soon as it has been audited by an expert auditor in the course of auditing the annual financial statements of a given alternative investment fund.

6. The annual statements of AIF shall additionally include a report from the audit of the annual financial statements of the alternative investment fund.

7. The obligation referred to in paragraphs 1 and 2 to submit the AIF’s annual statement to the Commission, the participants of a fund and the investors of an alternative investment company or of an EU AIF, shall be deemed to be satisfied upon submission to the Commission and upon disclosure to the public by the subject being the issuer referred to in Article 56, paragraph 1 of the Act on Public Offer, for which the Republic of Poland is a home Member State, of the annual statements containing the information required to be given pursuant to the Act on Public Offer if, together with this statement, the information specified in paragraph 4, subparagraph 3 and subparagraphs 5 to 9 was submitted to the Commission or disclosed to the public, respectively.

8. The obligation referred to in paragraph 3 to submit the AIF’s annual statements to the investors of an alternative investment company or an EU AIF shall be deemed to be satisfied upon disclosure to the public by the subject being the issuer referred to in Article 56, paragraph 1 of the Act on Public Offer, for which the Republic of Poland is a home Member State, of the annual statements containing the information required to be given pursuant to the Act on Public Offer if, together with these statements, the information specified in paragraph 4, subparagraph 3 and subparagraphs 5 to 9 has been disclosed to the public.

9. Additional remuneration referred to in paragraph 4, subparagraph 7, letter c shall be taken to mean:

1) for the investment fund – the amount of the remuneration dependent on the performance of the investment fund, said amount being attributable to the society;

2) for an EU AIF or an alternative investment company – the amount being a part of profits of an EU AIF or an alternative investment company accrued to the society or the AIC’s managing party as compensation for the management, excluding any amounts connected with the investments made by the society or the AIC’s managing party into an EU AIF or an alternative investment company.

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V. LANGUAGE REQUIREMENTS CONCERNING THE DOCUMENTS

The notification of marketing the EU AIF managed by EU manager in the territory of the Republic of Poland, as well as the documents appended thereto must be drawn up in the Polish or English language or translated into the Polish or English language.

ART. 263B (4) IFA

VI. FEES AND CHARGES

- Documented evidence of fee payment: No evidence of payment is required to be provided in the notification file with the notification letter and there is no fee for examining the notification.
- Additionally, no fees and charges are levied by the PFSA in relation to pre-marketing, notification of any subsequent update of prior notification and de-notification.

- Fees charged by PFSA applicable to foreign AIFs marketing their shares/units **only to professional investors** in the Republic of Poland:

(1) the registration fee: the PLN equivalent of **EUR 300** for registration of foreign AIF, the PLN equivalent of **EUR 300** for registration of foreign umbrella AIF.

ART. 236 (2H) IFA

The fee increases for AIF containing several sub-funds (umbrella funds) by **EUR 300** for each additional sub-fund starting with the second sub-fund (text with EEA relevance).

§ 12 (3) FEES REG.

⇒ An information about payable fee will be sent by the PFSA to the address provided in the notification letter⁴ after entering the AIF into the register of foreign funds.

(2) the annual fee: the PLN equivalent of **EUR 300** for all foreign AIFs registered for marketing in Poland, the PLN equivalent of **EUR 300** for all foreign umbrella AIFs registered for marketing in Poland. Where such a fund is a fund with separated sub-funds, the annual fee increases by **EUR 200** for each separated sub-fund in this AIF entered into the register **as at 1 January in the given year**⁵, beginning with the second sub-fund (text with EEA relevance).

ART. 236 (2J) IFA

§ 17 (3-4) FEES REG.

⇒ The annual fees shall be paid **by 31 March of the calendar year**, following the calendar year in which the foreign AIF was entered into the register of foreign AIFs.

§ 17 (5) FEES REG.

- Fees charged by PFSA applicable to foreign AIFs marketing their shares/units **to retail investors** in the Republic of Poland:

⁴ Contact point for the invoicing or for the communication of any applicable regulatory fees or charges.

⁵ For the calendar year in which the annual fee is charged

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(1) the registration fee: the PLN equivalent of **EUR 1200** for registration of foreign AIF, the PLN equivalent of **EUR 1200** for registration of foreign umbrella AIF.

ART. 236 (2H) IFA

The fee increases for AIF containing several sub-funds (umbrella funds) by **EUR 1200** for each additional sub-fund starting with the second sub-fund (text with EEA relevance).

§ 12 (3) FEES REG.

⇒ An information about payable fee will be sent by the PFSA to the address provided in the notification letter⁶ after entering the AIF into the register of foreign funds.

(2) the annual fee: the PLN equivalent of **EUR 1000** for all foreign AIFs registered for marketing in Poland, the PLN equivalent of **EUR 1000** for all foreign umbrella AIFs registered for marketing in Poland. Where such a fund is a fund with separated sub-funds, the annual fee increases by **EUR 500** for each separated sub-fund in this AIF entered into the register **as at 1 January in the given year⁷**, beginning with the second sub-fund (text with EEA relevance).

ART. 236 (2J) IFA

§ 17 (3-4) FEES REG.

⇒ The annual fees shall be paid **by 31 March of the calendar year**, following the calendar year in which the foreign AIF was entered into the register of foreign AIFs.

§ 17 (5) FEES REG.

- **The register of foreign AIFs** is available on PFSA website: <https://afi.knf.gov.pl/>.

VII. PRE-MARKETING

- An EU manager may, prior to marketing an EU AIF on the territory of the Republic of Poland, perform activities related to presenting on this territory the information not constituting an offer to acquire or a proposal of acquisition of units/ shares of this EU AIF, concerning the investment policy and strategy of an EU AIF which has not yet been established or in respect of which no notification referred to in Article 263b (1) of IFA⁸ has been filed, in order to test, among professional investors, the interest in acquisition of the units/ shares of this EU AIF, hereinafter referred to as "pre-marketing" of an EU AIF in the territory of the Republic of Poland.
- The above information may not:
 - (1)** constitute sufficient grounds for enabling potential participants to undertake to acquire units/ shares of an EU AIF;
 - (2)** be formulated in a form of subscriptions for units/ shares of the EU AIF or similar documents, including their drafts;

ART. 263K (1) IFA

ART. 263K (2) IFA

⁶ Contact point for the invoicing or for the communication of any applicable regulatory fees or charges.

⁷ For the calendar year in which the annual fee is charged

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- (3) present the final form of articles or other founding document or prospectus or, as the case may be, other securities note of the EU AIF which has not yet been established.
- If the information present the draft prospectus or the draft of other securities note, such information shall additionally include an explicit statement that:

 - (1) it does not constitute either an offer to acquire or a proposal of acquisition of units/ shares of the EU AIF and
 - (2) the information presented in these documents, as incomplete and as possibly subject to change, may not provide the grounds for making investment decisions.

ART. 263K (3) IFA
- An EU manager shall document pre-marketing of an EU AIF in the territory of the Republic of Poland.

ART. 263K (4) IFA
- The EU manager may perform pre-marketing of the EU AIF in the territory of the Republic of Poland directly or through an investment firm, an investment firm's agent, a foreign investment firm, a foreign investment firm's agent, a bank, a credit institution, a management company and other EU manager, society or AIC's managing party.

ART. 263K (5) IFA
- The pre-marketing of the EU AIF in the territory of the Republic of Poland through the above-referred entities is governed accordingly by the provisions of paragraphs 2 to 4 of Article 263k of IFA.

ART. 263K (6) IFA
- The EU manager shall ensure that, as part of pre-marketing of the EU AIF in the territory of the Republic of Poland, investors do not acquire units/ shares of this EU AIF, and shall ensure that the acquisition of the units/ shares of this EU AIF by the professional investors to which/whom, as part of pre-marketing of the EU AIF in the territory of the Republic of Poland, the information on the EU AIF was presented, is effected exclusively by marketing of these rights in the territory of the Republic of Poland under the provisions of Article 263b (1) of IFA.

ART. 263M (1) IFA
- If, within 18 months from the day of commencement of pre-marketing of the EU AIF in the territory of the Republic of Poland, the investor acquired units/ shares of the EU AIF to which this pre-marketing related, the EU manager shall submit a notification on the intention to market such an EU AIF in the territory of the Republic of Poland, as referred to in Article 263b (1) of IFA.

ART. 263M (2) IFA
- The provisions of Articles 263k to 263m of IFA shall apply accordingly to pre-marketing in the territory of the Republic of Poland of:

 - (1) an EU AIF and an alternative investment fund with their seats in an EEA Member State whose investment portfolio and risk is managed by a legal person with its seat in an EEA Member State, with the proviso that the pre-marketing may take

ART. 263Q (1) IFA

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place provided that the legal person acts in compliance with the Community law governing the activity of managing parties of alternative investment funds;

(2) an alternative investment fund with its seat in an EEA Member State managed by an EU manager.

VIII. 'DE-NOTIFICATION' PROCEDURE

- An EU manager may cease to market the EU AIF which it manages in the territory of the Republic of Poland, provided that:
 - (1)** it publishes a blanket offer to repurchase, free of any charges or deductions, all units/ shares of the EU AIF acquired in the territory of the Republic of Poland, presents this offer, directly or through the subjects participating in transferring units/ shares of the EU AIF in the territory of the Republic of Poland, individually to the EU AIF's investors and such offer is available for at least 30 business days of the day of its presentation⁹;
 - (2)** it publishes and makes available, in a manner adopted for publishing and making available the information on the EU AIF in the territory of the Republic of Poland in relation to the transfer of units/ shares of the EU AIF and adequate for the category of the investors to which the EU AIF was addressed, the information on an intention to cease the marketing of the EU AIF in the territory of the Republic of Poland;
 - (3)** it terminates contracts with the subjects intermediating in transferring units/ shares of the EU AIF in the territory of the Republic of Poland with effect from the date of transmitting by the EU manager to the competent authority of the home Member State a notification about ceasing to market such an EU AIF in the territory of the Republic of Poland or amends such contracts in the manner making it impossible to market such an EU AIF in the territory of the Republic of Poland from the date of transmitting by the EU manager the notification about ceasing to market such an EU AIF in the territory of the Republic of Poland to the competent authority of the home Member State.
- The EU manager shall cease to market the EU AIF in the territory of the Republic of Poland as of the day of submitting by the EU manager to the competent supervisory authority of its home Member State a notification of ceasing to market such an EU AIF in the territory of the Republic of Poland.
- After ceasing marketing of the EU AIF in the territory of the Republic of Poland, the EU manager shall be obliged to fulfill the information duties referred to in Article 222b and Article 222d (3) of IFA towards the investors of the EU AIF who, despite the EU manager having ceased to market the EU AIF in the territory of the Republic

ART. 263BA (1) IFA

ART. 263BA (3) IFA

ART. 263BA (4) IFA

⁹ The requirement shall not apply to the EU AIF pursuing activity under Regulation 2015/760 or to the AIFs of the closed-ended type within the meaning of Regulation No 694/2014

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of Poland, hold the units/ shares of the EU AIF acquired by their marketing by the EU manager in the territory of the Republic of Poland under Article 263b (1) of IFA.

- After the PFSA receives a notification about ceasing to market the EU AIF in the territory of the Republic of Poland from the competent supervisory authority of the home Member State of the EU manager:
 - 1) the PFSA shall be vested with the rights referred to in Article 273 (1-2) of IFA¹⁰;
 - 2) the EU manager shall not be governed by the provisions laying down the rules for marketing the EU AIF in the territory of the Republic of Poland, in relation to the EU AIF covered by this notification.
- The EU manager may fulfill the information duties referred to in Article 222b, and Article 222d (3) of IFA using electronic communication means or other means of communication over distance.
- The ceasing to market on the territory of the Republic of Poland of an EU AIF and an alternative investment fund with its seat in an EEA Member State whose investment portfolio and risk is managed by a legal person with its seat in an EEA Member State shall be accordingly governed by the provisions of Article 263ba of IFA.
- The ceasing to market on the territory of the Republic of Poland of an alternative investment fund with its seat in an EEA Member State managed by an EU manager – shall be accordingly governed by the provisions of Article 263ba of IFA.

ART. 263BA (5) IFA

ART. 263BA (6) IFA

ART. 263H (1A)

ART. 263H (3) IFA

IX. OTHER REQUIREMENTS

- The marketing on the territory of the Republic of Poland of an EU AIF and an alternative investment fund with its seat in an EEA Member State whose investment portfolio and risk is managed by a legal person with its seat in an EEA Member State shall be accordingly governed by the provisions of Article 263a and Article 263b of IFA¹¹, provided that they can be marketed on condition that such a

ART. 263H (1) IFA

¹⁰ **Art. 273**

1. If the Commission finds that the management company violates the provisions of law in the scope of carrying on the activity in the territory of the Republic of Poland in a form of branch or in a form other than branch, it shall notify this company of irregularities ascertained and set the time limit for their elimination. In the case of failure to eliminate the irregularities within the time limit set, the Commission shall notify this fact to competent authorities of the management company's home Member State.

2. If, despite the measures undertaken by the home Member State or due to the fact that they prove insufficient or cannot be applied in the Republic of Poland, the management company continues to violate the provisions of law in the scope referred to in paragraph 1, the Commission may, by a decision, after notifying the competent authorities of management company's home Member State:

1) prohibit the management company or a branch thereof from pursuing activity in the territory of the Republic of Poland, in whole or in part, in particular prohibit it from the pursuit of activity in the field of managing open-end investment funds and conducting their affairs;

2) impose on the management company a pecuniary penalty of up to PLN 500,000;

3) apply jointly both sanctions referred to in subparagraphs 1 and 2;

4) prohibit the management company to conclude any transactions in the territory of the Republic of Poland.

¹¹ **Art. 263b**

1. An EU manager may market the EU AIF managed by it in the territory of the Republic of Poland if the Commission receives from the competent supervisory authority of the EU manager's home Member State a notification on the intention to market such an EU AIF in the territory of the Republic of Poland, the said notification meeting the requirements set out in paragraphs 2 and 3.

2. The notification referred to in paragraph 1 shall contain:

1) a notification letter indicating an EU manager and the business name (name) of the EU AIF which is to be marketed, and the indication of its seat;

2) the business name, seat and address of the EU AIF's depository;

3) the EU AIF's description or any information thereon made available to investors;

4) the indication of the seat of the master AIF if an EU AIF is a feeder AIF;

5) the indication of the country in the territory of which an EU AIF is to be marketed;

6) the description of the rules for EU AIFs' marketing;

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legal person acts in compliance with the Community law governing the activity of managers of alternative investment funds.

- The marketing on the territory of the Republic of Poland of an alternative investment fund with its seat in an EEA Member State managed by an EU manager – shall be accordingly governed by the provisions of Article 263a and Article 263b of IFA.

ART. 263H (2) IFA

PFSA has taken reasonable care to ensure that the information on the national provisions governing the marketing requirements for AIFs in the Republic of Poland included on this webpage is up-to-date and complete. PFSA is not responsible for maintaining external websites and is not liable for any error or omission on any external website to which hyperlinks are provided on this webpage.

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7) a description of the procedures established in order to prevent its marketing among retail clients by an EU manager or the subjects operating upon its order;
8) the information referred to in Article 222a, paragraph 2, to the extent it is not covered by the information referred to in subparagraphs 1 to 7 and paragraph 3, subparagraph 1;
9) the address to which the Commission is to send the information on the fees for the Commission to which the EU AIF is subject, as well as the information necessary for the Commission to issue a document confirming that the EU AIF has paid the fee for the Commission;
10) the information concerning the technical and organizational solutions referred to in Article 263a, paragraph 2a – in the case referred to in Article 263a, paragraph 1, subparagraph 2.
3. The following shall be appended to the notification referred to in paragraph 1:
1) the EU AIF's internal regulations;

2) a certificate issued by the competent supervisory authority of the EU manager's home Member State stating that the EU manager is authorized to manage EU AIFs employing a specific investment strategy.
4. The notification referred to in paragraph 1, as well as the documents appended thereto must be drawn up in the Polish or English language or translated into the Polish or English language.
5. The notification referred to in paragraph 1 and the documents attached thereto shall be sent to the Commission in electronic form by the competent supervisory authorities of the EU manager's home Member State to the electronic mail address established by the Commission for purposes of receiving notifications regarding EU managers from the competent supervisory authorities of the EU manager's home Member State and for exchange of correspondence with those authorities in the scope of EU managers' notifications and the activity pursued by them in the territory of the Republic of Poland.