

CROSS BORDER DISTRIBUTION OF FUNDS



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Cross border distribution of funds regulation and directive

SOME USEFUL EVOLUTIONS

- Pre-marketing regime for AIFs:
 - Legal clarity and harmonisation.
- Ex ante verification of marketing communication by regulators (art. 2 to 5 of regulation):
 - Harmonisation of principles (new article and ESMA guidelines)
 - Limited timeframe.
- Transparency of fees and charges levied by NCAs.
- No local presence required.

DISAPPOINTING CONCLUSIONS

- Pre-marketing not applicable to UCITS;
- De-notification regime to stop marketing:
 - information exchanges proper to the marketing regime are maintained between home and host NCA, after de-notification.
 - The powers of the host NCAs are maintained: Authorities will still levy fees after de-notification.

Remaining barriers and what is ahead ?

REMAINING NATIONAL REQUIREMENTS

- Fiscal differences:
 - SICAV or funds are better treated in different countries.
- National labels:
 - e.g sustainable finance (E or S).
- specific national reporting;
 - Performance reporting.
- Different interpretation of EU rules:
 - Eligible assets of UCITS.

WHAT IS AHEAD?

- EU fund Labels could help
 - Revised ELTIF regulation: Make a clear distinction between professional products and retail products.
- Investor protection should not be considered as specific to each country.
- Brexit: A step backwards for supervisory convergence ?
 - Multiple temporary national regimes have been set.

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