

ESMA consultation paper on the Guidelines on marketing communications under the Regulation on cross-border distribution of funds

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1.- Target participants

This paper will be of interest to: (i) alternative investment fund managers (AIFM), UCITS management companies, EuSEF managers and/or EuVECA managers and their trade associations; (ii) distributors of UCITS, AIFs, EuSEFs and EuVECA; as well as (iii) institutional and retail investors (and associations of such investors) investing in UCITS, AIFs, EuSEFs and EuVECA.

2. - Information Note

Regulation (EU) 2019/1156, of 20 June 2019, on facilitating cross-border distribution of collective investment undertakings (hereinafter, the Regulation) specifies that AIFMs, EuVECA managers, EuSEF managers and UCITS management companies shall ensure that marketing communications addressed to investors are identifiable as such and describe the risks and rewards of purchasing units or shares of the funds or units of a UCITS in an equally prominent manner, and that all information included in marketing communications is fair, clear and not misleading.

The Regulation provides that ESMA shall develop guidelines on the application of these requirements for marketing communications, taking into account the on-line aspects of such marketing communications.

The Consultation paper represents the first step in the development of these guidelines and sets out proposals on which ESMA is seeking the views of external stakeholders, as explained in each section.

Accordingly, section 2 explains the background to the proposals. Sections 3 to 6 contain detailed explanations on the content of the proposals and seek the opinion of stakeholders through a series of specific questions. Specifically, Section 3 concerns the scope of the Guidelines; Section 4 deals with the identification of marketing communications as such; Section 5 with the description of risks and rewards in an equally prominent manner; and Section 6 concerns the fair, clear and not-misleading characters of marketing communications. Section 6 addresses general aspects and other more specific issues such as information on risks and rewards, on costs, on past performance and expected future performance, as well as information on sustainability-related aspects.

Finally, Annex I contains the legislative mandate set out in the Regulation to develop the Guidelines. Annex II sets out the cost-benefit analysis related to the draft guidelines. Annex III sets out the list of questions contained in the paper. Annex IV contains the full text of the draft guidelines.

ESMA will consider the feedback it receives to this consultation paper and expects to issue the final Guidelines by 2 August 2021.

3.- Submission of comments

The deadline for submitting comments is **8 February 2021**.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. Both the paper of this consultation and the response form are available in the section [*Consultations*](#) (place the cursor on the word to obtain the link).

Likewise, please send a copy of your answers to the CNMV to the following email address: documentosinternacional@cnmv.es

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