Translation of Liechtenstein Law

Disclaimer

English is not an official language of the Principality of Liechtenstein. This translation is provided for information purposes only and has no legal force. The contents of this website have been compiled with the utmost care to reflect the current situation and the current state of knowledge. However, the provider of this website cannot accept any liability if any of its contents should be found to be inaccurate, incomplete or out of date.

English title:	Law of 28 June 2011 concerning specific undertakings for collective investment in transferable securities (UCITSG)
Original German title:	Gesetz vom 28. Juni 2011 über bestimmte Organismen für gemeinsame Anlagen in Wertpapieren (UCITSG)
Serial number (LR-Nr.):	951.31
First published:	1 August 2011
First publication no. (LGBl-Nr.):	2011-295
Last amended:	1 May 2023
Date of last amendment - publication no. (LGBl-Nr.):	2023-146
Translation date:	8 May 2023

Liechtenstein Legal Gazette
2011 No. 295 issued on 1 August 2011

Law
of 28 June 2011
concerning specific undertakings for collective investment in transferable securities (UCITSG)

I hereby grant My Consent to the following resolution adopted by the Liechtenstein Parliament:[1]

I. General Provisions

A. Object, Purpose, Scope of Validity and Definition of Terms

Art. 1

Object and Purpose

1) This Law shall govern the taking up, pursuit and oversight of the business of undertakings for collective investment in transferable securities ("UCITS") and their management companies.

2) Its purpose shall be to protect investors and safeguard confidence in Liechtenstein as an investment fund centre and the stability of the financial system.[2]

3) It shall also serve to transpose and implement the following EEA acts:[3]

1 Report and application, together with comments from the Government No. 26/2011 and 58/2011
2 Art. 1 (2) amended by LGBl. 2013 no. 50.
3 Art. 1 (3) amended by LGBl. 2021 no. 229.

a) Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities[4];

b) Commission Directive 2010/43/EU implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company[5];

c) Commission Directive 2010/44/EU implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure[6];

d) Regulation (EU) 2017/1131 on money market funds[7].

4) The version in force of the EEA acts referred to in this Law is derived from the promulgation of the decisions of the EEA Joint Committee in the Liechtenstein Legal Gazette pursuant to Art. 3 k) of the Promulgation Act.[8]

Art. 2

Validity

1) This Law shall apply to UCITS and their management companies having their registered office in Liechtenstein, or which market units of a UCITS in Liechtenstein, or offer or market them publicly from Liechtenstein.

4 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (OJ L 302, 17.11.2009, p. 32)

5 Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company (OJ L 176, 10.7.2010, p. 42)

6 Commission Directive 2010/44/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure (OJ L 176, 10.7.2010, p. 28)

7 Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8)

8 Art. 1 (4) amended by LGBl. 2021 no. 229.

2) It shall also apply to combinations of UCITS consisting of different sub-funds that are separate under property law and liability law. The Government shall establish more specific regulations by Ordinance.

3) This Law shall not apply to:

a) undertakings for collective investment of the closed-ended type;

b) undertakings for collective investment that do not promote the sale of their units to the public within the EEA;

c) undertakings for collective investment, the units of which under the contractual conditions or the instruments of incorporation of the investment company, may be sold only to the public in third countries;

d) investment companies, the assets of which are predominantly invested via subsidiaries in assets other than securities;

e) categories of undertakings for collective investment specified by the Government by Ordinance, for which the regulations laid down in Art. 50 to 59 and Art. 89 are unsuited to the investment and credit policy.

Art. 2a[9]

Consolidated and additional supervision

1) If the management companies form a financial conglomerate they shall be subject to the provisions of the Financial Conglomerate Act.

2) If the Financial Conglomerate Act does not apply, the relevant provisions of the Banking Act and the Insurance Supervision Act concerning supervision of banks and investment firms on a consolidated basis, as well as the additional supervision of insurance companies belonging to an insurance group, shall apply mutatis mutandis to the consolidated and additional supervision of management companies.

3) For purposes of the supervision referred to in (1), a management company shall be considered as belonging to the sector to which it is allocated in accordance with (2).

4) In accordance with Art. 7 of the Financial Conglomerate Act, the activities conducted by the management companies are to be included in the determination of a financial conglomerate as major, cross-sectoral activities.

9 Art. 2a inserted by LGBl. 2013 no. 50.

Art. 3

Definition of terms and designations

1) The following definitions are established for the purposes of the present Law:

1. "UCITS": undertakings for collective investment:
   a) with the sole object of collective investment in transferable securities and/or other liquid financial assets referred to in Art. 51, of capital raised from the public and which operate on the principle of risk spreading; and
   b) with units which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a UCITS to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption;
2. "depositary": an institution entrusted with the duties set out in Art. 33 and subject to the other provisions laid down in Chapter IV;
3. "directors of the depositary": the persons who represent the depositary under the law or the instruments of incorporation or effectively determine the policy of the depositary;
4. "management company": a company, the regular business of which is the management of UCITS;
5. "directors of the management company": the persons who effectively conduct the business of the management company;
6. "management" and "collective portfolio management": deciding on investments, risk management, as well as other asset management, administrative functions and marketing in accordance with Annex II of Directive 2009/65/EC;
7. "management company's home Member State": the EEA Member State, in which the management company has its registered office;
8. "management company's host Member State": the EEA Member State, other than the home Member State, within the territory of which the management company has a branch or provides services;
9. "UCITS home Member State": the EEA Member State in which the UCITS is authorised pursuant to Art. 8. A UCITS shall be deemed to be established in its home Member State; if a UCITS is not registered or authorised, it shall be established wherever it has its registered office and/or its head office;

10. "UCITS host Member State": the EEA Member State, other than the home Member State of the UCITS, in which the units of the UCITS are marketed;
11. "branch": a place of business which is part of a management company, which has no legal personality and provides the services for which the management company has been authorised. If a management company having its head office in another EEA Member State has established several branches in one and the same EEA Member State, these shall be deemed to be one single branch;
12. "close links": a situation, in which two or more natural or legal persons are linked by either:
    a) "participation", i.e. the ownership, either directly or by way of control, of at least 20 % of the voting rights or the capital of an undertaking; or
    b) "control", i.e. the relationship between a parent undertaking and a subsidiary or a similar relationship between a natural or legal person and an undertaking. A subsidiary undertaking of a subsidiary shall also be deemed a subsidiary undertaking of the parent undertaking, which is at the head of those undertakings. A situation in which two or more natural or legal persons are permanently linked to one and the same person through a control relationship shall also be regarded as constituting close links;
13. "qualifying holding": a direct or indirect holding in a management company corresponding to at least 10 % of the capital or the voting rights or which makes it possible to exercise a significant influence over the management of the management company in which the holding subsists. Art. 25, 26, 26a, 27 and 31 of the Disclosure Act shall be applied in the determination of the voting rights;[10]
14. "capital": the initial capital referred to in Art. 7 of Directive 2009/65/EC together with the own funds referred to in Art. 97 of Regulation (EU) no. 575/2013;[11]
15. "durable medium": any instrument that enables an investor to store information addressed personally to that investor, in a way that is accessible for future reference, for a period of time adequate for the purposes of the information and allows the unchanged reproduction of the information stored;
16. "transferable securities": with the exception of the techniques and instruments referred to in Art. 53:

10 Art. 3 (1) 13 amended by LGBl. 2016 no. 152.
11 Art. 3 (1) 14 amended by LGBl. 2014 no. 355.

a) shares in companies and other securities equivalent to shares in companies ("shares");

b) bonds and other forms of securitised debt ("debt securities");

c) all other negotiable securities that carry the right to acquire such transferable securities by subscription or exchange in accordance with the terms of this Law;

17. "undertakings for collective investment comparable with UCITS" or "undertakings for collective investment that are comparable with UCITS": collective investment undertakings of the open-ended type:

a) of which the sole object is collective investment in the liquid financial assets referred to in Art. 51, of capital raised from the public and which operate on the principle of risk spreading;

b) which are authorised under laws which provide that they are subject to supervision considered by the competent authorities of the UCITS home Member State to be equivalent to that laid down in Directive 2009/65/EC and that cooperation between the authorities is sufficiently ensured;

c) in which the level of protection of investors is equivalent to the level of protection of the investors of a UCITS and in particular the rules for asset segregation, borrowing, lending and uncovered sales of transferable securities and money market instruments are equivalent to the requirements of Directive 2009/65/EC;

d) of which the business is reported in half-yearly and annual reports that enable an opinion to be formed of the assets and liabilities, income and operations during the reporting period; and

e) in which, in accordance with their constitutive documents, no more than 10 % of the assets managed may be invested in units of other UCITS or other collective investment undertakings;

18. "money market instruments": instruments that are normally traded on the money market, that are liquid and have a value that can be accurately determined at any time;

19. "merger": an operation whereby:

a) one or more UCITS or sub-fund thereof, the "transferring UCITS", on being dissolved without going into liquidation, transfers all of its assets and liabilities to another existing UCITS or a sub-fund thereof, the "absorbing UCITS", in exchange for the issue to its investors of units in the absorbing UCITS and, if applicable, a cash payment not exceeding 10 % of the net asset value of those units;

b) two or more UCITS or sub-funds thereof, the "transferring UCITS", on being dissolved without going into liquidation transfer

all of their assets and liabilities to another UCITS that they form, or a sub-fund thereof, the "absorbing UCITS", in exchange for the issue to their investors of units in the absorbing UCITS and, if applicable, a cash payment not exceeding 10 % of the net asset value of those units;

c) one or more UCITS or sub-fund thereof, the "transferring UCITS", which will continue to exist until the liabilities have been discharged, transfers its net assets to a sub-fund of the same UCITS, to a UCITS that it forms or another existing UCITS or a sub-fund thereof, the "absorbing UCITS";

20. "cross-border merger": a merger of UCITS:
    a) at least two of which are established in different EEA Member States; or
    b) which are established in the same EEA Member State, into a newly constituted UCITS established in another EEA Member State.
21. "domestic merger": a merger of UCITS that are established in the same EEA Member State, provided that at least one of the UCITS involved has been notified in accordance with Art. 98;
22. "feeder UCITS": a UCITS or a sub-fund thereof, which in derogation of 1 a), Art. 51, 54, 57 and 58 (2) c) invests at least 85 % of its assets in units of another UCITS or a sub-fund of another UCITS ("master UCITS");[12]
23. "master UCITS": a UCITS or a sub-fund of a UCITS, that:
    a) has at least one feeder UCITS as one of its investors;
    b) is not itself a feeder UCITS; and
    c) does not hold any units of a feeder UCITS;
24. "constitutive documents": the fund contract of an investment fund, the trusteeship agreement of a collective trusteeship, the articles of incorporation and investment conditions of an investment company;[13]
25. "AIF": any collective investment undertaking, including its sub-funds, that:
    a) amasses capital from a number of investors, in order to invest it in accordance with an established investment strategy for the benefit of such investors; and

12 Art. 3 (1) no. 22 amended by LGBl. 2016 no. 12.
13 Art. 3 (1) no. 24 amended by LGBl. 2020 no. 9.

b) is not a UCITS as defined in this Law, nor an investment undertaking as defined in the IUG.[14]

Whether the AIF is an open-ended or closed-ended fund, whether the AIF is constituted under the law of contract, under trust law, under statute or any other legal form, and the structure of the AIF is irrelevant to the classification as an AIF;[15]

26. "derivatives": derivative financial instruments, including equivalent cash-settled instruments, traded on one of the regulated markets mentioned in Art. 51 (1) a), and/or derivative financial instruments that are not traded on the stock exchange ("OTC derivatives");

27. "ESMA": the European Securities and Markets Authority referred to in Regulation (EU) no. 1095/2010;

28. "sovereign issuer": an EEA Member State or one of its territorial authorities, a third country or a public international body to which one or more EEA Member State belongs;

29. "competent authorities":[16]

a) the authorities designated by the EEA Member States in accordance with Art. 97 of Directive 2009/65/EC, in Liechtenstein the FMA;

b) the competent authority of the money market funds in accordance with Art. 2 (17) a) of Regulation (EU) 2017/1131, in Liechtenstein the FMA;

30. Repealed[17]

31. "ESRB": the European Systemic Risk Board pursuant to Regulation (EU) no. 1092/2010;[18]

32. "EBA": the European Banking Authority pursuant to Regulation (EU) No. 1093/2010;[19]

33. "EIOPA": the European Insurance and Occupational Pensions Authority pursuant to Regulation (EU) no. 1094/2010;[20]

34. "management body": the body that in a management company, a self-managed investment company or a depositary is empowered to take the final decision and performs the supervisory and management function

14 Art. 3 (1) no. 25 b) amended by LGBl. 2016 no. 55.
15 Art. 3 (1) no. 25 amended by LGBl. 2013 no. 50.
16 Art. 3 (1) no. 29 amended by LGBl. 2020 no. 322.
17 Art. 3 (1) no. 30 repealed by LGBl. 2020 no. 507.
18 Art. 3 (1) no. 31 inserted by LGBl. 2016 no. 12.
19 Art. 3 (1) no. 32 inserted by LGBl. 2016 no. 12.
20 Art. 3 (1) no. 33 inserted by LGBl. 2016 no. 12.

or, if the two functions are separated, the management function. If the management company, the self-managed investment company or the depositary has established several different bodies with specific functions, the requirements established in this Law incumbent upon the "management body" or the "management body in its supervisory function" shall also, or instead, apply to those members of other bodies of the management company, the self-managed investment company or the depositary, to which the corresponding powers are devolved in accordance with the PGR.[21]

35. "money market fund": a fund in accordance with Art. 3 (1) of Regulation (EU) 2017/1131.[22]

2) The Government may describe the terms listed in (1) in more detail and define other terms used in this Law by Ordinance.

3) In other respects the definition of terms of the EEA acts applicable in accordance with Art. 1 (3) shall apply on a supplemental basis.[23]

4) Terms used to designate persons or functions in this Law are to be understood as referring to both the male and female genders.

B. Legal forms

Art. 4

Basic principle

1) A UCITS may be constituted under the law of contracts (as an "investment fund" managed by a management company), in the form of a trust (as a "collective trusteeship") or under statute (as an "investment company").

2) For UCITS having their registered office in Liechtenstein the FMA may, at the request of the management company approve a different domestic legal form than those specified in Art. 7, in justified individual cases, provided this does not conflict with the purpose of the Law, in particular the protection of investors and the public interest; the FMA specifies at the same time that the provisions of Art. 7 and 12 shall apply accordingly.[24]

21 Art. 3 (1) no. 34 inserted by LGBl. 2016 no. 12.
22 Art. 3 (1) no. 35 inserted by LGBl. 2020 no. 322.
23 Art. 3 (3) amended by LGBl. 2020 no. 322.
24 Art. 4 (2) amended by LGBl. 2020 no. 9.

3) The Government may establish more specific regulations concerning the procedure for approval of other domestic legal forms referred to in (2) by Ordinance.[25]

Art. 5

Investment fund

1) An investment fund is a legal relationship, established by agreements identical in content, between several investors and a management company and a depositary, for the purposes of asset investment, management and safe custody for the account of the investors, in the form of a legally separate asset holding ("the fund"), in which the investors have an interest.

2) Unless specified otherwise by this Law, the legal relationship between the investors and the management company is governed by the fund contract and, if no provisions are laid down therein, by the provisions of the General Civil Code (ABGB). Insofar as no provision has been made therein, the provisions of the PGR applying to trusts shall apply accordingly.

3) The fund contract shall contain provisions on:[26]

a) the name and duration of the investment fund; insofar as a limited duration has been set, the means of winding up of the investment fund and distribution to the investors;

b) the name and registered office of the management company and the depository;

c) the investments, investment policy and investment restrictions;

d) the valuation, issue and redemption price and their securitisation, with the value of the unit being determined by dividing the value of the assets of the investment fund or sub-fund by the number of units in circulation;

e) the conditions for issue, redemption, suspension of redemption and paying out of units and compulsory redemption;

f) appropriation of profit and distributions;

g) the nature, amount and calculation of all fees, the issue and redemption commission, reimbursement of expenses and all other costs that may be charged to the assets of the investment fund;

h) termination of the management by the management company;

25 Art. 4 (3) amended by LGBl. 2020 no. 9.

26 Art. 5 (3) amended by LGBl. 2020 no. 9.

i) sub-division into sub-funds;

k) the unit categories and the incorporation of the investment fund in an umbrella structure, the conditions for changing from one sub-fund that is separate under property and liability law, to another;

l) the manner in which notifications and information from the investment fund are communicated to the participating investors;

m) the requirements for contractual amendments, settlement of mergers or de-mergers and winding up and/or liquidation of the investment fund;

n) the investor base;

o) the accounting year;

p) the accounting unit.

4) The Government may establish further requirements for the fund contract by Ordinance, insofar as this is necessary for the protection of investors and the public interest.

5) In accordance with this Law and the fund contract the management company has the right to dispose of the items belonging to the investment fund and to exercise all rights arising therefrom; action on behalf of the investment fund must be transparent. The investment fund shall not be liable for the liabilities of the management company or the investors. The investment fund shall also include everything that the management company acquires on the basis of a right pertaining to the investment fund or through a legal transaction with reference to the investment fund or as a substitute for a right pertaining to the investment fund.[27]

6) The management company does not have the right to enter into obligations or incur liabilities arising from a surety or guarantee or grant financial loans in the name of investors. The management company may only meet its claims for remuneration and reimbursement of expenses from the investment fund. The investors shall only be personally liable up to the amount invested.

7) The fund contract and each of its amendments shall require the approval of the FMA in order to be valid. The fund contract is approved if it meets the requirements stated in (3) to (6) and does not compromise the protection of investors and the public interest. The FMA may approve or provide specimen fund contracts and, if these are used, the fund contract shall be deemed to have been approved.

27 Art. 5 (5) amended by LGBl. 2020 no. 9.

8) Once it has been authorised, the investment fund shall be entered in the Commercial Register. Registration is not however a condition for the formation of the investment fund and approval of the fund contract by the FMA. The Government shall establish more specific rules concerning the registration procedure by Ordinance.[28]

Art. 6

Collective trusteeship

1) A collective trusteeship is the formation of an identically structured trust, in terms of content, with an unspecified number of investors, for the purpose of asset investment and management for the account of the investors, whereby the individual investors participate on the basis of their share in the trust and are only personally liable up to the amount invested.

2) Unless specified otherwise in this Law, the legal relationship between the investors and the management company is governed by the trust agreement and, if no provisions are laid down therein, by the provisions of the PGR concerning trusts. Insofar as the constitutive documents do not expressly specify otherwise, only the management company shall be considered as trustee, who alone may conclude the relevant legal transactions for the account of the UCITS.[29]

3) The trust agreement shall contain the information referred to in Art. 5 (3).[30]

4) The Government may place further requirements on the trust agreement by Ordinance, insofar as this is necessary for the protection of investors and the public interest.

5) The trust agreement and each of its amendments shall require the approval of the FMA in order to be valid. The trust agreement is approved if it meets the requirements stated in (3) and (4) and does not compromise the protection of investors and the public interest. The FMA may approve or provide specimen trust agreements, and if these are used, the trust agreement will be deemed to have been approved.

6) Once it has been authorised the collective trusteeship shall be registered in the Commercial Register. Registration is not however a condition for the formation of the collective trusteeship or approval of the trust

28 Art. 5 (8) amended by LGBl. 2013 no. 6.
29 Art. 6 (2) amended by LGBl. 2013 no. 50.
30 Art. 6 (3) amended by LGBl. 2020 no. 9.

agreement by the FMA. The Government shall provide more specific details concerning the registration procedure by Ordinance.[31]

Art. 7

Investment company with variable capital

1) The investment company with variable capital (hereinafter: investment company) is a UCITS in the form of a public limited company or a European company (SE):[32]

a) in which, after full payment of the amount invested, the liability of the investors as shareholders or participants is restricted to that amount;

b) of which the sole purpose is the investment and management of assets for the account of the investors; and

c) of which the units are placed with investors.

2) Unless specified otherwise in this Law, the legal relationship between the investors, the investment company and the management company is governed by the instruments of incorporation and the investment conditions of the investment company and, if no provisions are laid down therein, by the provisions of the PGR concerning the public limited company, or those of the SE Act (SEG) on the European Company.[33]

3) The instruments of incorporation shall contain provisions concerning the following in particular:[34]

a) for a public limited company information from the articles as referred to in Art. 279 and, if applicable, 280 PGR;

b) for a European Company information from the articles as referred to in Art. 8 et seq. SEG.

4) The Government may establish further requirements for the instruments of incorporation by Ordinance, insofar as this is necessary for the protection of investors and the public interest.

4a) In addition to the instruments of incorporation the investment company shall establish investment conditions as set out in Art. 5 (3), which do not form a component of the instruments of incorporation.[35]

31 Art. 6 (6) amended by LGBl. 2013 no. 6.
32 Art. 7 (1) introductory clause amended by LGBl. 2020 no. 9.
33 Art. 7 (2) amended by LGBl. 2020 no. 9
34 Art. 7 (3) amended by LGBl. 2020 no. 9.
35 Art. 7 (4a) inserted by LGBl. 2020 no. 9.

5) The investment company may be managed by its own bodies (self-managed investment company) or by a management company (externally managed investment company). The investment company must be managed in the interests of the investors.

6) The executive bodies of the investment company may have a single-tier or two-tier structure. In the first case, the Board of Directors manages and supervises the business, in the second case, the managing board manages the business and the supervisory board supervises its management. Unless the instruments of incorporation and the Government, by Ordinance, specify otherwise, the provisions of this Law, of the PGR and of the SEG shall apply to the appointment of and collaboration between the executive bodies; where there is a two-tier organisational structure the provisions of Art. 199 PGR as well as the provisions of the SEG shall apply.[36]

7) The instruments of incorporation must state:[37]

a) whether, and the extent to which the investment company issues founder and investor shares with and without voting rights and with or without a right to participate in the General Meeting; and

b) whether own assets and managed assets are separated.

8) Unless the Government sets a higher minimum share capital by Ordinance, a minimum share capital of 50 000 Francs or the equivalent in another currency must be held through the founder's shares in the event of separation of assets. The capital adequacy requirement referred to in Art. 17 is not affected.[38]

9) Repealed[39]

10) An investment company may be externally managed by a management company or self-managed internally by its own executive bodies. Unless specified otherwise by this Law, the provisions for UCITS and management companies shall apply by analogy to self-managed investment companies, with the proviso that the duties of UCITS and management companies are to be performed by the executive bodies of the investment company.

11) The instruments of incorporation and the investment conditions and each of their amendments shall require the approval of the FMA in order to be valid. The instruments of incorporation and the investment

36 Art. 7 (6) amended by LGBl. 2020 no. 9.
37 Art. 7 (7) amended by LGBl. 2020 no.9
38 Art. 7 (8) amended by LGBl. 2020 no. 9.
39 Art. 7 (9) repealed by LGBl. 2020 no 9.

conditions are approved if they meet the requirements stated in (3) to (10) and do not compromise the protection of investors and the public interest. The FMA may approve or provide specimen instruments of incorporation and specimen investment conditions, and if these are used, they will be deemed to have been approved.[40]

12) The investment company is formed by registration in the Commercial Register. Prior to registration the PGR's provisions on the simple partnership and Art. 108 PGR shall apply. The Government shall provide more specific rules by Ordinance.[41]

II. Authorisation of UCITS

Art. 8

Obligation to obtain authorisation and scope

1) In order to conduct its business operations a UCTIS having its registered office in Liechtenstein requires authorisation from the FMA. Art. 97 (1) is not affected.

2) The authorisation shall apply in all EEA Member States and entitles the holder to market units of the UCITS on the basis of the freedom to provide services or freedom of establishment within the EEA.

3) In the case of a self-managed investment company, the executive bodies of that company shall act for the UCITS, in all other cases the respective management company.

Art. 9

Conditions for granting authorisation

1) The FMA shall grant a UCITS authorisation after prior approval of:

a) the application of the authorised management company or in the event of self-management, the application of the authorised investment company to manage the UCITS;

b) the appointment of the depositary; and

c) the constitutive documents.

40 Art. 7 (11) amended by LGBl. 2020 no. 9.

41 Art. 7 (12) amended by LGBl. 2020 no. 9.

2) The FMA shall refuse the authorisation, if:

a) the UCITS is not permitted to market its units in Liechtenstein for legal reasons, in particular due to a provision in its contractual conditions or instruments of incorporation.

b) the directors of the depositary are not of sufficiently good repute or do not have sufficient experience with reference to the type of UCITS to be managed;

c) the management company is not authorised as a management company for the type of UCITS to be managed.

3) For cross-border business within the EEA, the UCTIS does not necessarily have to be managed by a management company having its registered office or business operations in Liechtenstein.

4) The Government may prescribe minimum assets for a UCITS by Ordinance, as well as the time in which this minimum amount must be achieved.

Art. 10

Application and authorisation procedure

1) The application for the authorisation of a UCITS is to be submitted to the FMA by the management company, or in the event of self-management by the investment company.

2) The application shall be accompanied by information and documents required as evidence of compliance with the requirements referred to in Art. 9. The directors of the management company shall also confirm that there are no grounds for refusal as set out in Art. 9 (2).

3) The FMA shall send the management company or, in the case of a self-managed investment company, the investment company, an acknowledgement of receipt within three working days from receipt of the complete application.

4) The FMA shall make a decision on the application within ten working days and in the case of the initial authorisation of a self-managed investment company, within one month from receipt of the full set of documents. If further documents, information or a correction of the submitted documents are required in order to assess the application, the FMA may ask the applicant to submit them at a later date. The deadlines shall

be suspended as from the time of the request until receipt of the documents by the FMA.[42]

5) The FMA may extend the time limit referred to in (4) to a maximum of two months, and in the case of the initial authorisation of a self-managed investment company, to a maximum of six months from receipt of the full set of documents, if this is necessary for the protection of investors and the public interest.

6) If the FMA does not extend the deadlines referred to in (4) the authorisation shall be deemed to be granted as from the end of the respective time limit. The FMA shall confirm that the authorisation is effective in writing.[43]

7) Reasons must be stated in writing for any extension of the time limit, or rejection or restriction of the authorisation. The FMA may charge additional fees for issuing any appealable order.

8) The Government may by Ordinance establish further rules concerning the application form, the completeness of the application, the acknowledgement of receipt, the procedure, the applicability of the time limit referred to in (4), the extension of the deadlines referred to in (5), the confirmation referred to in (6) and the statement of reasons referred to in (7).

9) The Government may empower the FMA by Ordinance to suspend the validity of the authorisation referred to in (6) in exceptional circumstances.[44]

Art. 11

Amendment of the constitutive documents, change of management company, depositary, auditors and directors of the depositary

1) Art. 8 to 10 shall apply accordingly to the procedure for amending the constitutive documents pursuant to Art. 5 (7), Art. 6 (5) and Art. 7 (11), in particular with reference to:[45]

a) domestic or cross-border division of UCITS, sub-funds or unit categories, or of undertakings for collective investment that are to become UCITS;

42 Art. 10 (4) amended by LGBl. 2016 no. 12.
43 Art. 10 (6) amended by LGBl. 2016 no. 12.
44 Art. 10 (9) amended by LGBl. 2016 no. 12.
45 Art. 11 (1) amended by LGBl. 2015 no. 114.

b) a change in the management company;

c) a change in depositary;

d) the conversion of a self-managed investment company into an externally managed investment company and, conversely, the conversion of an externally managed investment company into a self-managed one;

e) the conversion of a sub-fund from an umbrella structure into an independent UCITS, or the conversion of an independent UCITS into a sub-fund within an umbrella structure;

f) changes in the legal form and relocation of the registered office of the UCITS, either in Liechtenstein or between states.

2) The changes referred to in (1) shall be published by the management company after receiving the approval of the FMA. Changes referred to in (1) a) to f) shall become effective upon commencement of the 20th day after publication, all other changes upon approval by the FMA.[46]

3) The management company shall notify the FMA of a change in the auditor of the UCITS or a director of the depositary. The name of the new auditor or the name of the new director shall be communicated in the notification.

4) The Government shall establish more specific regulations by Ordinance.

Art. 12

Name

1) The name of a UCITS may not give rise to confusion or misrepresentation. If the name implies a specific investment strategy, this shall be the strategy that is implemented overall.

2) The name of the investment fund or collective trusteeship shall include the relevant legal form, or one of the designations or abbreviations listed below:[47]

a) for an investment fund: "common contractual fund", "CCF" or "C.C.F.", "fonds commun de placement", "FCP" or "F.C.P.", "Fonds" or "Fund";

b) for a collective trusteeship: "Anlagefonds", "Fonds" or "Fund" or "unit trust", "authorized unit trust" or "AUT".

46 Art. 11 (2) amended by LGBl. 2015 no. 198.

47 Art. 12 (2) amended by LGBl. 2020 no. 9.

2a) The name of the investment company shall contain the relevant legal form, or one of the designations or abbreviations listed below:[48]

a) for a public limited company with variable capital: "AGmvK", "open-ended investment company" or "OEIC", "société d`investissement à capital variable" or "SICAV";

b) for a European company with variable capital: "SEmvK" or "SICAV-SE".

3) If the name of a UCITS, including the designation or abbreviation is changed, the constitutive documents shall be amended accordingly. Such changes require the approval of the FMA.

4) No persons or entities other than management companies or UCITS may use designations that imply the activity of a management company or a UCITS.

5) The Government may provide more specific rules by Ordinance.

III. Authorisation and obligations of management companies

A. Authorisation of management companies

Art. 13

Obligation to obtain authorisation and applicable law

1) A management company having its registered office in Liechtenstein requires authorisation from the FMA in order to conduct its business activities. The provisions referred to in Art. 96 to 120 are reserved.

2) Unless provided otherwise, the provisions of this chapter shall apply mutatis mutandis to self-managed investment companies.

Art. 14

Scope of the authorisation

1) Authorisation as a management company is valid in all EEA Member States and entitles the management company to manage authorised

48 Art. 12 (2a) inserted by LGBl. 2020 no. 9.

UCITS on the basis of freedom to provide services or freedom of establishment within the EEA.

2) In addition to the management of authorised UCITS, the FMA may also grant the management company authorisation to provide the following services:

a) management of individual portfolios, including those held by pension funds and foundations, with discretion under a mandate from investors, where the portfolios in question contain one or more of the instruments listed in Annex I Section C of Directive 2014/65/EU[49];

b) insofar as the authorisation covers services referred to in a):

   1. investment advice in connection with one or more of the financial instruments listed in Annex I Section C of Directive 2014/65/EU;[50]

   2. safe-custody and technical administration in respect of units of undertakings for collective investment; and

   3. in cases where the management company manages other undertakings for collective investment, the acceptance and transmission of orders involving one or more of the financial instruments referred to in Annex I Section C of Directive 2014/65/EU;[51]

c) the management of AIFs under the conditions set out more specifically in the AIFMG; and[52]

d) other activities specified by Ordinance, provided they do not compromise the protection of investors or the public interest.

3) A self-managed investment company may only manage its own assets.

4) The FMA may grant authorisation for all types of UCITS or for individual types only.

5) The Government may establish more specific rules, in particular with regard to the legal form of the management company and the types of UCITS referred to in (4) by Ordinance.

49 Art. 14 (2) a) amended by LGBl. 2017 no. 400.
50 Art. 14 (2) b) 1 amended by LGBl. 2017 no. 400.
51 Art. 14 (2) b) 3 amended by LGBl. 2017 no. 400.
52 Art. 14 (2) c) amended by LGBl. 2016 no. 12.

Art. 15

Conditions for granting authorisation

1) The FMA shall grant the management company authorisation, if:

a) the capital held pursuant to Art. 17 is adequate;

b) the directors of the management company or other persons, in respect of whom the management company can demonstrate that they actually conduct the business of the management company, have adequate professional qualifications and personal integrity; at least two persons, who meet the said conditions must determine the management of the management company;[53]

c) there is a programme of activity setting out, as a minimum, the organisational structure of the management company;

d) the qualifying stakeholders satisfy the requirements for ensuring that the management company will be properly and prudently managed;

e) the head office and registered office of the management company are in Liechtenstein.

1a) The FMA shall inform the ESMA of each authorisation granted.[54]

2) The FMA shall refuse authorisation if:

a) the exercise of its supervisory function is prevented by close links between the management company and other persons;

b) it is prevented in the exercise of its supervisory function by the laws, regulations and administrative provisions of a third country, applying to persons with whom the management company has close links, or by difficulties arising in their enforcement.

3) Art. 15, 16, 24 and 25 of Directive 2014/65/EU concerning the organisational requirements, the basic principles for the protection of investors and the assessment of suitability and appropriateness and reporting to clients shall apply mutatis mutandis to authorisations for services referred to in Art. 14 (2) a) and b). Authorisation is granted if the management company joins an investor compensation scheme as defined in the Deposit Guarantee and Investor Compensation Act.[55]

4) Asset management companies, whose business activities include the provision and arrangement of services referred to in Art. 3 (1) of the Asset

53 Art. 15 (1) b) amended by LGBl. 2013 no. 50.
54 Art. 15 (1) a) inserted by LGBl. 2016 no. 12.
55 Art. 15 (3) amended by LGBl. 2019 no. 108.

Management Act, may be authorised as management companies, if pursuant to Art. 30 (1) c) of the Asset Management Act they forego their approval in writing.[56]

5) The Government shall establish more specific regulations by Ordinance.

Art. 16

Application and authorisation procedure

1) The application for authorisation to operate as a management company is to be submitted to the FMA in the form specified by the Government by Ordinance.

2) The application shall be accompanied by the information and documents required as evidence that the conditions stated in Art. 15 with reference to the management company have been met. The directors of the management company shall also confirm that no grounds for refusal as referred to in Art. 15 (2) exist.[57]

3) The FMA shall send the applicant an acknowledgement of receipt within three working days from receipt of the complete application.

4) The FMA shall make a decision on the application within one month from receipt of the full set of documents.

5) The FMA may extend the period allowed under (4) to a maximum of six months from receipt of the full application, if this is necessary for the protection of investors or the public interest.

6) Reasons must be stated in writing for any extension of the period allowed, or rejection or restriction of the authorisation. The FMA may charge additional fees for issuing an appealable order.

7) Before granting the authorisation the FMA shall consult the competent authorities of the other EEA Member State concerned, if the management company:

a) is a subsidiary or affiliate of another management company, an investment firm, a credit institution or an insurance company with authorisation in another EEA Member State;

56 Art. 15 (4) amended by LGBl. 2013 no. 50.
57 Art. 16 (2) amended by LGBl. 2016 no. 12.

b) is controlled by the same natural or legal persons as another management company, an investment firm, a credit institution or an insurance company with authorisation in another EEA Member State.

8) Upon receipt of the authorisation the management company may commence its operations in Liechtenstein immediately.[58]

9) The Government may by Ordinance establish more specific rules concerning the acknowledgement of receipt, the application form, the procedure, the completeness of the application pursuant to (4), extension of the period allowed referred to in (5) and the statement of reasons referred to in (6).

10) In the event of an application concerning an AIFM authorised pursuant to Art. 28 AIFMG and Art. 6 of Directive 2011/61/EU, the documents referred to in (1) and (2) do not have to be submitted if they are already held by the FMA and are still current.[59]

B. Obligations of the management company

Art. 17

Capital

1) The capital shall be at least:

a) for self-managed investment companies: 300 000 euro or the equivalent in Swiss Francs;

b) for management companies: 125 000 euro or the equivalent in Swiss Francs.

2) If the value of the portfolios managed by the management company exceeds 250 million euro or the equivalent in Swiss Francs, its capital must additionally make up 0.02 % of the amount by which the value of the portfolios managed exceeds 250 million euro or its equivalent in Swiss Francs; the capital shall be a maximum of 10 million euro or the equivalent in Swiss Francs. Portfolios managed by the management company are understood as any UCITS and undertakings for collective investment it manages, including portfolios whose management it has outsourced to third

58 Art. 16 (8) amended by LGBl. 2013 no. 50.
59 Art. 16 (10) inserted by LGBl. 2013 no. 50.

parties, but not portfolios that it is managing itself on behalf of third parties.[60]

3) Notwithstanding (2) the capital must be equivalent to at least a quarter of the fixed general costs of the last financial year; for start-ups this figure will be based on the fixed general costs of the management company specified in the business plan. The FMA may adjust the capital requirement in the event of a material change in the business activity compared with the previous year.[61]

4) Repealed[62]

5) The additional capital required under (2) may be evidenced up to 50 % by a guarantee for the same amount issued by a credit institution or an insurance company. The guarantor must have its registered office in an EEA Member State, in Switzerland or a third country with equivalent supervisory provisions and be appropriately authorised to operate its business in Liechtenstein.[63]

6) The reference rates set by the European Central Bank (ECB) are to be used for conversion of the amounts stated in (1).

7) The Government may provide more specific rules by Ordinance. It may establish by Ordinance that in certain cases the capital must amount to up to 1 million euro or the equivalent in Swiss Francs.

Art. 18[64]

Reportable changes[65]

1) The FMA shall be notified in advance of all material changes to the information and documents submitted in accordance with Art. 15 (1).[66]

2) The FMA may object to the changes referred to in (1) within one month.

3) The FMA may extend the period referred to in (2) by one month at a time, by a notification to the management company, stating the reasons.

60 Art. 17 (2) amended by LGBl. 2013 no. 50.
61 Art. 17 (3) amended by LGBl. 2020 no. 9.
62 Art. 17 (4) repealed by LGBl. 2014 no. 355.
63 Art. 17 (5) amended by LGBl. 2020 no. 9.
64 Art. 18 amended by LGBl. 2013 no. 50.
65 Art. 18 Heading amended by LGBl. 2016 no. 12.
66 Art. 18 (1) amended by LGBl. 2016 no. 12.

4) If the FMA consents to the application for a change within a shorter time or does not object to it within the periods referred to in (2) and (3), the change referred to in (1) may be made.[67]

5) The management company shall provide the FMA with all information that it will require in order to assess the changes referred to in (1) in full and to ascertain that all the conditions for granting authorisation are still in place.

6) The Government may establish more specific rules by Ordinance.[68]

Art. 19[69]

Qualifying holdings

1) Any intended direct or indirect acquisition, any intended direct or indirect increase, or any intended sale of a qualifying holding in a management company shall be reported to the FMA by the person or persons interested in the acquisition or the sale in writing, if through the acquisition or the sale the share in the capital or the voting rights of the management company reaches, exceeds or falls below the thresholds of 20 %, 30 % or 50 % or the management company would become the subsidiary of a purchaser or would no longer be a subsidiary of the seller. Art. 25, 26, 26a, 27 and 31 of the Disclosure Act shall apply to the determination of the voting rights.[70]

2) After a notification in accordance with (1) the FMA shall consult the authority that is responsible for the authorisation of the purchaser, or of the undertaking whose parent undertaking or controlling person intends to make the acquisition or increase, if the interested purchaser is one of the following natural or legal persons:

a) a UCITS management company, asset management company, investment firm, bank, insurance company or AIFM authorised in another EEA Member State;

b) a parent undertaking of an undertaking referred to in a); or

c) a natural or legal person controlling a company referred to in a).

3) The management company shall inform the FMA if it becomes aware of an acquisition or a sale of holdings in its capital such as referred

67 Art. 18 (4) amended by LGBl. 2016 no. 12.
68 Art. 18 (6) amended by LGBl. 2016 no. 12.
69 Art. 19 amended by LGBl. 2016 no. 12.
70 Art. 19 (1) amended by LGBl. 2016 no. 152.

to in (1). The management company shall also inform the FMA at least once a year of the names of the unit-holders and shareholders who hold qualifying holdings, as well as the relevant holding amounts.

4) If a holding is acquired in spite of objection from the FMA, the voting rights of the purchaser may not be exercised until amendment or revocation of the objection by recourse to appeal, or withdrawal of the objection by the FMA; any voting that takes place notwithstanding shall be invalid.

5) In the assessment of the acquisition or the increase of a holding referred to in (2) the FMA shall work together with the competent authorities of the other EEA Member States. The collaboration shall encompass, in particular, the exchange of all information relevant to the assessment of the acquisition or the increase of a holding.

6) The Government shall establish more specific rules regarding the procedure and the criteria for assessment of the acquisition, increase or sale of qualifying holdings by Ordinance. It may set rules for self-managed investment companies that deviate from (1) and (3).

Art. 20

Code of conduct

1) The management company shall:

a) act fairly and appropriately in the performance of its activities in the best interest of the UCITS and the integrity of the market;

b) perform its activities with due skill, care and diligence in the best interest of the UCITS and the integrity of the market;

c) have the resources and procedures required for the proper performance of its business activities and employ them effectively;

d) endeavour to avoid conflicts of interest and, if they cannot be avoided, ensure that the UCITS under its management are treated properly and fairly;

e) act in compliance of the law and constitutive documents independently and exclusively in the interests of investors.

2) An appointed management company, whose authorisation also extends to individual portfolio management as referred to in Art. 14 (2) a):

a) may not invest either all or part of the customer's assets in units of the UCITS under its management, unless the customer has given a general consent beforehand;

b) is subject to the relevant provisions on investor-compensation schemes with reference to the services referred to in Art. 14 (2) a) and b).

3) The Government shall establish more specific rules by Ordinance.

Art. 20a[71]

Remuneration

1) The management company shall establish and apply remuneration principles and practices for all categories of staff, including senior management, risk-takers, staff engaged in control functions and employees receiving a total remuneration that puts them in the same income bracket as senior management and risk-takers, whose actions may have a significant influence on the risk profile of the management company or the UCITS under its management. The remuneration principles and practices must be consistent with and conducive to reasonable and effective risk management and may not encourage the taking of risks that are incompatible with the risk profiles or the constitutive documents of the UCITS under their management, or prevent the management company from acting in the best interest of the UCITS in accordance with their duty.

2) The remuneration principles and practices must be appropriate and proportionate to the size and internal organisation of the management company, as well as the nature, scope and complexity of the business of the management company. They must be compatible with the business strategy, objectives, values and interests of the management company, the UCITS managed and the investors of such UCITS, and include measures for the avoidance of conflicts of interest.

3) The remuneration principles and practices shall incorporate fixed and variable components of salaries and discretionary retirement pension payments.

4) The FMA shall provide information about the remuneration principles and practices at the request of the ESMA.

71 Art. 20a inserted by LGBl. 2016 no. 12.

Art. 20b[72]

Establishment and application of the remuneration principles and practices

1) In the course of its supervisory function the management body of the management company shall establish the remuneration principles and practices referred to Art. 20a; it shall review them at least once a year and shall be responsible for their implementation and oversight. These duties shall be performed by members of the management body who do not perform any management functions in the management company in question and who have the required expertise in the fields of risk management and remuneration.

2) The implementation of the remuneration principles and practices established by the management body pursuant to (1) shall be reviewed at least once a year in a central, independent internal review.

3) The remuneration principles and practices are to be applied as follows, taking into account the guidelines or recommendations of the ESMA:

a) Employees engaged in control functions shall be rewarded upon achievement of each of the objectives associated with their functions, irrespective of the performance of the business divisions under their control.

b) The remuneration of senior managers engaged in risk management and compliance functions shall be directly overseen by the remuneration committee, if such a committee has been established.

c) Where a performance-related pay scheme is in operation, the total remuneration shall be based on an appraisal, both of the performance of the employee concerned and of his department, or more specifically the UCITS in question and the risks involved, and of the overall performance of the management company; both financial and non-financial criteria shall be taken into account in the appraisal of the individual performance.

d) The performance appraisal shall be set in a multiple-year framework appropriate to the holding period that has been recommended to the investors of the UCITS managed by the management company, in order to ensure that the appraisal is geared to the longer-term performance of the UCITS and its investment risks, and the actual payment of performance-based remuneration components is spread over the same period.

72 Art. 20b inserted by LGBl. 2016 no. 12.

e) A guaranteed variable remuneration shall only be paid by way of an exception, when new members of staff are engaged and shall be limited to the first year of their employment.

f) The fixed and variable components of the total remuneration package shall be appropriately balanced in relation to one another, with the fixed element representing a sufficiently high proportion of the total remuneration to allow complete flexibility with reference to the variable remuneration elements, including the option of dispensing with the payment of a variable component altogether.

g) Payments in connection with premature termination of a contract shall reflect the performance over time and be designed in a way that does not reward failure.

h) The measurement of performance used to calculate variable remuneration components or pools of variable remuneration components shall include a comprehensive adjustment mechanism for all types of current and future risks.

i) Depending on the legal form of the UCITS and its constitutive documents, a substantial proportion, but at least 50 % of the variable remuneration components must be made up of units of the UCITS in question, equivalent holdings or instruments linked to units or equivalent non-cash instruments with incentives that are equally as effective as any of the instruments mentioned in this clause; the minimum value of 50 % is not applied if less than 50 % of the overall portfolio managed by the management company involves UCITS. These instruments shall be subject to an appropriate retention policy designed to align the incentives with the interests of the management company and the UCITS it manages and the interests of the UCITS investors. This clause shall apply both to the portion of the variable remuneration components retained in accordance with k) and the portion of the variable remuneration components that are not retained.

k) A substantial proportion, but at least 40 % of the variable remuneration components shall be retained over a period which, in the light of the holding period recommended to the investors of the UCITS in question, is appropriately and correctly aligned to the type of risk involved in this UCITS. This period shall be a minimum of three years. Remuneration payable under the remuneration retention arrangements may not be earned more rapidly than on a proportional basis; if the variable components represent a particularly high amount, the payment of at least 60 % of the amount shall be retained.

l) The variable remuneration, including the retained portion, shall only be paid out or earned, if it is sustainable overall in the light of the fi-

nancial position of the management company, and justified on the basis of the performance of the relevant commercial department of the UCITS and the performance of the individual concerned. The total variable remuneration shall generally be significantly reduced if the financial performance of the management company or the UCITS in question is weak or negative, with both current compensation and reductions for payouts of amounts generated previously, including those generated through *malus or clawback* arrangements, being taken into account.

m) The pension provisions shall be consistent with the commercial strategy, objectives, values and long-term interests of the management company and the UCITS it manages. If the employee leaves the management company before reaching the age of retirement, discretionary retirement benefits shall be retained by the management company for five years in the form of the instruments referred to in i). If an employee retires, the discretionary retirement benefits are paid to the employee in the form of the instruments referred to in i) at the end of a waiting period of five years.

n) The employees shall undertake not to employ any personal hedging strategies or remuneration and liability-related insurance in order to undermine the risk-oriented effects embedded in their remuneration arrangements.

o) The variable remuneration shall not be paid in the form of instruments or vehicles that facilitate the avoidance of the requirements of this Law.

4) The remuneration principles and practices set out in Art. 20a and in (1) to (3) of this article shall apply to each type of benefit granted by the management company, to each amount paid directly by the UCITS itself, including performance fees and to each transfer of units of the UCITS in favour of employee categories, including senior management, risk-takers, employees engaged in control functions and all employees receiving a total remuneration that puts them in the same income bracket as senior management and risk-takers, whose activities have a significant influence on its risk profile or the risk profile of the UCITS under its management.

5) The Government may establish more detailed arrangements by Ordinance, taking into account guidelines or recommendations from the ESMA, in particular:

a) restrictions and/or prohibitions with reference to the types and forms of the instruments referred to in (3) i);

b) criteria with reference to the categories of employees referred to in Art. 20a (1), to which the remuneration principles and practices are to be applied in any case.

Art. 20c[73]

Remuneration committee

1) Management companies that are of considerable significance in view of their size, or the size of the UCITS under their management, their internal organisation and the type, scale and complexity of their business transactions shall establish a remuneration committee. The remuneration committee shall be constituted in such a way that it can exercise competent and independent judgement on the remuneration policies and practices and the incentives created for managing risks.

2) The remuneration committee that may be established as outlined in (1), in accordance with ESMA guidelines, shall be responsible for the drawing up of decisions that are to be taken in respect of remuneration by the management body in its supervisory function, including decisions having implications for the risk exposure and risk management of the management company or the UCITS concerned. The Chairperson of the remuneration committee shall be a member of the management body who does not perform any executive functions in the management company concerned. The members of the remuneration committee shall be members of the management body who do not perform any executive functions in the management company concerned. Insofar as representation of employees is required in the management body in accordance with the Mitwirkungsgesetz (Act on Information and Consultation of Employees in Business Enterprises), the remuneration committee shall include one or more staff representative. When preparing its decisions the remuneration committee shall take into account the long-term interests of investors and other stakeholders, and the public interest.

3) The Government may establish more specific criteria for determining whether a management company is of considerable significance, and more specific details concerning the composition and organisation of a remuneration committee, taking into account the guidelines and recommendations of the ESMA.

Art. 21

Organisation, segregation

1) A management company shall have sound administrative and accounting procedures, control and safeguard arrangements with reference to electronic data processing and appropriate internal control mechanisms,

73 Art. 20c inserted by LGBl. 2016 no. 12.

including in particular, rules on personal transactions by its employees and on the holding or management of investments in financial instruments for the purpose of investing on its own account.

2) The rules set out in (1) shall ensure as a minimum, that:

a) each transaction involving the UCITS may be reconstructed according to its origin, the parties to it, its nature, the time and place at which it was concluded; and

b) the assets of the UCITS managed by the management company are invested according to the constitutive documents and the provisions of this Law.

3) A management company shall be structured and organised in such a way as to minimise the risk of conflicts of interest that prejudice the interests of the UCITS or those of the investors and customers and, if conflicts nonetheless arise, they shall be recognised and dealt with appropriately, taking into account, in particular, conflicts of interest between the management company, its customers, UCITS and investors – both in relation to the management company and between one another.

3a) A management company shall have appropriate procedures in place through which its employees can report actual, or potential violations of this Law and its associated ordinances, internally through a special, independent, autonomous reporting line.[74]

4) A management company shall be obliged to hold the assets of a UCITS separately from the assets of another UCITS and from its own assets.

5) The Government shall establish more specific rules by Ordinance.

Art. 22

Delegation of functions

1) A management company may delegate parts of its functions to third parties in the interests of more efficient management, if:

a) the delegation does not adversely affect the effectiveness of the supervision of the management company; in particular it must not prevent the management company from acting in the interests of its investors, nor prevent the UCITS being managed in the interests of the investors;

74 Art. 21 (3a) inserted by LGBl. 2016 no. 12.

b) in the delegation of investment management functions, the mandate is only delegated to undertakings that are authorised and subject to supervision for the purposes of asset management; the delegation must comply with the investment distribution criteria regularly established by the management company;

c) where the investment management function is delegated to an undertaking having its registered office in a third country, cooperation between the FMA and the competent authority of the home Member State of the undertaking is assured;

d) no mandate for investment management is delegated to the depositary and other undertakings whose interests may conflict with those of the management company or the investors;

e) the directors of the management company are able to monitor the activities of the undertaking to which the function has been delegated effectively at any time;

f) the management company is empowered to give the undertaking to which functions have been delegated further instructions at any time, or to withdraw the mandate with immediate effect if this is in the interest of the investors;

g) taking into account the nature of the functions to be delegated, the undertaking to which the functions are being delegated has the necessary qualifications and is capable of performing the functions;

h) the delegated functions, for the delegation of which the management company has obtained approval in accordance with this Article, are listed in the UCITS prospectuses;

i) the scale of the delegation does not reduce the management company to a letter-box entity.

2) The management company shall inform the FMA of the delegation of functions before the delegation agreement comes into effect.[75]

3) The delegation of functions does not affect the liability of the management company or the depositary.

4) The Government may establish more specific regulations by Ordinance, in particular concerning the scale of the delegation of functions permitted.

75 Art. 22 (2) amended by LGBl. 2013 no. 50.

Art. 23

Risk management

1) A management company shall assign risk management and investment management to different persons. A management company, for which separation of functions is inappropriate due to the nature, size and complexity of the UCITS, may with the consent of the FMA dispense with separation of functions for specific areas of risk management established by the Government by Ordinance, provided that this does not compromise the effectiveness of the risk management procedures outlined in (1a) and (2).[76]

1a) A management company shall employ appropriate risk management procedures that enable it to monitor and measure the risk associated with the investment positions and the respective share in the overall risk profile of the investment portfolio of a UCITS at all times.[77]

2) It shall in particular employ procedures that:[78]

a) enable the value of OTC derivatives to be assessed accurately and independently;

b) taking into account the nature, scale and complexity of the business of the UCITS, do not base the credit rating exclusively and automatically on ratings issued by credit rating agencies as defined by Art. 3 (1) b) of Regulation (EC) no. 1060/2009.

3) It shall review and adjust the risk management systems at appropriate intervals, but at least once a year.

4) The Government shall establish more specific regulations by Ordinance.

Art. 24

Liability

1) A management company, a liquidator or an administrative agent shall be liable to the investors for losses arising from contravention of Art. 20 to 23 of this Law or the provisions of EEA acts applicable in accordance

76 Art. 23 (1) amended by LGBl. 2016 no. 12.
77 Art. 23 (1a) inserted by LGBl. 2016 no. 12.
78 Art. 23 (2) amended by LGBl. 2016 no. 12.

with Art. 1 (3), insofar as fault on their part cannot be demonstrably excluded. Liability is not affected by delegation of functions to third parties pursuant to Art. 22. Any limitation of this liability is excluded.[79]

2) If material information in a prospectus, an annual or a half-yearly report that has to be drawn up under this Law is incorrect or incomplete, or if a prospectus has not been issued in accordance with these provisions, the responsible persons referred to in (1) shall be liable to each investor for the losses the latter has incurred, unless they can demonstrate that they are in no way at fault. Liability for statements in the key information for investors, the summary of the prospectus or in advertising, including any translations thereof, is only accepted if they are misleading, inaccurate or inconsistent with the relevant sections of the prospectus.

3) The persons referred to in (1) as well as the acting and responsible persons shall be liable to the investors for the accuracy of the statement referred to in Art. 10 (2) for the losses they have incurred, unless they can demonstrate that they are not at fault in any way.[80]

4) In external relationships with third parties, several parties concerned shall be jointly liable as joint and several debtors, in internal relationships according to the fault that is proportionately attributable to them. Recourse between the parties concerned is determined by considering all the circumstances.[81]

5) The claim to compensation under (1) to (3) shall become statute-barred at the end of five years from the occurrence of the loss, but at the latest one year after redemption of the unit or from becoming aware of the loss.[82]

6) The Princely Court of Justice shall in any case be competent for claims arising from the legal relationship with a domestic UCITS or a domestic management company or for claims of a domestic investor arising from a foreign UCITS of which the units are marketed in Liechtenstein.[83]

79 Art. 24 (1) amended by LGBl. 2020 no. 322.
80 Art. 24 (3) amended by LGBl. 2013 no. 50.
81 Art. 24 (4) amended by LGBl. 2013 no. 50.
82 Art. 24 (5) inserted by LGBl. 2013 no. 50.
83 Art. 24 (6) inserted by LGBl. 2013 no. 50.

Art. 25

Confidentiality

1) The members of the executive bodies of management companies and their employees, as well as other persons acting for such management companies are obliged to treat as confidential all facts entrusted to them, or to which they have gained access as a result of business relationships with customers. The obligation of confidentiality has no restriction in time.

2) The statutory provisions in respect of the obligation to provide evidence or information to the criminal courts, the Financial Intelligence Unit and the supervisory authorities and bodies, and the provisions concerning cooperation with the Financial Intelligence Unit or with the competent supervisory authorities and bodies, remain reserved.[84]

C. Lapse and Withdrawal of Authorisation[85]

Art. 26[86]

Repealed

Art. 27[87]

Lapse of Authorisation

1) Authorisations shall lapse if:

a) they are relinquished in writing;

b) bankruptcy proceedings are opened in respect of the management company with legal effect; or

c) the investment company is deleted from the Commercial Register.

2) In the event of lapse of authorisation as referred to in (1), the FMA, as competent authority for the management company, shall notify the competent authority of the host Member States.

84 Art. 25 (2) amended by LGBl. 2016 no. 40.
85 Heading before Art. 26 amended by LGBl. 2016 no. 12.
86 Art. 26 repealed by LGBl. 2016 no. 12.
87 Art. 27 amended by LGBl. 2016 no. 12.

3) Lapse of authorisation is to be published in the publications specified by the Government at the management company's expense.

Art. 28[88]

Withdrawal of authorisation

1) The FMA may withdraw authorisation, if:

a) business operations have not commenced within a period of one year;

b) the business has not been in operation for at least six months;

c) the conditions under which the authorisation was granted are no longer being met and the legal status is not expected to be restored within a reasonable period of time;

d) the management company systematically breaches the statutory obligations in a way that is serious and fails to comply with the FMA's requests to restore the legal status;

e) the management company obtained the authorisation by making false statements or by any other irregular means;

f) the management company's capital no longer satisfies the requirements under Art. 17 - and additionally, for individual portfolio management referred to in Art. 14 (2) a), the provisions on capital adequacy under Art. 95 to 98 of Regulation (EU) No. 575/2013 - and the legal status is not expected to be restored within a reasonable time;

g) the continued operation of the management company's business would be likely to jeopardise confidence in Liechtenstein as a fund centre, the stability of the financial system or the protection of investors.

2) The provisions of (1) f) shall not apply to a self-managed investment company.

3) The management company is to be informed of the withdrawal of the authorisation by a written order, stating the reasons. Once the order has become enforceable, the withdrawal of authorisation is to be published in the publications specified by the Government at the management company's expense.

4) In the event of withdrawal as referred to in (1), the FMA, as the competent authority of the management company, shall notify the competent authority of the host Member States.

88 Art. 28 amended by LGBl. 2016 no. 12.

5) The provisions concerning emergency measures as referred to in Art. 129a are unaffected.

Art. 28a[89]

Repealed

D. Liquidation, Administrative Agent and Insolvency Proceedings[90]

Art. 29

Dissolution and liquidation after loss of authorisation

1) Lapse or withdrawal of the management company's authorisation shall result in the winding up and liquidation of the management company, unless it holds another authorisation in accordance with the AIFMG or authorisation under the Investment Undertakings Act (IUG).[91]

2) The FMA shall inform the Office for Justice and the depositary of the legally enforceable loss of authorisation. The Office for Justice shall enter the liquidation in the Commercial Register and acting on a proposal from the FMA shall appoint a liquidator in accordance with Art. 133 PGR. The provisions of Art. 133 (6) PGR shall only apply if the Government consents to coverage of costs.[92]

3) The costs of winding up and liquidation shall be borne by the management company, and in the case of investment companies with separation of assets as referred to in Art. 7 (7) b) by their own assets.[93]

4) The winding up and liquidation of the management company or the investment company's own assets shall proceed in accordance with Art. 133 et seqq. PGR or another liquidation procedure determined with the approval of the Office for Justice and the FMA, with the proviso that the FMA undertakes the supervision of the liquidation.[94]

89 Art. 28a repealed by LGBl. 2016 no. 12.
90 Heading before Art. 29 amended by LGBl. 2020 no. 397.
91 Art. 29 (1) amended by LGBl. 2016 no. 12.
92 Art. 29 (2) amended by LGBl. 2013 no. 50.
93 Art. 29 (3) amended by LGBl. 2020 no. 9.
94 Art. 29 (4) amended by LGBl. 2013 no. 6.

5) Art. 31 shall apply to the managed assets of UCITS.

6) The FMA may require the liquidator to draw up a liquidation report.[95]

Art. 30[96]

Appointment of an administrative agent

1) The FMA shall appoint an administrative agent for a management company that is legally incapacitated. The investors are to be informed of the appointment of an administrative agent by the administrative agent.

2) The administrative agent:

a) conducts the business of the management company but does not undertake management of new UCITS;

b) decides on the issue and redemption of shares and units and, if applicable, arranges the suspension of a share deal arranged by the management company;

c) shall apply to the FMA within one year for permission to continue the business operation, to establish a new management company or for the dissolution of the management company.

3) The FMA shall determine the remuneration paid to the administrative agent. The administrative agent's remuneration and expenses are charged to the management company.

4) The Government may provide more specific details concerning the administrative agent by Ordinance, in particular the criteria for the remuneration and personal requirements placed on the administrative agent.

Art. 31

Managed assets in the event of dissolution and insolvency of the management company and the depositary[97]

1) In the event of dissolution or insolvency proceedings in respect of the assets of the management company or, if a separation of assets has taken place pursuant to Art. 7 (7) b) the investment company, the assets

95 Art. 29 (6) inserted by LGBl. 2013 no. 50.
96 Art. 30 amended by LGBl. 2013 no. 50.
97 Art. 31 Subject heading amended by LGBl. 2020 no. 397.

managed for the purposes of collective investment on behalf of the investors do not fall within its insolvency assets and are not liquidated with its own assets. Each UCITS or sub-fund constitutes a separate fund for the benefit of its investors. Subject to FMA approval, each separate fund is to be transferred to another management company or, if no management company has declared itself willing to take over the fund within three months from the opening of bankruptcy proceedings, to be liquidated by means of a separate settlement in favour of the investors of the UCITS or sub-fund in question. The FMA may extend the time limit for a period of up to twelve months, if this appears necessary for the protection of investors. Unless the FMA specifies otherwise for the protection of investors or the public interest, the liquidation shall be carried out by the depositary as liquidator.[98]

2) In the event of the depositary's bankruptcy, the managed assets of each UCITS or sub-fund are, subject to the approval of the FMA, to be transferred to another depositary, or liquidated by means of separate settlement in favour of the investors of the UCITS or sub-fund in question.

2a) The costs of liquidation of the UCITS or sub-fund in the cases referred to in (1) and (2) will be charged to the investors of the respective separate fund.[99]

3) The Government may provide more specific rules by Ordinance.

IV. Depositary[100]

Art. 32[101]

Appointment of the depositary

1) The management company shall appoint a single depositary for each of the domestic UCITS under its management with a written contract. The contract shall govern, among other things, the exchange of information that the depositary will require in order to perform its statutory duties for the UCITS.

2) Only the following may be appointed as depositary:

98 Art. 31 (1) amended by LGBl. 2020 no. 397.
99 Art. 31 (2a) inserted by LGBl. 2013 no. 50.
100 Heading before Art. 32 amended by LGBl. 2016 no. 12.
101 Art. 32 amended by LGBl. 2016 no. 12.

a) a bank or investment firm authorised to provide safe custody services under the Banking Act;

b) a Liechtenstein branch of a bank or investment firm having its registered office within the EEA, established in accordance with the Banking Act and authorised to provide safe-custody services;

c) another legal person subject to the prudential supervision of the FMA, authorised to perform depositary functions under this Law, having its registered office or establishment in Liechtenstein, that is subject to capital adequacy requirements which do not fall below the requirements established in accordance with the approach adopted pursuant to Art. 315 or 317 of Regulation (EU) No. 575/2013, and which in any case possesses own funds that do not fall below the amount of initial capital stated in Art. 24 (1) b) of the Banking Act, provided that it meets the following minimum requirements:

1. it has the required facilities to ensure safe keeping of financial instruments that may be taken into safe custody, on an account for financial instruments;
2. it establishes adequate strategies and procedures to ensure that it, its management and its employees will be able to meet the obligations under this Law;
3. it has sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment and effective control and safeguarding mechanisms for data processing systems;
4. it maintains and operates effective organisational and administrative arrangements with a view to taking all reasonable steps to avoid conflicts of interest;
5. it ensures that records are kept in respect of all its services, activities and transactions that are sufficient to enable the FMA to meet its supervisory obligations and to take the enforcement action provided for in this Law;
6. it takes reasonable steps to guarantee the continuity and regularity of its depositary functions. To that end it shall employ appropriate and proportionate systems, resources and procedures, also with respect to the performance of its depositary activities;
7. all members of its management body and its senior management must at all times be of sufficiently good repute and possess sufficient knowledge, expertise and experience;
8. its management body collectively possesses the knowledge, skills and experience required to understand the activities of the depositary and the principal risks involved;

9. every member of its management body and its senior management acts honestly and with integrity;
10. it has established appropriate procedures through which its employees can report actual or potential violations of this Law and its associated ordinances, internally through a special, independent and autonomous reporting line.

3) The depositary shall provide the FMA on request with all information that it has obtained in the course of discharging its duties and that the FMA might require. The FMA shall, if applicable, forward the information to the competent supervisory authority of the UCITS or the management company in another EEA Member State.

4) The functions of the management company or the self-managed investment company and the depositary may not be performed by one and the same company. The management company or the self-managed investment company and the depositary shall in the performance of their respective duties act honestly, fairly, professionally, independently and exclusively in the interest of the UCITS and its investors.

5) A depositary may not undertake any duties with reference to the UCITS, or the management company acting for the UCITS, that may create conflicts of interest between the UCITS, the investors of the UCITS, the management company and the depositary itself, unless the performance of its duties as a depositary are functionally and hierarchically separate from its other potentially conflicting tasks and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the UCITS.

6) The Government may establish more specific regulations by Ordinance, in particular:

a) the details to be included in the written contract referred to in (1);
b) the conditions for meeting the requirement of independence referred to in (4).

Art. 33[102]

Duties of the depositary

1) The depositary shall ensure that:

102 Art. 33 amended by LGBl. 2016 no. 12.

a) the sale, issue, repurchase, redemption and cancellation of units of the UCITS are carried out in accordance with the provisions of this Law and the constitutive documents;

b) the value of the units of the UCITS is calculated in accordance with the provisions of this Law and the constitutive documents;

c) in transactions involving UCITS assets, the counter-value is remitted to the UCITS within the usual time limits;

d) the income of the UCITS is employed in accordance with the provisions of this Law and the constitutive documents;

e) the cash flows of the UCITS are properly monitored and shall guarantee, in particular, that all payments made upon subscription of units of a UCITS by investors, or on behalf of investors, are received and that all monies of the UCITS have been placed on cash accounts that:

   1. are opened in the name of the UCITS, in the name of the management company acting for the UCITS or in the name of the depositary acting for the UCITS;
   2. are opened at an office referred to in Art. 18 (1) a), b) and c) of Directive 2006/73/EC of the Commission; and
   3. are conducted in accordance with the principles established in Art. 16 of Directive 2006/73/EC.

   If the cash accounts are opened in the name of the depositary acting on behalf of the UCITS, no monies of the office referred to in point 2, nor of the depositary itself may be placed on such accounts.

2) The depositary shall comply with the instructions of the management company or a self-managed investment company, unless these instructions are contrary to the provisions of this Law or the constitutive documents.

3) The assets of the UCITS are entrusted to the depositary for safe custody according to the following criteria:

a) for financial instruments that may be held in safe custody:

   1. the depositary shall hold in safe custody all financial instruments that may be placed on deposit on an account for financial instruments, and all financial instruments that may be physically transferred to the depositary;
   2. the depositary shall ensure that all financial instruments that may be placed on deposit on an account for financial instruments are registered in the books of the depositary, on separate accounts that have been opened in the name of the UCITS, or the management company acting on behalf of the UCITS, in accordance with the

principles established in Art. 16 of Directive 2006/73/EC, so that the financial instruments can be clearly identified at any time as instruments belonging to the UCITS, in accordance with the applicable law;

b) for other assets:

1. the depositary shall verify whether the UCITS, or the management company acting on behalf of the UCITS is the owner of the assets concerned, by establishing, on the basis of information or documents provided by the UCITS or the management company and, if available, external evidence, whether the UCITS or the management company acting for the UCITS is the owner;
2. the depositary shall keep records of the assets in respect of which it has ascertained that the UCITS, or the management company acting on behalf of the UCITS is the owner and shall keep its records up to date.

4) The depositary shall give the management company or the self-managed investment company a comprehensive statement of all the UCITS assets on a regular basis.

5) The assets held in safe custody by the depositary may not be reused by the depositary, or a third party to whom the depositary function has been delegated, for their own account. Any transaction involving assets held in safe custody, including transfer, pledging, sale and lending shall be considered as re-use.

6) The assets held in safe custody by the depositary may only be reused if:

a) the assets are reused for the account of the UCITS;

b) the depositary complies with the instructions of the management company acting on behalf of the UCITS;

c) the re-use benefits the UCITS and is also in the interests of the unitholders; and

d) the transaction is covered by high quality liquid security that the UCITS has obtained under a title transfer agreement. The market value of the security must be at least as high as the market value of the reused assets, plus a premium, at all times.

7) The Government may establish more specific regulations by Ordinance. It may establish the conditions for the performance of the functions of a depositary pursuant to (1) to (3), including:

a) the type of financial instruments that fall within the depositary functions of the depositary pursuant to (3) a);

b) the conditions under which the depositary may perform its depositary functions in respect of financial instruments registered with a central depositary;

c) the conditions under which the depositary shall hold financial instruments issued as registered instruments that are registered with the issuer or a registrar in accordance with (3) b).

Art. 34[103]

Delegation of functions to third parties

1) The depositary may not delegate its functions stated in Art. 33 (1) and (2) to third parties.

2) The depositary may only delegate the functions referred to in Art. 33 (3) to third parties on the following conditions:

a) the functions are not delegated with the intention of circumventing the requirements of this Law;

b) the depositary can provide evidence that there is an objective reason for the delegation;

c) the depositary has acted with due skill, care and diligence in the selection and appointment of a third party, to which it intends to delegate elements of its functions and will continue to proceed with due skill, care and diligence in the regular inspection and ongoing supervision of third parties to which it has delegated elements of its functions and of agreements of the third parties in respect of the functions delegated to them.

3) The depositary may only delegate the functions referred to in Art. 33 (3) to third parties who, throughout the entire period of the performance of the functions delegated to them:

a) possess the organisational structures and expertise that are appropriate and proportionate to the nature and complexity of the assets of the UCITS, or the management company acting for the UCITS, entrusted to them;

b) with reference to the depositary functions referred to in Art. 33 (3) a):

1. are subject to effective supervisory regulation, including minimum capital requirements and effective supervision in the relevant jurisdiction;

103 Art. 34 amended by LGBl. 2016 no. 12.

2. are subject to a regular audit by an external auditor, that guarantees that the financial instruments are in their possession;

c) segregate the assets of the customers of the depositary from their own and the assets of the depositary, in such a way that guarantees that the assets can be clearly identified as belonging to customers of a specific depositary at any time;

d) take all necessary measures to ensure that in the event of insolvency of the third party, the assets of the UCITS held by the third party in safe custody cannot be distributed to the creditors of the third party or used in their favour; and

e) uphold the general obligations and prohibitions referred to in Art. 32 (1) and (4) and Art. 33 (3) and (5) to (7).

4) Notwithstanding (3) b) 1, if the law of a third country requires that certain financial instruments are held in custody by a local institution and there is no local institution that satisfies the requirements for a delegation established in accordance with this point, the depositary may only delegate its functions to such a local institution insofar as this is required by the law of the third state and as long as there are no local institutions that meet the requirements of the delegation, in which connection the following conditions shall apply:

a) the investors of the relevant UCITS must be duly informed, before making their investments, that such a delegation is necessary due to legal constraints under the law of the third state. They must also be made aware of the circumstances justifying the delegation and of the risks associated with such a delegation;

b) the self-managed investment company or the management company acting on behalf of the UCITS has instructed the depositary to delegate the custody of these financial instruments to such a local institution.

5) The third party to whom the functions referred to in Art. 33 (3) have been delegated by the depositary may in turn sub-delegate these functions on the same conditions. Art. 35 (4) shall apply mutatis mutandis to all parties concerned.

6) For the purposes of this article, the provision of services as defined in Directive 98/26/EC through the securities settlement systems referred to in Directive 98/26/EC, or the provision of comparable services through the securities settlement systems of a third country, does not amount to delegation of custody functions.

7) The Government may establish more specific regulations by Ordinance, in particular:

a) the due diligence obligations of depositaries pursuant to (2) c);

b) the obligation of separate custody referred to in (3) c);

c) the measures that third parties must take pursuant to (3) d).

Art. 35[104]

Liability of the depositary

1) The depositary shall be liable to the UCITS and its unit-holders for the loss by itself, or a third party to which the custody of financial instruments held pursuant to Art. 33 (3) a) has been delegated.

2) In the event of the loss of a financial instrument, the depositary shall immediately restore a financial instrument of the same type to the UCITS, or the management company acting for the UCITS, or refund a corresponding amount. It shall not be liable if it can demonstrate that the loss is due to external events, that could not reasonably be controlled, and the consequences of which would have been unavoidable in spite of all reasonable efforts to the contrary.

3) The depositary shall also be liable to the UCITS and the investors of the UCITS, for all other losses suffered by them as a consequence of a negligent or intentional failure to meet the depositary's obligations under this Law.

4) The depositary's liability is not affected by any delegation in accordance with Art. 34.

5) The liability of the depositary referred to in (1) to (3) may not be excluded or limited by means of agreement, which would in any case be invalid.

6) Unit-holders of the UCITS may invoke the liability of the depositary directly, or indirectly through the management company or the self-managed investment company, provided that this does not lead to duplication of claims or unequal treatment of the unit-holders.

7) Any claim to compensation shall become statute-barred at the end of five years from the occurrence of the loss, but no later than one year from the redemption of a unit or from the time when the eligible claimant became aware of the loss.

104 Art. 35 amended by LGBl. 2016 no. 12.

8) Legal action against the depositary of a UCITS having its registered office in Liechtenstein may still be brought in Liechtenstein, notwithstanding the concurrent jurisdiction of foreign courts. The Princely Court of Justice shall have jurisdiction.

9) The Government may establish more specific regulations by Ordinance, in particular:

a) the conditions under which, and the circumstances in which the financial instruments held in custody in the manner referred to in this provision are considered to be lost;

b) events that are to be understood as external events that could not reasonably be controlled, and the consequences of which would have been unavoidable in spite of all reasonable efforts to the contrary, as referred to in (2).

Art. 35a to 35h[105]

Repealed

V. Structural Measures

A. General

Art. 36

Basic principle

1) Unless provided otherwise in this Chapter:

a) for the purposes of this Chapter, a UCITS includes the sub-funds associated with it; and

b) the provisions of this Chapter shall apply mutatis mutandis to self-managed investment companies.

2) Repealed[106]

3) Repealed[107]

105 Art. 35a to 35h repealed by LGBl. 2016 no. 12.
106 Art. 36 (2) repealed by LGBl. 2021 no. 229.
107 Art. 36 (3) repealed by LGBl. 2021 no. 229.

Art. 37

Restrictions on restructuring

Conversion of a UCITS into an AIF or another legal, company or investment form that does not fall within this Law or the equivalent regulations of another EEA Member State is not permitted.

B. Merger

Art. 38

Basic principle

In the course of a domestic or cross-border merger a UCITS may amalgamate with one or more other UCITS, irrespective of the legal form of the UCITS and whether the absorbing or transferring UCITS has its registered office in Liechtenstein.

Art. 39

Obligation to obtain approval and conditions

1) A merger requires the prior approval of the FMA, if the transferring UCITS has its registered office in Liechtenstein.

2) The transferring UCITS shall transmit the following documents to the FMA:

a) the merger plan approved by the UCITS participating in the merger in accordance with Art. 40;

b) an up-to-date version of the prospectus and the key information for investors of the absorbing UCITS, if the latter is established in a different EEA Member State;

c) a statement by all depositaries of the UCITS involved in the merger, confirming pursuant to Art. 41, that they have verified that the information referred to in Art. 40 (2) a), b), g) and h) meets the requirements of this Law and the constitutive documents of the UCITS, for which they are acting;

d) the information concerning the proposed merger that the UCITS involved in the merger are providing to their respective unit-holders pursuant to Art. 43.

3) The documents are to be submitted in German or another language accepted by the FMA for this purpose and, in the case of cross-border mergers, additionally in the official language of the EEA Member State in which the absorbing UCITS is based. The competent authority of the EEA Member State in which the absorbing UCITS is based may also permit documents in another language.

4) If the documents referred to in (2) are incomplete, the FMA shall request a full set of documents within ten working days from receipt. Once the full application has been received, the FMA shall transmit the information referred to in (2) immediately to the home Member State authority of the absorbing UCITS.

5) The FMA and the home Member State authority of the absorbing UCITS shall weigh up the effects on the investors of the UCITS involved in the merger, in order to verify whether the investors are being appropriately informed about the merger.

6) The FMA may ask the transferring UCITS in writing to provide clarification of the investor information referred to in (2) d), if it considers this to be necessary.

7) The home Member State authority of the absorbing UCITS shall inform the FMA if any amendment is required to the investor information referred to in (2) d) within 15 working days from receipt of the documents. Once the investor information has been amended on the basis of this notification, the home Member State authority of the absorbing UCITS shall inform the FMA within 20 working days whether it is now satisfied with the investor information.

8) The FMA shall approve the merger within 20 working days from receipt of the full set of documents referred to in (2), if:

a) the provisions of Art. 39 to 42, or the provisions adopted by the home Member State of the transferring UCITS for the implementation of Art. 39 to 42 of Directive 2009/65/EC have been met;

b) pursuant to Art. 98 or the provisions adopted by other EEA Member States for the implementation of Art. 93 of Directive 2009/65/EC, the absorbing UCITS has given notification concerning the marketing of its units in all EEA Member States in which the transferring UCITS is authorised, or is notified for the marketing of its units in accordance with the same provisions;

c) the home Member State authority of the UCITS involved in the merger is satisfied with the investor information referred to in (2) d) or the home Member State authority of the absorbing UCITS has not made

any communication as referred to in (6) to the approving authority within the time limit specified for this purpose.

9) The FMA shall inform the transferring UCITS and the home Member State authority of the absorbing UCITS of its decision.

10) The Government may stipulate by Ordinance the documents which the FMA is to accept pursuant to (2) and the languages in which they are to be submitted.

Art. 40

Merger plan

1) The transferring and absorbing UCITS shall jointly draw up a merger plan.

2) Unless the UCITS involved in the merger decide to include further points in the merger plan, it shall contain the following information:

a) the UCITS involved;

b) an indication whether the merger is a merger by absorption, a merger based on a start-up or a merger with partial liquidation;

c) the background and the motivation for the proposed merger;

d) the anticipated effects of the proposed merger on the investors of the transferring and the absorbing UCITS;

e) the criteria established for the valuation of the assets and if applicable the liabilities at the time of calculating the conversion rate referred to in Art. 47 (1);

f) the method for calculating the conversion rate;

g) the scheduled effective date of the merger;

h) the regulations applying to the transfer of assets and the conversion of units;

i) for a merger based on a start-up and a merger involving partial liquidation, the constitutive documents of the newly established, absorbing UCITS;

k) if applicable, other information required in accordance with the constitutive documents of one of the UCITS involved.[108]

108 Art. 40 (2) k) inserted by LGBl. 2013 no. 50.

Art. 41

Review of the merger plan by the depositary

The depositaries of the UCITS involved in the merger shall check that the information referred to in Art. 40 (2) a), b), g) and h) meets the statutory requirements and those of Directive 2009/65/EC and the constitutive documents of the UCITS on behalf of which they are acting.

Art. 42

Report by the depositary or the independent auditor

1) A depositary according to the terms of Art. 32 to 35 or an independent auditor as referred to in Art. 93 to 95 shall, after due inspection, confirm:

a) the criteria for the valuation of the assets and if applicable, the liabilities at the time of calculating the conversion rate referred to in Art. 47 (1);

b) the cash payment per unit, if applicable;

c) the method of calculation of the rate of conversion and the actual conversion rate at the time of calculation of this rate of conversion pursuant to Art. 47 (1).

2) The statutory auditors of the transferring or absorbing UCITS shall be deemed independent auditors for the purposes of (1).

3) If a transferring UCITS is domiciled in another EEA Member State, the law of that state shall determine whether the confirmation is to be provided by a depositary or an independent auditor.

4) The investors and the supervisory authorities of the UCITS involved in the merger are to be provided with a copy of the report containing the confirmation referred to in (1) free of charge, on request.

Art. 43

Investor information

1) UCITS involved in the merger are obliged to provide their investors with accurate and appropriate information regarding the proposed merger. This investor information shall be sufficient to enable investors to make an informed judgement about the impact of the proposal on their investment and on the exercise of their rights referred to in Art. 44 and 45.

2) The investor information referred to in (1) shall contain essential information for investors of the absorbing UCITS, as well as details of:

a) the background to and the rationale for the proposed merger;

b) the potential effects of the proposed merger on the investors, including significant differences in investment policy and strategy, costs, the anticipated outcome, periodic reports, any dilution in performance and if necessary, a clear warning that the tax treatment of investors may be subject to change following the merger;

c) the specific rights of investors with reference to the proposed merger, in particular the right to additional information, the right to receive a copy of the report referred to in Art. 42, the right to redeem units or, if applicable, convert their units as referred to in Art. 45 (1) and the time limit for exercising such rights;

d) the essential procedural aspects and the scheduled date of merger.

3) If a marketing notification pursuant to Art. 98, or the provisions adopted by the home Member State of the UCITS for the implementation of Art. 93 of Directive 2009/65/EC, has been made in respect of a UCITS involved, the investor information shall also be submitted in an official language of the host Member State of the relevant UCITS or a language approved by its competent authorities. The UCITS concerned shall be responsible for producing a translation that is faithful to the original.

4) The investor information referred to in (1) shall be forwarded to the investors of the UCITS involved:

a) immediately upon consent to the merger by the FMA pursuant to Art. 39, or the provisions adopted by the home Member State for the implementation of Art. 39 of Directive 2009/65/EC;

b) at least 30 days before the last date for applying for redemption of units or, if applicable conversion, without incurring additional costs pursuant to Art. 45 (1).

5) The Government shall establish more specific regulations by Ordinance.

Art. 44

Agreement of the investors

1) Unless the constitutive documents of a UCITS provide otherwise, the merger of UCITS does not require the agreement of the investors.

2) If the constitutive documents of a UCITS having its registered office in Liechtenstein stipulate that the agreement of the investors is required for mergers between UCITS, each unit shall basically confer one vote. The majority of the votes actually cast by the investors who are present or represented at the General Meeting is required for the agreement.

3) Binding acceptance of the conversion offer shall be deemed as consent to the merger at the General Meeting as set out in (2). If the quorum as set out in (2) has already been achieved before the General Meeting, it will no longer be necessary to hold the General Meeting.

Art. 45

Right of conversion, suspension authority of the FMA

1) The investors of the UCITS involved in the merger may, without incurring any costs other than those that may be retained by the UCITS to cover winding up costs, request:

a) resale of their units;

b) redemption of their units; or

c) conversion of their units into those of another UCITS with similar investment policies; the right of conversion shall only exist if the UCITS with similar investment policies is managed by the same management company or a company with close links to the management company.

2) The right established in (1) shall become effective once the investor information has been remitted pursuant to Art. 43 and shall lapse five working days before the time set for calculation of the rate of conversion pursuant to Art. 47 (1).

3) The FMA, as competent authority of a UCITS involved in the merger, may request or permit temporary suspension of subscription, redemption or repurchase of units, if this is necessary for the protection of investors or the public interest.

Art. 46

Ban on assigning costs to the investors

If a UCITS is managed by a management company, any legal, consultancy or administrative costs associated with the preparation and accomplishment of the merger may not be charged either to the UCITS involved in the merger, nor to the investors.

Art. 47

Legal effect of the merger

1) If the absorbing UCITS is domiciled in Liechtenstein - in the case of investment companies in derogation of Art. 351h and 352 PGR - the following time limits for coming into effect shall apply:

a) If the investors' agreement to the merger is not required, the merger shall be effective upon commencement of the 45th day from provision of the investor information pursuant to Art. 43;

b) If the investors' agreement to the merger is required in accordance with Art. 44, the merger shall become effective when the resolutions of the General Meeting have been adopted with legally binding effect, but no earlier than the commencement of the 45th day after provision of the investor information pursuant to Art. 43. The resolutions of the General Meeting shall gain legal force, unless within two working days from the date of the meeting, the Princely Court of Justice issues an interim injunction at the request of investors whose units represent at least 5 % of the UCITS' managed assets and the applicants bring a legal challenge within five working days from the date of the meeting. Evidence of the 5 % quorum is to be provided in conjunction with the application. The claim is to be dismissed if the quorum falls below 5% during the subsequent action.

2) The 45-day time limit mentioned in (1) may be extended by the merger plan or by order of the FMA for the protection of investors or the public interest.[109]

3) The coming into effect of the merger shall be published in the publications specified by the Government by ordinance, and the home Member State authorities of the UCITS involved in the merger shall be notified.[110]

109 Art. 47 (2) amended by LGBl. 2013 no. 50.

110 Art. 47 (3) amended by LGBl. 2021 no. 229.

4) If the absorbing UCITS is domiciled in another EEA Member State, the law of that state shall apply to the coming into effect of the merger and its publication.

Art. 48

Legal consequences of the merger

1) A merger by absorption shall have the following consequences:

a) all assets and liabilities of the transferring UCITS are transferred to the absorbing UCITS or, if applicable, to the depositary of the absorbing UCITS;

b) the investors of the transferring UCITS become investors of the absorbing UCITS; they may be entitled to a cash payment of up to a maximum of 10 % of the net asset value of their units in the transferring UCITS;

c) the transferring UCITS shall cease to exist when the merger takes effect.

2) A merger based on a start-up shall have the following consequences:

a) all assets and liabilities of the transferring UCITS are transferred to the newly established absorbing UCITS or, if applicable, to the depositary of the absorbing UCITS;

b) the investors of the transferring UCITS become investors of the newly established absorbing UCITS; they may be entitled to a cash payment of up to a maximum of 10 % of the net asset value of their units in the transferring UCITS;

c) the transferring UCITS shall cease to exist when the merger takes effect.

3) A merger involving partial liquidation shall have the following consequences:

a) the net assets of the transferring UCITS are transferred to the absorbing UCITS or, if applicable, the depositary of the absorbing UCITS;

b) the investors of the transferring UCITS become investors of the absorbing UCITS;

c) the transferring UCITS continues to exist until all liabilities have been paid.

4) Immediately upon completion, the management company of the absorbing UCITS shall confirm to the depositary of the absorbing UCITS,

in writing, that the transfer of the assets and, if applicable, the liabilities, has been concluded.

C. Equivalent application of the merger provisions to other structural measures

Art. 49[111]

Basic principle

Unless the Government provides otherwise by Ordinance, the provisions of this Chapter shall apply mutatis mutandis to:

a) mergers of undertakings for collective investment and sub-funds registered in a third country with UCITS or their sub-funds having their registered office in Liechtenstein;

b) domestic mergers involving UCITS and sub-funds and domestic AIFs with UCITS or their sub-funds;

c) cross-border mergers of AIFs and their sub-funds with UCITS or their sub-funds.

VI. Investment policy

Art. 50

Applicability to sub-funds and self-managed UCITS

1) For the purposes of Art. 50 to 59, where a UCITS is made up of more than one sub-fund, each sub-fund is considered to be a separate UCITS.

2) The provisions of this Chapter shall apply mutatis mutandis to self-managed investment companies, unless specified otherwise in this Chapter.

111 Art. 49 amended by LGBl. 2020 no. 9.

Art. 51

Permissible investments

1) A UCITS may invest the assets for the account of its investors exclusively in one or more of the following assets:

a) transferable securities and money market instruments:
   1. that are listed or traded on a regulated market as defined in Art. 4 (1) 21 of Directive 2014/65/EU;[112]
   2. that are traded on another regulated market of an EEA Member State, which operates in a proper manner, is recognised and open to the public;
   3. that are admitted for official listing on a stock exchange in a third country or traded on another regulated market of a third country, which operates in a proper manner, is recognised and open to the public, provided that the choice of this stock exchange or this market has been approved by the FMA, or provided for in the constitutive documents of the UCITS;

b) recently issued transferable securities, provided that:
   1. the terms of issue include an undertaking that an application will be made for admission to official listing on a stock exchange, or another regulated market that operates in a proper manner, is recognised and open to the public and provided that the choice of this stock exchange or this market has been approved by the FMA, or provided for in the constitutive documents of the UCITS;
   2. the admission referred to in no. 1 is secured within one year of issue at the latest;

c) Units of UCITS and other undertakings for collective investment comparable with a UCITS as defined in Art. 3 (1) 17, provided that, in accordance with their constitutive documents, they are permitted to invest a maximum of 10 % of their assets in units of another UCITS or comparable undertakings for collective investment;[113]

d) Sight deposits or deposits at notice, maturing within twelve months at the latest, with credit institutions having their registered office in an EEA Member State or a third country, in which the legislation on supervisory regulations is equivalent to that under EEA Law;

e) Derivatives, of which the underlying assets are assets within the context of this article or financial indices, interest rates, exchange rates or

112 Art. 51 (1) a) 1 amended by LGBl. 2017 no. 400.

113 Art. 51 c) amended by LGBl. 2016 no. 12.

currencies in which the UCITS may invest in accordance with its constitutive documents. If the transactions involve OTC derivatives, the counterparties must be institutions subject to prudential supervision and belonging to a category approved by the FMA, and the OTC derivatives must be subject to reliable and verifiable valuation on a daily basis and must be able to be sold, liquidated or closed by an offsetting transaction at any time, on the initiative of the UCITS, at the appropriate fair value;

f) money market instruments, other than those traded on a regulated market, provided that the issue or the issuer of these instruments is subject to provisions for the protection of deposits and investors, on the condition that they are:

1. issued or guaranteed by a central, regional or local authority or the central bank of an EEA Member State, the European Central Bank, the Community or the European Investment Bank, a third country or, insofar as this is a Federal State, by one of the member states of the federation or a public international body to which at least one EEA Member State belongs;
2. issued by an undertaking of which the securities are traded on the regulated markets referred to in a);
3. issued or guaranteed by an institution subject to prudential supervision according to criteria established under EEA Law, or an institution that is subject to and complies with regulations of prudential supervision equivalent to EEA Law; or
4. issued by an issuer that belongs to one of the categories approved by the FMA, provided that investments in such instruments are subject to investor protection rules equivalent to those laid down in nos. 1 to 3, and the issuer is either an undertaking with capital and reserves of at least 10 million euro or the equivalent in Swiss Francs and which presents and publishes its annual statement of accounts in accordance with the provisions of Directive 78/660/EEC, or is an entity that is part of a group and is responsible for the financing of that group of companies, which includes at least one stock exchange-listed company, or an entity dedicated to the financing of securitisation vehicles which benefit from a line of credit granted by a bank.

2) A UCITS may not:

a) invest more than 10 % of its assets in transferable securities and money market instruments other than those listed in (1);

b) acquire precious metals or certificates representing precious metals.

It may also hold liquid assets.

3) An investment company may acquire movable and immovable property that is essential for the direct pursuit of its business.

4) The management company shall act in the best interest of the investors of the UCITS concerned and, if necessary, take corrective measures to the extent that it has entered into a securitisation which no longer meets the requirements of Regulation (EU) 2017/2402.[114]

Art. 52[115]

Repealed

Art. 53

Use of derivatives

1) The management company shall keep the FMA regularly informed concerning the types of derivatives in the portfolio, the risks associated with the underlying assets, the investment limits and the methods employed to measure the risks associated with the derivative transactions, for each of the UCITS it manages. Derivatives for the purposes of this Article are also derivatives embedded in a security or a money market instrument.

2) A UCITS shall ensure that the total risk associated with derivatives does not exceed the total net value of its portfolio. As part of its investment strategy a UCITS may invest in derivatives within the limits established in Art. 54, provided that the total exposure to the underlying assets does not exceed the investment limits set in Art. 54. The exposure shall be calculated taking into account the market value of the underlying assets, the counterparty risk, future market fluctuations and the time available to liquidate the positions.

3) Provided that protection of investors and the public interest are not compromised, investments by the UCITS in index-based derivatives do not have to be taken into account for the purposes of the upper limits referred to in Art. 54, but the FMA must be informed if this exemption is utilised.

3a) For the purposes of monitoring systemic risks at EEA level, the FMA shall communicate all the information referred to in (2) and (3) that

114 Art. 51 (4) amended by LGBl. 2020 No. 507.

115 Art. 52 repealed by LGBl. 2020 No. 507.

it receives with reference to all the management companies under its supervision to the ESMA and ESRB.[116]

4) A UCITS may, subject to the approval of the FMA, employ techniques and instruments relating to transferable securities and money market instruments for the purpose of efficient portfolio management, provided that it complies with the requirements of this Law, the constitutive documents and the investment objectives mentioned in the information addressed to investors. Approval shall be granted provided that it does not compromise the protection of investors and the public interest.

5) The Government shall establish more specific regulations by Ordinance, in particular the conditions under which the FMA shall grant the approval to employ techniques and instruments relating to transferable securities and money market instruments referred to in (4).[117]

Art. 54

Issuer limits

1) A UCITS may invest no more than 5 % of its assets in transferable securities or money market instruments issued by the same issuer and no more than 20 % of its assets in deposits with the same issuer.

2) The counterparty risks arising from a UCITS' transactions in OTC derivatives, where the counterparty is a credit institution having its registered office in an EEA Member State or a third country in which the supervisory laws are equivalent to those under EEA Law, may not exceed 10 % of the UCITS assets; for other counterparties the maximum counterparty risk shall be 5 % of the assets.

3) Provided that the total value of the transferable securities and money market instruments of the issuers, in each of which the UCITS invests more than 5 % of its assets, does not exceed 40 % of its assets, the issuer limit referred to in (1) shall be raised from 5 % to 10 %. If the higher limit is utilised, the securities and money market instruments referred to in (5) and the bonds referred to in (6) are not included in the calculation.[118]

3a) The raising of the limit to 40 % referred to in (3) does not apply to deposits or transactions in OTC derivatives with financial institutions subject to prudential supervision.[119]

116 Art. 53 (3a) inserted by LGBl. 2016 no. 12.
117 Art. 53 (5) amended by LGBl. 2013 no. 50.
118 Art. 54 (3) amended by LGBl. 2013 no. 50.
119 Art. 54 (3a) inserted by LGBl. 2013 no. 50.

4) Irrespective of the individual upper limits referred to in (1) and (2), a UCITS may not combine any of the following, if this would lead to an investment amounting to more than 20 % of its assets with one and the same institution:

a) transferable securities or money market instruments issued by that institution;

b) deposits made with that institution;

c) OTC derivatives acquired from that institution.

5) If the transferable securities or money market instruments are issued or guaranteed by an EEA Member State or its local authorities, by a third country or by an international public body to which at least one EEA Member State belongs, the upper limit referred to in (1) shall be raised from 5 % to a maximum of 35 %.

6) The issuer limit of 5 % referred to in (1) shall be raised to a maximum of 25 % if:[120]

a) the bonds were issued before 8 January 2023 by a credit institution having its registered office in an EEA Member State which:

   1. is subject by law to special public supervision designed to protect the bondholders; and

   2. in particular, has to invest the proceeds from the issue of these bonds in assets that during the full period of validity of the bonds are sufficient to cover the liabilities arising from the bonds and which, in the event of failure of the issuer, would be used on a priority basis for the reimbursement of principal and interest as they fall due; or

b) the bonds are covered by the definition in Art. 3 (1) a) of the European Covered Bonds Act.

6a) In the cases referred to in (6), the total value of these investments shall not exceed 80 % of the UCITS assets. The FMA shall send the ESMA a list of the categories of bonds and the issuers that meet the criteria in Liechtenstein, for distribution and publication. The FMA shall enclose an explanation of the status of the guarantees provided with the list.[121]

7) The limits referred to in (1) to (6) may not be combined. The maximum issuer limit shall be 35 % of the UCITS' assets.

120 Art. 54 (6) amended by LGBl. 2023 no. 146.

121 Art. 54 (6a) inserted by LGBl. 2023 no. 146.

8) Companies belonging to the same group of companies shall be considered as a single issuer for the purposes of the calculation of the investment limits set out in this Article. For investments in transferable securities and money market instruments from the same group of companies, the issuer limits shall be raised to a total of 20 % of the UCITS' assets.

9) The Government may stipulate by Ordinance for all or individual categories of UCITS, that the increase in issuer limits referred to in (3), (5), (6) and (8) may only be utilised with the approval of the FMA and establish the criteria for approval. The FMA may make its approval subject to conditions.

Art. 55

Increased issuer limits for index funds

1) The issuer limits referred to in Art. 54 shall be raised to a maximum of 20 % in respect of shares and debt securities from the same issuer, if the aim of the investment strategy, as stated in the constitutive documents of the UCITS, is to replicate a stock or debt securities index recognised by the FMA or the competent authorities of other EEA Member States. The FMA shall recognise the index if:

a) the composition of the index is sufficiently diversified;

b) the index represents an adequate benchmark for the market to which it refers; and

c) the index is published in an appropriate manner.

2) The limit established in (1) is to be raised to a maximum of 35 %, if this is justified by exceptional market conditions, in particular on regulated markets where specific transferable securities or money market instruments are particularly dominant. An investment of an amount that exceeds the limit referred to in (1) shall only be permitted up to this upper limit for investments relating to a single issuer.

Art. 56

Approval of exemption for investments in government securities

1) Subject to obtaining an exemption approval from the FMA, that will be granted on certain conditions, a UCITS may, in accordance with the principle of spreading risk, invest up to 100 % of its assets in transferable securities and money market instruments of various issues that are issued or guaranteed by one and the same government issuer. A UCITS in this

situation must hold securities from at least six different issues, but the securities from one single issue shall not account for more than 30 % of its total assets. The FMA shall grant the exemption approval if the investors of the UCITS are protected to the same extent as they would be if the issuer limits pursuant to Art. 54 were observed.

2) A UCITS in the situation referred to in (1) shall state in its constitutive documents the government issuers of the securities that are intended to make up more than 35 % of its assets. The inclusion of this arrangement in the constitutive documents shall require exemption approval from the FMA.

3) A UCITS in the situation referred to in (1) shall make a clear reference to the exemption approval in its prospectuses and also in its publicity material, indicating the government issuers whose securities account for more than 35 % of its assets.

Art. 57

Investments in other UCITS and undertakings for collective investment comparable with UCITS, charges and information on cascade structures

1) A UCITS may acquire units of other UCITS or other undertakings for collective investment as referred to in Art. 51 (1) c) in connection with Art. 3 (1) no. 17, provided that it invests no more than 20 % of its separate assets in units of one and the same UCITS and/or other undertakings for collective investment.[122]

2) The investment in units of undertakings for collective investment comparable with UCITS may not in aggregate exceed 30 % of the assets of the UCITS. These investments are not included in the calculation of the upper limits referred to in Art. 54.[123]

3) If the units referred to in (1) are directly or indirectly managed by the UCITS' management company or a company to which the UCITS' management company is linked through common management, control or a qualifying holding, neither the UCITS' management company nor the other company may charge fees for the issue of units to the UCITS or redemption of units from the UCITS.

4) If the investments referred to in (1) represent a substantial proportion of the UCITS' assets, the prospectus must provide information about

122 Art. 57 (1) amended by LGBl. 2014 no. 355.
123 Art. 57 (2) amended by LGBl. 2013 no. 50.

the maximum amount of management fees and the annual report must provide information about the maximum share of the management fees that are chargeable to the UCITS itself, and the undertakings for collective investment referred to in (1), in which units have been acquired.

Art. 58

Ban on control, issuer-related investment restrictions

1) A management company shall not acquire, for any of the UCITS under its management, any shares carrying voting rights from the same issuer in which it would be able to exercise a significant influence over the management of the issuer. A significant influence presumes any holding conferring over 10 % of the voting rights. If a lower threshold applies for the acquisition of shares carrying voting rights from the same issuer in another EEA Member State, this threshold shall be applicable to the management company, if it acquires shares of an issuer with its registered office in that EEA Member State on behalf of a UCITS. The provisions of this paragraph shall apply mutatis mutandis to investment companies.

2) A UCITS may acquire financial instruments of the same issuing body up to a limit of:

a) 10 % of the share capital of the issuer, provided they are non-voting shares;

b) 10 % of the total face value of bonds or money market instruments of the issuer in circulation, where bonds or money market instruments are involved. This limit does not have to be observed if the total face value cannot be determined at the time of acquisition;

c) 25 % of the units of the same undertaking, where units of other UCITS or undertakings for collective investment comparable with a UCITS are involved. This specific limit does not have to be observed if the net amount cannot be determined at the time of acquisition.

3) (1) and (2) do not apply to:

a) transferable securities and money market instruments issued or guaranteed by a sovereign state;

b) shares held by a UCITS in the capital of a company based in a third country, that invests its assets mainly in the securities of issuers that are resident in this third country, where under the legislation of the third country a holding of this nature represents the only way the UCITS can invest in securities of issuers from that country. The third country company may not exceed the limits established in Art. 54 and 57 and

in (1) and (2) in this respect. If the limits are nonetheless exceeded, Art. 59 shall apply accordingly;

c) shares held by investment companies in the capital of their subsidiary companies that organise the redemption of shares at the request of investors, exclusively for the investment company in the state of establishment.

Art. 59

Exemption for the exercise of subscription rights, obligation of restitution, exemption for new UCITS

1) A UCITS is not required to comply with the investment limits set out in this Chapter, when exercising subscription rights that form part of its assets attaching to transferable securities or money market instruments.

2) If the limits referred to in (1) are exceeded, the UCITS shall strive, as a primary objective for its sales transactions, to normalise this situation taking into account the interests of investors.

3) A UCITS may derogate from the provisions of Art. 54 to 57 for a period of six months from being paid up. It must continue to comply with the requirement for spreading risk.[124]

VII. Master-feeder structures

A. Scope and approval

Art. 60

Investment limits

1) A feeder UCITS may hold up to 15 % of its assets in one or more of the following:

a) liquid assets as referred to in Art. 51 (2) line 2;

b) derivative financial instruments as referred to in Art. 51(1) e) and 53 (2) to (4) that are used exclusively for hedging purposes;

c) where the feeder UCITS is an investment company, movable and immovable property that is indispensable to the pursuit of its business.

124 Art. 59 (3) amended by LGBl. 2021 no. 229.

2) For the purposes of compliance with Art. 53 (2) and (3) the feeder UCITS shall calculate its global exposure in connection with derivative financial instruments by combining its own direct exposure under (1) b) with either:

a) the actual exposure of the master UCITS to derivative financial instruments in proportion to the feeder UCITS' investment in the master UCITS; or

b) the master UCITS' potential maximum global exposure to derivative financial instruments in accordance with the constitutive documents of the master fund, in proportion to the feeder UCITS' investment in the master UCITS.

3) The following derogations from the investment restrictions applying to UCITS shall apply to a master UCITS:

a) If at least two feeder UCITS invest in a master UCITS, the restrictions referred to in Art. 3 (1) 1 a) and Art. 2 (3) b) do not apply and the master UCITS may raise capital from other investors.

b) If a master UCITS does not raise any capital from the public in an EEA Member State, other than that in which it is registered, in which it only has one or more feeder UCITS, Art. 97 to 102 and 118 (3) shall not apply.

4) Unless provided otherwise the provisions of Art. 60 to 69 shall apply both to feeder UCITS and master UCITS domiciled in Liechtenstein.

Art. 61

Approval procedures before the competent authority of the feeder UCITS' home Member State

1) As the home Member State authority of the feeder UCITS, the FMA shall approve investments by a feeder UCITS in a specific master UCITS in advance, if such investments exceed the limit referred to in Art. 57 (1) Investments in other UCITS.

2) The following documents shall be submitted to the FMA, together with the application for approval, in German or another language it has approved:

a) the constitutive documents of the feeder and master UCITS;

b) the prospectus and the key information for investors of feeder and master UCITS;

c) the agreement referred to in Art. 62 (1) between feeder and master UCITS or the equivalent internal rules governing the business;

d) where applicable, the information to be provided to investors referred to in Art. 66 (1);

e) if the master and feeder UCITS have different depositaries, the agreement referred to in Art. 63 (1) between the depositaries;

f) if the master and feeder UCITS have different auditors, the agreement referred to in Art. 64 (1) between the auditors;

g) if feeder and master UCITS are established in different EEA Member States, a statement from the home Member State authority of the master UCITS, confirming that the master UCITS is a UCITS or a subfund of a UCITS, that is itself neither a feeder UCITS nor holds units of a feeder UCITS.

3) The FMA shall grant the approval referred to in (1) if the feeder UCITS, its depositary and its auditor, as well as the master UCITS meet all the requirements set out in this Chapter. The approval shall be granted within ten workings days from receipt of the full application.

B. Common provisions for feeder and master UCITS

Art. 62

Agreement and coordination of conduct between master and feeder UCITS, legal consequences of the suspension of unit redemption by the master UCITS, liquidation and merger of the master UCITS

1) The master UCITS shall provide the feeder UCITS with all information to enable the feeder UCITS to meet the requirements of this Law. To this end the feeder and master UCITS shall conclude an agreement. If master and feeder UCITS are managed by the same management company, the agreement may be replaced by internal regulations governing the conduct of business that guarantee compliance with the requirements of this paragraph.

2) The feeder UCITS may not invest in units of the master UCITS that exceed the limits referred to in Art. 57 (1) until the agreement referred to in (1) has come into effect. This agreement shall be made available to all investors free of charge on request.

3) Master and feeder UCITS shall take appropriate measures to coordinate the timing of the calculation and publication of their net asset value,

in order to avoid market timing in their units and prevent opportunities for arbitrage.

4) If, pursuant to Art. 85 a master UCITS temporarily suspends repurchase, redemption or subscription of its units, on its own initiative or at the request of the competent authorities, any of its feeder UCITS may also suspend the repurchase, redemption or subscription of its units by its investors during the same period as the master UCITS, irrespective of the conditions set out in Art. 85 (2).

5) If a master UCITS is liquidated, the feeder UCITS shall also be liquidated, unless the FMA approves:

a) the investment of at least 85 % of the assets of the feeder UCITS in units of another master UCITS; or

b) the amendment of the constitutive documents to allow conversion of the feeder UCITS into a UCITS that is not a feeder UCITS.

6) The liquidation of a master UCITS shall take place no sooner than three months from when it has informed all its investors and the competent authority of the feeder UCITS, of the binding decision taken in respect of liquidation. The Government may specify a longer period by Ordinance pursuant to (8).

7) If a master UCITS merges with another UCITS, or is divided into two or more UCITS, the feeder UCITS shall be liquidated, unless the FMA as competent authority of the feeder UCITS, grants the feeder UCITS approval to:

a) remain a feeder UCITS of the master UCITS or of another UCITS, resulting from the merger or division of the master UCITS;

b) invest at least 85 % of its assets in units of another master UCITS not resulting from the merger or division; or

c) amend its constitutive documents for the purpose of conversion into a UCITS which is not a feeder UCITS.

8) No merger or division of a master UCITS shall become effective until the master UCITS has provided its investors and the home Member State authorities of its feeder UCITS with the information referred to in Art. 43, or with equivalent information. This information shall be provided no later than 60 days before the proposed effective date. The master UCITS shall give the feeder UCITS an opportunity to redeem or repurchase all units in the master UCITS, before the merger or division of the master UCITS takes effect, unless the competent authorities of the home Member State of the feeder UCITS have granted the approval referred to in (7) a).

9) The Government shall provide more detailed regulations by Ordinance.

C. Depositaries and auditors

Art. 63

Agreement of the depositaries and reporting obligations

1) If master and feeder UCITS have different depositaries, the depositaries shall conclude an agreement on the exchange of information, in order to ensure that both depositaries meet their obligations.

2) The feeder UCITS may not invest in units of the master UCITS until the agreement referred to in (1) has become effective.

3) The feeder UCITS, or its respective management company, shall provide the depositary of the feeder UCITS with all the information concerning the master UCITS that is required to enable the depositary of the feeder UCITS to meet its obligations.

4) The depositary of the master UCITS shall immediately inform the home Member State authority of the master UCITS, the feeder UCITS or its respective management company and the depositary of the feeder UCITS of any irregularities with reference to the master UCITS that may have a negative impact on the feeder UCITS.

5) In order to comply with the provisions of this paragraph, the depositaries of the master and feeder UCITS may not contravene any contractual or statutory regulations on confidentiality or data protection. Compliance with the provisions in question shall not give rise to any liability on the part of the depositary.

6) The Government may establish more specific arrangements by Ordinance.

Art. 64

Agreement, information and reporting obligations of the auditors

1) If the master and feeder UCITS have different auditors, the auditors shall conclude an agreement concerning the exchange of information, taking into account the stipulations of (3), in order to ensure that both auditors meet their obligations.

2) The feeder UCITS shall not invest in units of the master UCITS until such an agreement has come into effect.

3) The auditor of the feeder UCITS shall refer to the audit report of the master UCITS in his audit report. If the UCITS have different accounting years, the auditor of the master UCITS shall produce an ad-hoc report on the closing date of the feeder UCITS. The auditor of the feeder UCITS shall in particular report on all irregularities detected in the audit report of the master UCITS and their impact on the feeder UCITS.

4) In order to comply with the provisions of this paragraph, the auditors of the master and feeder UCITS may not contravene any contractual or statutory regulations on confidentiality or data protection. Compliance with the provisions in question shall not give rise to any liability on the part of the auditor.

5) The Government shall establish more specific regulations by Ordinance.

D. Compulsory information and marketing communications by the feeder UCITS

Art. 65

Extended obligations of the feeder UCITS concerning prospectus and reporting

1) In addition to the information provided in Annex Schedule A, the prospectus of the feeder UCITS shall contain:

a) a declaration to the effect that the feeder UCITS is a feeder fund of a specific master UCITS and as such, permanently invests at least 85 % of its assets in units of this master UCITS;

b) a statement of the investment objective and the investment strategy, including the risk profile and whether the performance of the feeder and master UCITS is identical or the extent to which they differ, together with the reasons, including a description of the investments made in accordance with Art. 60 (1);

c) a brief description of the master UCITS, its structure, its investment objective and investment strategy, including its risk profile and information on how the up-date prospectus of the master UCITS can be obtained;

d) a summary of the agreement concluded between the feeder and master UCITS, or the equivalent internal regulations for the conduct of business referred to in Art. 62 (1);

e) an indication of how the investors can obtain further information concerning the master UCITS and the agreement concluded pursuant to Art. 62 (1) or the internal regulations between feeder UCITS and master UCITS;

f) a description of all remunerations and costs payable by the feeder UCITS by virtue of the investment in units of the master UCITS, as well as the aggregated fees of the feeder and master UCITS;

g) a description of the tax implications for the feeder UCITS of the investment in the master UCITS.

2) In addition to the information set out in Annex Schedule B, the annual report of the feeder UCITS shall contain a statement of the aggregated charges of the feeder and master UCITS. The annual and half-yearly report of the feeder UCITS shall indicate where the annual and/or half-yearly report of the master UCITS can be obtained.

3) In addition to the requirements set out in Art. 76 and 84, the feeder UCITS shall send the FMA the prospectus, the key information for investors, including any pertinent amendments, as well as the annual and half-yearly reports of the master UCITS.

4) A feeder UCITS shall disclose in any relevant publicity material that it has at least 85% of its assets permanently invested in the master UCITS.

5) The feeder UCITS shall provide the investors with a paper copy of the prospectus, the annual report and half-yearly report of the master UCITS, free of charge, on request.

E. Conversion of UCITS into feeder UCITS and change of master UCITS

Art. 66

Information for investors on conversion

1) A feeder UCITS operating as a UCITS or feeder UCITS of another master UCITS must provide the investors with the following information, no later than 30 days before the date stated in c):

a) a statement to the effect that the home Member State authority of the feeder UCITS has approved the investment of the feeder UCITS in units of this master UCITS;

b) the key information for investors concerning feeder and master UCITS;

c) the date of the first investment of the feeder UCITS in the master UCITS or, if it has already invested in the master, the date on which its investments will exceed the investment limits referred to in Art. 57 (1);

d) a statement confirming that investors have the right to request redemption of their units, free of charge, within 30 days from the provision of the information stated in this paragraph. The investors may only be charged the fees levied by the UCITS to cover the divestment costs.

2) If notification has been given pursuant to Art. 96 to 102 to enable the feeder UCITS to market units in Liechtenstein, the information referred to in (1) shall be provided in German, or a language approved by the FMA. The feeder UCITS shall be responsible for the production of a translation of information supplied in a foreign language.

3) The investments of the feeder UCITS in units of the master UCITS in question may not exceed the investment limit applicable under Art. 57 (1) before expiry of the period referred to in (1).

4) The Government shall establish more specific regulations by Ordinance.

F. Obligations and competent authorities

Art. 67

Monitoring of the master UCITS by feeder UCITS, allocation of monetary benefits to the assets of the feeder UCITS

1) A feeder UCITS shall monitor the activities of the master UCITS. In order to do so, the feeder UCITS may rely on information and documents from the master UCITS or the management company, the depositary or the auditor of the master UCITS, unless there is any reason to doubt their accuracy.

2) A marketing charge, or commission, or monetary benefit paid in connection with an investment in units of the master UCITS, to the feeder

UCITS, its management company or persons acting on their behalf, shall be added to the assets of the feeder UCITS.

Art. 68

Reporting obligations of master UCITS and competent authority of the home Member State, ban on subscription or redemption charges

1) The master UCITS shall immediately inform the FMA, as competent authority of the home Member State, of the identity of each feeder UCITS that invests in its units.

2) The master UCITS shall make all information required under this Law, Directive 2009/65/EC and the constitutive documents of the funds, available to the feeder UCITS or its management company, the competent authorities, the depositary and the auditor of the feeder UCITS in a timely manner.

3) If the master and feeder UCITS are domiciled in different EEA Member States, the FMA shall inform the competent authority of the feeder UCITS' home Member State of the investments of the feeder UCITS in units of the master UCITS.

4) The master UCITS may not levy subscription or redemption fees for the investment of the feeder UCITS in its units or the divestment thereof.

Art. 69

Obligation of the FMA to communicate measures and information concerning the master UCITS

1) If the master and feeder UCITS are domiciled in different EEA Member States, the FMA shall immediately inform the competent authority of the feeder UCITS' home Member State of any decision, measure, observation of non-compliance with the provisions of this Chapter and of any information reported pursuant to Art. 95 (1) concerning the master UCITS or its management company, its depositary or its auditor.

2) The FMA shall immediately inform the feeder UCITS having its registered office in Liechtenstein of any decision, measure, observation of non-compliance with the provisions of this Chapter and of any information reported pursuant to Art. 95 (1) concerning the master UCITS or, if applicable, its management company, its depositary or its auditor. This

shall apply to knowledge the FMA has acquired as the competent supervisory authority for the master UCITS and through a communication received in accordance with (1) from the home Member State of the master UCITS.

VIII. Investor information

A. General

Art. 70

Reporting obligations, publication deadlines

The management company or self-managed investment company shall publish the following documents for each UCITS:

a) a prospectus as referred to in section B;

b) an annual report as referred to in Section B, within four months from the end of the reporting period;

c) a half-yearly report on the first six months of the financial year as referred to in Section B, within 2 months from the end of the reporting period;

d) the issue, sale, redemption and repurchase price referred to in Art. 78; and

e) the key information for investors (Key Investor Information Document; KIID) referred to in Section E.

B. Prospectuses and financial reports

Art. 71

Content of prospectus and reports

1) A UCITS' prospectus shall contain the information that is required to enable investors to make an informed judgement about investments and the associated risks. Irrespective of the type of assets, the prospectus shall contain a clear and easily understandable explanation of the fund's risk profile. The prospectus must as a minimum contain the information stipulated in Annex Schedule A, unless this information already appears in the

constitutive documents of the UCITS, which are to be appended to the prospectus in accordance with Art. 73, first sentence. The Government may provide more specific details concerning the compulsory information referred to in Annex Schedule A, or stipulate other required information, by Ordinance.

1a) A UCITS' prospectus shall also contain:[125]

a) either details of the current remuneration principles and practices, including a breakdown of how the remuneration and other allowances are calculated and the identity of the persons responsible for the allocation of the remuneration and other allowances, including the composition of the remuneration committee, if there is such a committee; or

b) a summary of the remuneration principles and practices and a statement confirming that the details, including a breakdown of how the remuneration and other allowances are calculated and the identity of the persons responsible for the allocation of the remuneration and other allowances, including the composition of the remuneration committee, if there is such a committee, are accessible on a website, together with information about this website, and that a printed version will be provided free of charge on request.

2) A UCITS' annual report shall contain a balance sheet or a statement of assets and liabilities, a detailed income and expenditure report for the financial year, a report on the activities of the past financial year and all other information specified in Annex Schedule B, together with any significant information on the basis of which investors can make a fully informed judgement on the development of the UCITS' business and its results.

2a) The annual report shall also contain:[126]

a) the total amount of remunerations paid in the past financial year, broken down according to the fixed and variable elements of the remuneration the management company and the self-managed investment company have paid to their employees, the number of beneficiaries and if applicable, all amounts paid directly by the UCITS itself, including investment performance premiums (performance fees);

b) the total amount of remuneration paid, broken down into the categories of employees or other staff referred to in Art. 20a (1);

125 Art. 71 (1a) inserted by LGBl. 2016 no. 12.

126 Art. 71 (2a) inserted by LGBl. 2016 no. 12.

c) a breakdown of how the remuneration and other allocations were calculated;

d) the results of the inspections referred to in Art. 20b (1) and (2) including any irregularities that have occurred;

e) significant changes to the remuneration principles and practices adopted.

3) A UCITS' half-yearly report shall, as a minimum, contain the information specified in Annex Schedule B nos. 1 to 4. If a UCITS has paid or proposes interim dividends, the figures shall include the result after tax for the relevant half-year and the interim dividend paid or proposed.

Art. 72

Reference to assets and derivatives, reference to heightened volatility, other information on request

1) The prospectus shall indicate the categories of assets in which the UCITS invests and whether the UCITS may conduct transactions involving derivatives, in which case the prospectus shall contain a statement in a prominent place indicating whether these operations may be carried out for the purpose of hedging, or as part of the investment strategy, and the possible effect of the employment of derivatives on the risk profile.

2) Where a UCITS invests its assets primarily in assets and deposits other than securities and money market instruments, as stated in Art. 51, or if it reflects a stock or debt securities index as referred to in Art. 55, its prospectus and publicity shall make a reference to this in a prominent position.

3) If, because of the composition of its portfolio or the portfolio management techniques employed, the net assets of a UCITS may be subject to heightened volatility, its prospectus and publicity material shall make a reference to this in a prominent position.

4) Investors shall also be given information concerning the investment limits relating to the UCITS' risk management, the risk management methods and the most recent developments in the risks and yields of the most significant asset categories, on request.

Art. 73

Constitutive documents as an element of the prospectus

The constitutive documents are to be appended to the prospectus as a component thereof. This is not necessary if the investors' access to the constitutive documents is guaranteed.

Art. 74

Up-dating obligation

Any information of material significance in the prospectus shall be kept up to date. The Government may specify by Ordinance the information which is of material significance and the intervals at which the information must be updated.

Art. 75

Compulsory auditing of annual reports

The figures contained in the annual reports shall be audited by an auditor, whose audit certificate and any qualifications are to be reproduced in full in each annual report.

Art. 76

Information to the supervisory authorities

The management company or self-managed investment company shall send the prospectus, its amendments and also the annual and half-yearly reports in respect of each UCITS to the FMA and, on request, also to the competent authority of the home Member State of the management company. The Government may establish the form and time limit for providing the documents by Ordinance.

Art. 77

Publicity

1) The UCITS shall make the prospectus and the most recently published annual and half-yearly report available to investors, free of charge, on request.

2) The prospectus may be made available on a durable medium or on a website. The annual and half-yearly reports shall be delivered to the investors in the form set out in the prospectus and in the key information for investors referred to in Art. 80. A paper copy of the said documents shall be delivered to the investors, free of charge, on request.

3) Art. 38 of Commission Regulation (EU) no. 583/2010 shall apply. The Government may establish more specific regulations in other respects by Ordinance.

C. Issue, sale, redemption and repurchase price

Art. 78

Publication obligation

1) The UCITS shall publish the issue, sale, redemption or repurchase price of its units in an appropriate manner each time its units are issued, sold, redeemed or repurchased, but at least twice a month.

2) The FMA may permit a UCITS to reduce the frequency of the publication referred to in (1) to only once a month, if this is compatible with the protection of investors.

D. Advertising

Art. 79[127]

Repealed

127 Art. 79 repealed by LGBl. 2021 no. 229.

E. Key information for investors (Key Investor Information Document; KIID)

Art. 80

Principle, contents

1) A brief document containing essential information for investors shall be produced for each UCITS, in accordance with Commission Regulation (EU) no. 583/2010. It shall be entitled "Key Information for Investors" and must be understandable to investors. The expression "key information for investors" shall be clearly and unambiguously stated in this document in an official language of each state of marketing, or in a language approved by the competent authorities of the state of marketing.

2) The key information for investors shall contain relevant information about the essential features of the UCITS in question, and enable investors to understand the nature and risks of the investment product offered, without having to consult additional documents, and thereby to make an investment decision on an informed basis.

3) The key information for investors shall provide information on the following essential elements in respect of the UCITS concerned:

a) identity of the UCITS and competent authority of the UCITS;[128]

b) a brief description of the investment objectives and investment strategy;

c) presentation of past performance, or if applicable, performance scenarios;

d) costs and charges;

e) risk/reward profile of the investment using a synthetic indicator as referred to in Art. 8 and Annex I of Commission Regulation (EU) 583/2010, including appropriate references to the risks associated with the investment in the UCITS concerned and appropriate warning notices.

4) The key information for investors shall contain clear information on where and how additional information about the proposed investment can be obtained, including information about where and how the prospectus and the annual and half-yearly reports can be obtained, free of charge, at any time, on request, and the language in which this information is available.

128 Art. 80 (3) a) amended by LGBl. 2016 no. 12.

4a) The key information for investors shall also contain a statement confirming that the details of the current remuneration principles and practices, including a breakdown of how the remuneration and the other allowances are calculated, and the identity of the persons responsible for the allocation of the remuneration and other allowances, including the composition of the remuneration committee, if such a committee exists, are accessible on a website, together with information about this website, and that a paper version will be provided, free of charge, on request.[129]

5) Key information for investors shall be concise and written in generally comprehensible, non-technical language. It shall be drawn up in a standardised format, to allow for comparisons, and presented in such a way that it will in all probability be understood by small investors.

6) The key information for investors shall be used without amendments or supplements, apart from translation, in all EEA Member States in which the UCITS has been notified for the purpose of marketing its units pursuant to Art. 98.

7) With due regard for Commission Regulation (EU) no. 583/2010 the Government may establish more specific regulations by Ordinance.

Art. 81

Substantive accuracy, updating obligation, liability, warning notice

1) The key information for investors must be honest, clear and not misleading. It must be consistent with the relevant sections of the prospectus.

2) The information on the essential elements of the UCITS concerned, set out in Art. 80 (3), shall be kept up to date at all times.

3) The key information for investors constitutes pre-contractual information. No liability for information in the key information, including any translation thereof, shall be incurred unless, considered in association with other sections of the prospectus, it is misleading, incorrect or contradictory.

4) The key information for investors shall contain a warning notice referring to the provisions of (3).

5) With due regard for Commission Regulation (EU) no. 583/2010 the Government may establish more specific rules by Ordinance.

129 Art. 80 (4a) inserted by LGBl. 2016 no. 12.

Art. 82

Provision of the key information

1) The management company that markets the UCITS directly, or through another natural or legal person acting on its behalf and at its full and unconditional responsibility, shall provide investors with the key information for investors in respect of this UCITS, free of charge, and in good time before subscription.

2) In other cases, the management company shall provide the product designers and marketing intermediaries with the key information for investors, on request. Marketing intermediaries engaged in marketing or providing investment advice shall offer the key information for investors to their clients, free of charge.

3) (1) and (2) shall apply to self-managed investment companies accordingly.

4) Art. 38 of Commission Regulation (EU) no. 583/2010 shall apply. The Government may establish more specific rules in other respects by Ordinance.

Art. 83

Accessibility

1) The management company, or the self-managed investment company, shall ensure that the key investor information is accessible to investors, free of charge, on a durable medium, by means of a website, or in a paper version at the request of investors.

2) The current version of the key information for investors shall also be available on the management company's website, or that of the self-managed investment company, or accessible on another website, via a link from those sites.

3) The Government shall establish more specific arrangements by Ordinance.

Art. 84

Obligation to provide key information to the FMA

1) The management company or the self-managed investment company shall ensure that the FMA receives the key investor information and all relevant amendments for each UCITS.

2) The Government shall establish more specific arrangements by Ordinance, in particular the manner and the time in which the obligation referred to in (1) is to be met.

Art. 84a[130]

Key information document

To the extent that a management company or self-managed investment company draws up, provides, revises, and translates a key information document for the UCITS it manages in accordance with Regulation (EU) No 1286/2014[131], no key investor information (KIID) must be drawn up and provided. The requirements set out in Art. 80 to 84 and 100 shall be deemed to be met.

IX. General obligations of a UCITS

Art. 85

Redemption, repurchase of units and suspension thereof

1) A UCITS shall redeem or repurchase its units at the request of an investor.

2) In derogation of (1) a UCITS having its registered office or engaged in marketing operations in Liechtenstein may temporarily suspend redemption of its units in accordance with the constitutive documents or, if it operates on a cross-border basis, the statutory provisions of the host

130 Art. 84a inserted by LGBl. 2023 no. 146.

131 Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 119, 4.5.2016, p. 1)

Member State, provided that the suspension is absolutely necessary and justified in the interests of investors.

3) Any temporary suspension shall be reported to the FMA. A UCITS having its registered office in Liechtenstein shall also be subject to this reporting obligation to all competent authorities of EEA Member States in which it markets its units.

4) The FMA shall have the right to require a UCITS having its registered office in Liechtenstein to suspend repurchase of its units for the protection of investors or the public interest.

5) The Government may establish more specific rules concerning the redemption of units pursuant to (2) and (4) by Ordinance.

Art. 86

Valuation

1) The valuation of the assets, as well as the calculation of the issue or sale price and of the redemption or repurchase price of the units shall be governed by the UCITS' constitutive documents.

2) The Government may regulate the valuation of the assets and the calculation of the issue or sale price and of the redemption or repurchase price of the units of a UCITS, or of a specific type of UCITS by Ordinance. In derogation of Art. 5 (3) b), Art. 6 (3) b) and Art. 7 (3) b) an indication in the constitutive documents as to where the relevant provisions are to be found will suffice in this case.

Art. 87

Distribution and reinvestment

1) The income shall be distributed and reinvested in accordance with the rules in the UCITS' constitutive documents.

2) The Government may regulate the distribution and reinvestment of income by Ordinance.

Art. 88

Allocation of proceeds from the issue of units to the UCITS assets

The equivalent of the net issue price arising from issue of units shall be paid into the assets of the UCITS within the usual time limits. This shall not preclude the issue of bonus units.

Art. 89

Restrictions on borrowing

1) Borrowing by a UCITS shall be limited to temporary loans where the amount borrowed does not exceed 10 % of the UCITS assets; the limit does not apply to acquisition of foreign currency by a "back-to-back" loan.

2) A UCITS may obtain loans for the purchase of properties that are essential for the direct operation of its business and which, in the case of investment companies, do not amount to more than 10 % of their assets.

3) If a UCITS takes up loans as described in (1) and (2) the combined amount of such loans may not exceed 15 % of its assets.

4) A UCITS may not take up loans beyond those referred to in (1) to (3). Agreements in violation of this ban shall not be binding either for the UCITS or the investors.

Art. 90

Ban on granting loans and acting as guarantor

1) A UCITS may not grant loans or act as a guarantor on behalf of third parties. Agreements in violation of this ban shall not be binding either for the UCITS or the investors.

2) (1) shall not prevent the UCITS from acquiring financial instruments not yet fully paid up.

Art. 91

Ban on uncovered sales

No assets may be sold on behalf of a UCITS that do not belong to the assets of the UCITS at the time the deal is concluded.

Art. 92

Administrative costs

1) The UCITS' constitutive documents shall specify the remuneration and expenditure permitted for its administration and the way in which they are calculated.

2) If necessary for the protection of investors and the public interest, the Government may prescribe by Ordinance how the nature, amount and calculation of the remuneration and costs are to be presented and publicised.

X. Auditors

Art. 93

Appointment of the auditor

1) UCITS, management companies and depositaries shall appoint an auditor.

2) The auditor must hold an authorisation pursuant to the Auditors Act or be registered pursuant to Art. 69 of the Auditors Act. Art. 129 (4) and (5) shall otherwise apply.[132]

3) The auditor shall devote himself exclusively to his auditing function and business directly relating thereto. He may not engage in any asset management. The auditor must be independent of the UCITS subject to audit, the management company and the depositary.

4) The auditors of the management company, of the UCITS and of the depositary shall have the right to exchange all information between one another with reference to the management company and all UCITS under its management that is necessary for the audit.[133]

132 Art. 93 (2) amended by LGBl. 2019 no. 20.
133 Art. 93 (4) inserted by LGBl. 2013 no. 50.

Art. 94

Duties of the Auditor

1) Unless provided otherwise in this Law the auditor shall verify in particular:

a) that the conditions of authorisation continue to be met;

b) that the business is performed in compliance with the provisions of this Law and the constitutive documents;

c) and examine the annual reports of the UCITS, of the management company and of the depositary.

2) Art. 25 shall apply accordingly to the auditor's obligation of confidentiality. By way of derogation, the auditors of the UCITS, of the management company and of the depositary are obliged and entitled to cooperate.

3) The audit report containing comments on the supervisory legislation is to be submitted no later than six months from the end of the financial year simultaneously to:[134]

a) the management company and/or depositary;

b) the auditor of the management company and/or of the depositary; and

c) the FMA.

4) The duty referred to in (3) shall only cease with the legally enforceable loss of authorisation or upon completion of liquidation, if that occurs later.[135]

5) Repealed[136]

6) The auditor shall be liable for all dereliction of duty in accordance with the provisions of the PGR concerning the audit of accounts.[137]

7) The Government may establish more specific regulations by Ordinance, in particular:[138]

a) the more specific content of the audit report;

b) the time limit for the preparation and submission of the audit report to the FMA.

134 Art. 94 (3) amended by LGBl. 2013 no. 50.
135 Art. 94 (4) inserted by LGBl. 2013 no. 50.
136 Art. 94 (5) repealed by LGBl. 2019 no. 20.
137 Art. 94 (6) inserted by LGBl. 2013 no. 50.
138 Art. 94 (7) inserted by LGBl. 2013 no. 50.

Art. 95

Duty of notification

1) Auditors shall immediately inform the FMA of all facts or decisions of which they have become aware in the performance of their duties and which may have the following effects:

a) a serious contravention of the legal and administrative provisions and the constitutive documents that apply to the authorisation, or to the pursuit of the activities of a UCITS, a management company, a depositary and other companies involved in their business activity;

b) impairment of the functioning of the UCITS or a company involved in its business activity; or

c) withholding or failure to issue the audit opinion in their audit of the annual report.[139]

2) The reporting obligation referred to in (1) also applies to companies that maintain close links with the UCITS or the companies involved in its business activity on the basis of a control relationship.

3) If the auditor informs the FMA of the facts or decisions referred to in (1) in good faith, this shall not constitute a contravention of any contractual or statutory obligation of confidentiality. The auditor shall not be subject to any liability for the disclosure.

4) The Government shall establish more specific regulations by Ordinance.[140]

139 Art. 95 (1) c) amended by LGBl. 2016 no. 12.
140 Art. 95 (4) inserted by LGBl. 2013 no. 50.

XI. Cross-border business activities within the EEA

A. General

Art. 96[141]

Facilities and investor information

1) A UCITS having its registered office in another EEA Member State intending to market units in Liechtenstein shall make available facilities to perform the following tasks:

a) process subscription, repurchase and redemption orders and make other payments to unit-holders relating to the units of the UCITS, in accordance with the conditions set out in the documents required pursuant to Chapter VIII;

b) provide investors with information on how orders referred to in a) can be made and how repurchase and redemption proceeds are paid;

c) facilitate the handling of information and access to procedures and arrangements relating to the investors' exercise of their rights arising from their investment in the UCITS in Liechtenstein;

d) make the information and documents required pursuant to Chapter VIII available to investors under the conditions laid down in Article 100, for the purposes of inspection and obtaining copies thereof;

e) provide investors with information relevant to the tasks that the facilities perform in a durable medium; and

f) act as a contact point for communicating with the FMA.

2) The UCITS shall ensure that the facilities to perform the tasks referred to in (1), including electronically, are provided:

a) in German or in a language approved by the FMA;

b) by the UCITS, by a third party which is subject to the provisions and supervision by the FMA governing the tasks to be performed, or by both.

3) Where, for the purposes of (2) b), the tasks are performed by a third party, that third party shall be designated in a written contract. That contract must also specify which of the tasks referred to in (1) are not performed by the UCITS and that the third party will receive all the relevant information and documents from the UCITS.

141 Art. 96 amended by LGBl. 2021 no. 229.

4) The Government may establish more specific rules on facilities and investor information by ordinance.

B. Cross-border marketing of units of a UCITS in the EEA

Art. 97

Basic principle

1) The marketing of units of a self-managed investment company having its registered office in Liechtenstein or of a UCITS managed by a management company having its registered office in Liechtenstein, in another EEA Member State, without establishing a branch or engaging in other activities permitted under Art. 14 (2) shall only be subject to those provisions of the EEA Member States that are equivalent to Art. 96 to 102.

2) The marketing of units of a UCITS in Liechtenstein by a management company or a self-managed investment company having its registered office in another EEA Member State, without establishing a branch or engaging in other permitted activities pursuant to Art. 14 (2) shall be governed solely by Art. 96 to 102.

3) For the purposes of this Section a UCITS shall include its associated sub-funds.

Art. 98

FMA as home Member State authority: marketing notification

1) A UCITS having its registered office in Liechtenstein intending to market units in other EEA Member States must notify the FMA of its intention in advance. The notification must contain the following information:[142]

a) the details on the arrangements made for the marketing of the UCITS units in the respective state of marketing and the unit classes concerned;

b) the reference by a management company to the fact that it will be marketing the UCITS itself;

142 Art. 98 (1) amended by LGBl. 2021 no. 229.

c) the details and address required for the billing or notification by the host Member State authority of any applicable official fees or charges;

d) the details of the facilities responsible for performing the tasks referred to in Art. 96 (1).

2) The UCITS shall enclose the following documents with the marketing notification, together with a translation in accordance with Art. 100 (2), if necessary:

a) the constitutive documents, the prospectus and the most recent annual and half-yearly report as referred to in Art. 71 to 77;

b) the key information for investors in accordance with Art. 80 to 84.

3) The FMA shall verify whether the documents provided by the UCITS pursuant to (1) and (2) are complete. It shall:

a) attach a certificate to the documents referred to in (1) and (2), confirming the UCITS meets the requirements laid down in this Law;

b) send the documents electronically to the competent authorities of the state of marketing, within three working days from receipt of the notification letter and all the documents referred to in (2); this time limit may be extended up to a maximum of ten working days by means of a notice to the UCITS, together with a statement of the reasons; and

c) inform the UCITS immediately of the transmission of the notification letter to the host Member State authority.

4) The notification letter referred to in (1) and the certificate from the FMA referred to in (3) are to be drafted in English, unless the FMA and the state of marketing agree that they may be submitted in German, or another language approved by the competent authorities of both EEA Member States.

5) Once it has been informed by the FMA pursuant to (3) c), the UCITS may market its units in the host Member State.

6) The UCITS shall keep the documents referred to in (2) and, if necessary, the translations up to date. The UCITS shall notify the host Member State authorities of any changes and shall indicate where these documents can be obtained electronically.[143]

7) The UCITS shall notify the FMA and the host Member State authorities in writing of any change in the information referred to in (1) at least one month prior to the implementation thereof.[144]

143 Art. 98 (6) amended by LGBl. 2021 no. 229.

144 Art. 98 (7) inserted by LGBl. 2021 no. 229.

8) The FMA shall inform the UCITS within 15 working days after complete receipt of the information referred to in (1) that a planned change pursuant to (7) cannot be permitted, insofar as this would lead to a breach of the provisions of this Law, and it shall immediately notify the host Member State authority.[145]

9) If the UCITS carries out a change pursuant to (7) notwithstanding the prohibition by the FMA in accordance with (8), the FMA shall take all measures called for under Art. 129, including, if necessary, prohibition of marketing of the UCITS, and it shall immediately notify the host Member State authority.[146]

Art. 98a[147]

FMA as home Member State authority: notification of revocation of marketing

1) A UCITS having its registered office in Liechtenstein intending to revoke marketing of units in other EEA Member States for which a notification in accordance with Art. 98 has been made must notify the FMA of its intention in advance.

2) The notification of revocation of marketing referred to in (1) must contain:

a) a flat-rate offer without fees and deductions to repurchase or redeem all UCITS units held by investors, which is publicly available for a period of at least 30 working days and is addressed individually, directly or through financial intermediaries, to all investors in that EEA Member State whose identity is known;

b) the announcement of the intention to revoke marketing of some or all of the UCITS units by means of a generally available medium, including electronic means, which is customary for the marketing of UCITS and suitable for investors;

c) the amendment or termination of contractual agreements with financial intermediaries or representatives with effect from the date of the revocation of marketing.

3) The information referred to in (2) a) and b) shall clearly describe the consequences for investors if they do not accept the offer to redeem or

145 Art. 98 (8) inserted by LGBl. 2021 no. 229.
146 Art. 98 (9) inserted by LGBl. 2021 no. 229.
147 Art. 98a inserted by LGBl. 2021 no. 229.

repurchase their UCITS units. The information shall be provided in German or in the official language of the EEA Member State in respect of which the UCITS has made a notification in accordance with Art. 98 or in a language approved by its competent authorities, as the case may be.

4) The UCITS shall refrain from any new direct or indirect offering or placement of the revoked UCITS units as of the date referred to in (2) c).

5) The FMA shall verify whether the notification of revocation transmitted by the UCITS is complete. No later than 15 working days after receipt of the complete notification, the FMA shall forward it to the competent host Member State authority and to ESMA. The FMA shall immediately inform the UCITS of the forwarding of the notification.

6) The UCITS shall provide the investors who maintain their investments in the UCITS and the FMA with the required information in accordance with Art. 70 to 84 and 100 in electronic form or by using other distance communication means, provided that the information and communication means are available for investors in German or in the official language of the EEA Member State where the investor is located or in a language approved by its competent authorities, as the case may be.

7) The FMA shall transmit to the competent host Member State authorities all changes to the documents referred to Art. 98 (2).

Art. 99

FMA as host Member State authority: marketing notification and notification of revocation of marketing[148]

1) If the FMA is the host Member State authority:[149]

a) it shall accept the transmission of the documents from the home Member State authorities in compliance with Art. 98 (1) and (2) and Art. 98a (2) and of their changes in accordance with Art. 98a (7) in electronic form;

b) it shall arrange electronic archiving and cost-free retrieval of the documents referred to in Art. 98 and their deletion after notification of revocation has been made.

2) In other respects, it shall not request any further documents or information in connection with the notification procedure described in Art. 98 and 98a, nor shall it require compliance with national laws, regulations

148 Art. 99 Subject heading amended by LGBl. 2021 no. 229.

149 Art. 99 (1) amended by LGBl. 2021 no. 229.

and administrative provisions concerning marketing requirements under Art. 5 of Regulation (EU) 2019/1156 from the date of transmission of a notification under Art. 98a (7).[150]

3) On receipt of the notification letter from the home Member State authority pursuant to Art. 98 (3) c), the UCITS may market its units in Liechtenstein.

4) The UCITS shall inform the FMA as host Member State authority of any change in:

a) the documents referred to in Art. 98 (3) and where they can be obtained electronically;

b) the marketing arrangements stated in the notification letter in accordance with Art. 98 (1) a) or the unit classes marketed, before the changes are implemented.[151]

Art. 100

Investor information in the host state

1) A UCITS shall provide investors in Liechtenstein with all information and documents that it is obliged to provide to investors in its home Member State, commensurate with the provisions of this Law.

2) In order to meet the obligation set out in (1):

a) the key information for investors shall be translated into German or another language acceptable to the FMA;

b) other information or documents shall, at the option of the UCITS, be translated into German, another language accepted by the FMA or into English.

3) The translations of information and/or documents in accordance with (2) are to be accomplished at the responsibility of the UCITS and shall faithfully reproduce the content of the original information.

4) (1) to (3) shall apply to amendments mutatis mutandis.

5) The frequency of publication of the issue, sale, resale or redemption prices of the shares and units of a UCITS shall be determined according to the law of the home Member State of the UCITS.

150 Art. 99 (2) amended by LGBl. 2021 no. 229.

151 Art. 99 (4) b) amended by LGBl. 2021 no. 229.

Art. 101

Designation of legal form

If units of UCITS are marketed on a cross-border basis in Liechtenstein, the UCITS may use the same indication of their legal form as in their home Member State.

Art. 102

Implementation provisions

1) More specific rules are provided in Art. 1 to 5 of Commission Regulation (EU) no. 584/2010.

2) Otherwise the Government shall provide more specific details concerning Art. 97 to 101 by Ordinance, in particular:

a) the electronic accessibility of the legal provisions relevant to cross-border marketing in Liechtenstein, in accordance with Art. 30 of Commission Directive 2010/44/EU;

b) the form of the UCITS' marketing notification pursuant to Art. 98 (1) and (2);

c) the form of the notices and advices sent to the UCITS by the FMA pursuant to Art. 98 (3);

d) the electronic access of the host Member State authorities to the FMA's records pursuant to Art. 98 (3) and (4), in accordance with Art. 31 of Commission Directive 2010/44/EU;

e) the form of and the electronic access to updates and amendments pursuant to Art. 99 (4), in accordance with Art. 32 of Commission Directive 2010/44/EU; and

f) incorporation of the FMA in EEA-wide electronic data processing and centralised storage systems in order to facilitate the exchange of the documents and information required under Art. 98 and 99, in accordance with Art. 33 of Commission Directive 2010/44/EU;

g) the conditions for the marketing in Liechtenstein of authorised UCITS from other EEA Member States, not aimed at the general public, by Liechtenstein-based banks and investment firms (private placement).[152]

152 Art. 102 (2) g) inserted by LGBl. 2013 no. 50.

C. Other cross-border activity

Art. 103

Initial notification for branches

1) Management companies of a UCITS which intend to establish a branch for the pursuit of authorised activities in the sovereign territory of another EEA Member State must meet the conditions of Sections A and B of Chapter III.

2) The FMA shall be notified of the intention referred to in (1). The following information and documents are to be submitted together with the notification:

a) the name of the EEA Member State in which a branch is to be established;

b) a programme of activity outlining the activities that are envisaged, the organisational structure of the branch, the risk management procedures in place and the measures for the benefit of investors domiciled in the host Member State as referred to in Art. 96;

c) the address at which requests for documents can be made in the host Member State;

d) the names of the managers of the branch.

3) If, in the opinion of the FMA, there is no reason to doubt that the administrative structure or financial situation are in order, the FMA shall within ten working days from receipt of all the documents referred to in (2) transmit them to the host Member State authorities and shall inform the management company, stating the date the documents were sent. The period allowed for transmitting documents may be extended up to a maximum of two months, by means of a substantiated notification, if this is necessary for the protection of investors or the public interest. The documents being sent shall be accompanied by:

a) details of the compensation systems to ensure that investors will be protected;

b) if the management company wishes to pursue the activity of collective portfolio management in another EEA Member State, an attestation that the management company has obtained the authorisation required for this purpose under this Law, together with a description of the scope of the management company's authorisation and details of any restrictions in the type of UCITS which the management company is authorised to manage.

4) If there is reason to doubt that the management structure or financial situation is appropriate, the FMA shall refuse to transmit the documentation. Reasons for the refusal must be stated immediately, within two months from receipt of all the documents at the latest. In the event of failure to act, Art. 141 (2) and (3) shall apply accordingly.

5) The management company may not establish its branch or commence its business until it has received a notice from the host Member State authority about the reporting obligations and the regulations to be applied, or if this is not forthcoming, until two months have passed from the transmission of the information by the FMA pursuant to (3).

6) The Government shall provide more specific regulations by Ordinance.

Art. 104

Change in notification for the branch

1) If the particulars communicated in accordance with Art. 103 (2) b), c) or d) are changed, the management company shall inform the FMA and the host Member State authorities in writing, at least one month before the change is implemented.

2) The FMA shall up-date its decisions and orders, if necessary, and shall inform the host Member State authorities if it does so. Art. 103 (3) to (5) shall apply accordingly.

3) The FMA shall inform the management company within 15 working days after complete receipt of the information and documents referred to in (1) that a planned change cannot be permitted, insofar as this would lead to a breach of the provisions of this Law, and it shall immediately inform the host Member State authority.[153]

4) If the management company carries out a change pursuant to (1) notwithstanding the prohibition by the FMA in accordance with (3), the FMA shall take all measures called for under Art. 129, and it shall immediately notify the host Member State authority.[154]

153 Art. 104 (3) amended by LGBl. 2021 no. 229.
154 Art. 104 (4) inserted by LGBl. 2021 no. 229.

Art. 105

Initial notification for cross-border service provision

1) A management company seeking to conduct a business, for which it has already obtained authorisation, in another EEA Member State under the freedom to provide services on a cross border basis, for the first time, shall send the FMA the following documents and information:

a) the name of the EEA Member State in which the business involving cross-border provision of services is to be conducted;

b) a programme of activity outlining the activities that are envisaged, the risk management procedures in place and the measures for the benefit of investors domiciled in the host Member State.

2) The FMA shall, within ten working days from receipt of all the documents referred to in (1), transmit them to the host Member State authorities and shall inform the management company, stating the date the documents were sent. The period allowed for sending documents may be extended up to a maximum of one month by means of a substantiated notification, if this is necessary for the protection of investors or the public interest. The documents being sent shall be accompanied by:

a) details of the compensation systems for investors, if necessary

b) if the Liechtenstein-based management company wishes to pursue the activity of collective portfolio management in another EEA Member State, an attestation that the management company has obtained the authorisation required for this purpose under this Law, together with a description of the scope of the management company's authorisation and details of any restrictions in the investments of the UCITS which the management company is authorised to manage.

3) The management company may commence its business as soon as the host Member State authority has been notified by the FMA. Art. 112 concerning collective portfolio management of a UCITS on a cross-border basis and Art. 99 concerning cross-border marketing are not affected.

4) The management company is obliged to respect the code of conduct set out in Art. 20 when conducting its business on a cross-border basis. The FMA is responsible for monitoring compliance with the code of conduct in accordance with Art. 20.

5) The Government shall provide more specific regulations by Ordinance.

Art. 106

Change in the notification for cross-border provision of services

1) In the event of change of any particulars communicated in accordance with Art. 105 (1) b), the management company shall give notice to the FMA and the host Member State authorities in writing, before the change is implemented.

2) The FMA shall update the information contained in the attestation referred to in Art. 105 (2) b) and shall inform the host Member State authorities of any change in the scope of the authorisation or any details of any restrictions in the type of UCITS which the management company is authorised to manage.

Art. 107

FMA as host Member State authority: commencement of operations

1) A management company with authorisation in another EEA Member State may conduct the business permitted by its home Member State authority in accordance with Art. 14, in Liechtenstein, without authorisation from the FMA, through a branch in Liechtenstein or in the course of providing services on a cross-border basis, if the home Member State authority has notified the FMA of the intention to establish a branch pursuant to Art. 103, or to conduct a business involving cross-border provision of services in accordance with Art. 105.

2) The FMA shall inform the management company that is establishing a branch in Liechtenstein of the reporting obligations to the FMA and the provisions of this Law that are relevant to its business, within two months from receipt of the notification referred to in (1). On receipt of the notification and no later than the end of the period stated in the first sentence, the branch may be established and commence its business.

3) A management company seeking to do business in Liechtenstein involving the cross-border provision of services, may commence its operations immediately upon receipt of the notification referred to in (1). The FMA shall inform it of the reporting obligations to the FMA and the provisions of this Law that are relevant to the business of the management company.

4) A UCITS based in Liechtenstein may be managed by a management company having its registered office in another EEA Member State. Art. 110 to 113 shall apply in addition to (1) to (3).

Art. 108

FMA as host Member State authority: consequential obligations for branches in Liechtenstein

1) A management company that operates through a branch in Liechtenstein shall comply with the code of conduct set out in Art. 20. The FMA is responsible for monitoring compliance.

2) Branches of management companies with their registered office in an EEA Member State should not be treated less favourably than those of management companies having their registered office in a third country.

3) The management company shall inform the FMA of changes to the programme of activity, the address of the management company in Liechtenstein or the names of the managers of the branch, at least one month before the changes take place. If, as a consequence of such a notification or as a consequence of the particulars from the home Member State authority being updated in accordance with Art. 104 (2) to (4), other regulations become relevant for the cross-border activity, the FMA shall inform the management company of the other reporting obligations to the FMA and the provisions of this Law that are relevant to the business of the management company.[155]

Art. 109

FMA as host Member State authority: consequential obligations arising from cross-border provision of services

1) The management company shall inform the FMA of changes to the programme of activity in writing, before the changes come into effect.

2) If other regulations become relevant to the cross-border business because of a notification in accordance with (1) or as a consequence of the particulars from the home Member State authority being updated in accordance with Art. 106 (2), the FMA shall give notice of the other reporting obligations vis-à-vis the FMA and the provisions of this Law that are relevant to the business of the management company.

155 Art. 108 (3) amended by LGBl. 2021 no. 229.

D. Collective portfolio management

Art. 110

Applicable law

1) An initial notification in accordance with Art. 103 to 109 is required for collective portfolio management conducted by the management company on a cross-border basis. The provisions of this paragraph shall also apply.

2) The organisation of the management company shall be subject to law of the management company's home Member State, in particular the provisions concerning:

a) delegation agreements;

b) risk management procedures;

c) the right of oversight and scrutiny;

d) the procedure for detecting, preventing and appropriate handling of conflicts of interest;

e) disclosure requirements.

3) The law of the home Member State of the UCITS shall apply to the establishment and the business activity of the UCITS, in particular the provisions concerning:

a) authorisation;

b) the issue and sale of units;

c) the investment policy and the restrictions, including the calculation of the total exposure and leverage;

d) restrictions on borrowing, lending and uncovered sales;

e) the valuation of the assets and the accounting;

f) the calculation of the issue price and/or the redemption price and errors in the calculation of the net asset value and related investor compensation;

g) the distribution or reinvestment of the income;

h) the disclosure or reporting requirements imposed on the UCITS, including the prospectus, the key information for investors and regular reports;

i) the arrangements made for marketing;

k) the relationship with investors;

l) merger and restructuring of the UCITS;

m) winding up and liquidation of the UCITS;

n) where applicable, the contents of the register of unit-holders;

o) the fees for authorisation and supervision;

p) the exercise of the investors' voting rights and other rights of the investors in connection with a) to m).

4) The management company shall comply with the obligations set out in the constitutive documents and in the prospectus of the UCITS. These obligations shall be consistent with the applicable law referred to in (2) and (3).

5) The management company shall be responsible for all agreements and organisation for ensuring compliance with the provisions that relate to the constitution and the functioning of the UCITS, and with the obligations contained in the constitutive documents and the prospectus. It shall ensure that the arrangements and the organisation are structured in such a way that it is able to meet the obligations and comply with the provisions relating to the constitution and functioning of all UCITS under its management.

6) If the FMA is the management company's home Member State authority, it shall be responsible for monitoring compliance with the provisions set out in (2) and (5). If the FMA is the UCITS' home Member State authority, it shall be responsible for monitoring compliance with the provisions set out in (3) and (4).

7) The Government shall determine by Ordinance the provisions that meet the specifications referred to in (2) to (5).

8) A management company authorised in an EEA Member State, engaged in the collective portfolio management of a Liechtenstein-based UCITS, may not, except in the cases provided by law, be subject to additional requirements either in law or in fact.

Art. 111[156]

Repealed

156 Art. 111 repealed by LGBl. 2016 no. 12.

Art. 112

Authorisation by the FMA as the UCITS' home Member State authority

1) A management company intending to conduct collective portfolio management on a cross-border basis shall provide the home Member State authority of the UCITS with the following documents:

a) the written agreement with the depositary referred to in Art. 32 (1);[157]

b) information on the delegation arrangements with reference to collective portfolio management pursuant to Art. 22.

2) Subsequent changes are to be reported in the same way. If the management company manages other UCITS of the same type in Liechtenstein, reference to the documents already submitted shall be sufficient.

3) Insofar as this is necessary to ensure compliance with the provisions subject to its supervision, the FMA shall request additional information from the home Member State authority of the management company regarding the documents referred to in (1), and also concerning the extent to which the type of the UCITS to be managed falls within the scope of the management company's authorisation.

4) The FMA shall consult the home Member State authority of the management company before rejecting an application. It may only reject the management company's application if:

a) the management company does not comply with the provisions in respect of which the FMA is responsible for monitoring compliance pursuant to Art. 110 (6);

b) the management company has not received authorisation from its home Member State authority to manage the type of UCITS, for which an application for authorisation is being submitted to the FMA; or

c) the management company has not submitted the documents referred to in (1).

5) The management company shall inform the FMA of all material changes to the documents referred to in (1).

6) The Government may establish more specific regulations by Ordinance.

157 Art. 112 (1) a) amended by LGBl. 2016 no. 12.

Art. 113

FMA as home Member State authority of the management company

If the FMA is the home Member State authority of the management company, it shall respond to lawful requests for information from the home Member State authority of the UCITS, in accordance with Art. 112 (3), within ten working days.

E. Exchange of information and cooperation between the competent authorities of EEA Member States in connection with sanctions and investor protection

Art. 114

FMA as host Member State authority: transmission of information

1) The Government may by Ordinance require, or empower the FMA to require management companies:

a) with branches in Liechtenstein, to report to the FMA at regular intervals on the business they conduct in Liechtenstein for statistical purposes; and/or

b) with branches in Liechtenstein, or those that conduct business under the free movement of services, to furnish the information that is necessary for monitoring compliance with the statutory provisions, in respect of which Liechtenstein is responsible for supervision, as host Member State authority.

2) The requirements referred to in (1) may not be more stringent than the requirements for management companies having their registered office in Liechtenstein, for the purpose of monitoring compliance with the same provisions.

Art. 115

FMA as host Member State authority: cooperation between authorities in connection with sanctions and investor protection

1) If the FMA ascertains that a management company is in breach of one of the provisions under its supervision, it shall require the management company to put an end to the breach and shall inform the home Member State authority.

2) If the management company refuses to provide the FMA with the information falling within its remit pursuant to Art. 114, or if it fails to take the required action to put an end to the breach referred to in (1), the FMA shall inform the home Member State authorities accordingly.

3) If the breach persists in spite of the measures taken by the home Member State authority, or if such measures are either ineffective or non-existent, the FMA may, after informing the home Member State authority, take appropriate measures within the scope of its general authority to prevent or sanction further breaches, and prohibit new business in Liechtenstein in order to achieve this. Where the service provided in Liechtenstein involves the management of a UCITS, the FMA may order the management of this UCITS to cease.

3a) If, in its opinion, the home Member State authority of the management company has not taken the appropriate action, the FMA may report the situation to the ESMA.[158]

4) If in the case of collective portfolio management on a cross-border basis, the FMA is consulted by the home Member State authority of the management company concerning withdrawal of the management company's authorisation, the FMA shall take appropriate measures to safeguard the investors' interests. In order to achieve this, the FMA may prohibit the management company from initiating any new business in Liechtenstein.

5) In urgent cases the FMA, as host Member State authority, may take precautionary measures for the protection of investors and others for whom services are provided, before taking the action referred to in (2) to (3a). It shall inform the EFTA Surveillance Authority, the ESMA and the competent authorities of the other EEA Member States concerned, of such measures as soon as possible.[159]

158 Art. 115 (3a) inserted by LGBl. 2016 no. 12.
159 Art. 115 (5) amended by LGBl. 2016 no. 12.

Art. 116

FMA as home Member State authority: cooperation between the competent authorities of EEA Member States in connection with sanctions and investor protection

1) If the FMA is contacted by a host Member State authority in the situation referred to in Art. 115 (2), it shall immediately take all appropriate measures to enforce the rights to information due to the host Member State authority and/or to put an end to the breach. The FMA shall inform the host Member State authority of the nature of the action it has taken.

2) If a management company having its registered office in Liechtenstein is the subject of measures referred to in Art. 115 (3) taken by the host Member State authority, the FMA shall automatically take over the function of service of documents within Liechtenstein, on behalf of the host Member State authority, if other forms of delivery fail.

3) In cases of collective portfolio management on a cross-border basis, the FMA shall consult the UCITS' home Member State authority before withdrawing the management company's authorisation.

Art. 117

Reporting to the ESMA and the EFTA Surveillance Authority[160]

The FMA shall inform the ESMA and the EFTA Surveillance Authority of the number and nature of the cases in which it:[161]

a) as home Member State authority of the management company, has rejected the initial notification of the host Member State authority that was given for the purpose of establishing a branch in accordance with Art. 103, or, as home Member State authority of a UCITS, has refused an application for collective portfolio management on a cross-border basis, submitted by a management company having its registered office in another EEA Member State pursuant to Art. 112;

b) as host Member State authority, has taken action against a management company in accordance with Art. 115 (3).

160 Art. 117 Subject heading amended by LGBl. 2016 no. 12.

161 Art. 117 Introductory sentence amended by LGBl. 2016 no. 12.

F. Oversight

Art. 118

Jurisdiction, Reporting obligations

1) As home Member State authority of the management company, the FMA is empowered to take measures against the management company in the event of violations of the law applying to the management company.

2) As home Member State authority of a UCITS, the FMA is empowered to take measures against this UCITS in the event of violations of the law applying to the UCITS and of the constitutive documents. It shall immediately inform all host Member States of the UCITS and, in the case of collective portfolio management on a cross-border basis, the home Member State authority of the management company, of every decision to withdraw a UCITS' authorisation, any other significant measure and any measure imposed on it suspending the issue or redemption of its units.

3) The FMA, as host Member State authority of a UCITS, is empowered to proceed with measures against this UCITS if it is in violation of Art. 96 and 100.

4) If the FMA, as host Member State authority of a UCITS, has no authority to act pursuant to (3), it shall report the facts of which it is aware, which indicate violations on the part of the UCITS of obligations arising from Directive 2009/65/EC, to the home Member State authority of the UCITS. If there is persistent damage to the interests of investors of the host Member State, the FMA as host Member State authority shall be empowered, after informing the home Member State authorities of the UCITS, to take all reasonable measures for the protection of investors in the host Member State, including measures to prohibit further marketing of the units in the host Member State. It shall inform the EFTA Surveillance Authority and the ESMA immediately of any measure of this nature.[162]

5) The FMA shall assist in the service of communications from the competent authorities in respect of measures taken in accordance with this article in Liechtenstein, and if necessary, shall arrange the service of documents in Liechtenstein in its own name.

162 Art. 118 (4) amended by LGBl. 2016 no. 12.

Art. 119

FMA's duty to cooperate in connection with cross-border activity

1) The competent authorities of all EEA Member States concerned shall cooperate with respect to cross-border activity of the management company. The FMA shall supply all information that will facilitate the supervision of the management company on request, in particular concerning the management and ownership of this management company. The FMA, as home Member State authority of the management company, shall facilitate the collection of the information that is required in order to monitor compliance with the regulations of the host Member State applying to the management company.

2) Insofar as it is necessary for exercising the powers of supervision of the home Member State, the host Member State authorities shall inform the home Member State authority of the management company of all measures taken in accordance with Art. 115, penalties imposed or restrictions on the management company's activities.

3) The FMA, as the management company's home Member State authority, shall immediately inform the home Member State authority of the UCITS of any problems involving the management company that might materially affect its ability to perform its duties with respect to the UCITS. It shall also inform it of any breach of the management company's obligations pursuant to Art. 13 to 28, Art. 96 and Art. 103 to 117.

4) The FMA, as home Member State authority of the UCITS, shall immediately inform the home Member State authority of the management company of any problems involving the UCITS that might materially affect the ability of the management company to perform its duties and to comply with the provisions of Directive 2009/65/EC, that fall within the responsibility of the home Member State of the UCITS.

Art. 120

Right of foreign authorities to verify information in respect of a branch in Liechtenstein

1) If a management company having its registered office in another EEA Member State pursues its business through a branch in Liechtenstein, the home Member State authority of the management company shall have the right, after informing the FMA, to verify the information referred to in Art. 119 itself, or to have the information verified locally by agents appointed for that purpose.

2) This shall not prejudice the FMA's right to carry out its own on-site inspections of this branch.

XII. Cross-border business relating to third countries

Art. 121

Foreign operations of management companies based in Liechtenstein

1) If they intend to manage undertakings for collective investment, to market the units of such undertakings or to pursue other authorised activities in a third country, management companies shall, before commencing their operations, provide evidence to the FMA that they have authorisation for the operations envisaged in the third country, or that they are not subject to any obligation to obtain authorisation.

2) If under the Law of the third country the management company is obliged to meet higher capital requirements, take additional organisational measures or meet other more extensive requirements than the requirements under this Law, the FMA and the management company may agree that the management company shall be obliged to meet the more extensive requirements and that the FMA shall be obliged to monitor compliance with these requirements. If this is the case:

a) the more extensive requirements shall be deemed requirements to be met under this Law;

b) the FMA shall be empowered to take all measures and action that would be permissible in order to monitor and uphold the statutory requirements; and

c) the FMA shall certify to the management company or, on request, the competent authority in the third country, that the management company has undertaken to comply with the more extensive requirements, that the FMA has undertaken to monitor compliance and that to the best of the FMA's knowledge the more extensive requirements are being met.

3) Art. 138 shall apply mutatis mutandis to the exchange of information between the FMA and the supervisory authority in the third country. In other respects, the business shall be regulated according to the legal and administrative provisions applying in the third country.

Art. 122

Domestic operations of foreign management companies

1) Management companies having their registered office in a third country require authorisation pursuant to Art. 13 to 31 in respect of the other activities permitted in Liechtenstein under this Law.[163]

2) Authorisation is required in order to establish a domestic branch of management companies having their registered office in a third country. Art. 13 to 31 shall apply to such authorisation with the proviso that:

a) the management company is subject to supervisory controls equivalent to those of the FMA;

b) the supervisory authority of the home Member State has no objection to the establishment of the branch and declares that it will immediately inform the FMA of circumstances that might jeopardise the protection of investors and the stability of the financial system;

c) the managers of the branch guarantee compliance with the regulations applying to the management company;

d) the branch's capital is kept separate from that of the management company; the capital must meet the requirements of Art. 17 and must be accessible at all times;

e) the persons responsible for the branch meet the requirements in respect of reliability and professional experience and the further requirements of Art. 180a PGR;

f) the branch is supported by an appropriate organisational and financial structure in Liechtenstein;

g) in other respects the provisions applying to branches of management companies from EEA Member States will be complied with as a minimum; and

h) the protection of investors and the public interest is not compromised.

3) Art. 121 shall apply mutatis mutandis to the reporting obligations and duty of disclosure of the management company referred to in (1) or (2) and Art. 138 shall apply to the exchange of information between the FMA and the supervisory authority in the third country. If a management company as referred to in (1) or (2) is in violation of provisions of Liechtenstein Law, Art. 143 shall apply mutatis mutandis.

4) The Government may grant exemption from the provisions of (1) and the provisions of (2) a), b), c) and d) by Ordinance, if through the

163 Art. 122 (1) amended by LGBl. 2016 no. 55.

implementation of appropriate measures the branch or its management company guarantees equivalent safeguards for investors, the financial centre and the financial system and does not compromise the public interest.

5) Any reciprocity agreements are reserved.

Art. 122a[164]

Domestic marketing of foreign undertakings for collective investment comparable with UCITS

1) An operation engaged solely in the marketing units of foreign undertakings for collective investment comparable with UCITS must be authorised by the FMA.

2) Authorisation shall be granted if:

a) the conditions referred to in (3) to (5) have been met;

b) the undertaking for collective investment comparable with UCITS is subject to consolidated supervision, equivalent to supervision in Liechtenstein, in its home Member State;

c) the name of the undertaking for collective investment comparable with UCITS does not give rise to deception or confusion;

d) the other provisions of this Law and the ordinance issued in association with it and applying mutatis mutandis are complied with.

3) The management company shall be obliged:

a) to comply with the provisions applying in Liechtenstein;

b) to appoint a bank as paying agent in Liechtenstein in accordance with the Banking Act;

c) to appoint as its representative, a person in possession of a special statutory licence under Liechtenstein Law and the requisite specialist knowledge; and

d) to publish in Liechtenstein the prospectus, the key information for investors (KIID), the annual and half-yearly reports and the other information stated in Chapter VIII.

4) The documents referred to in (3) are to be produced in a language approved by the FMA.

164 Art. 122a inserted by LGBl. 2016 no. 55.

5) If there is a risk of confusion, the FMA may request an explanatory note concerning the name of the undertaking for collective investment comparable with UCITS.

6) Units of foreign undertakings for collective investment comparable with UCITS may be marketed without authorisation as referred to in (1) and (2), if:

a) no advertising to the general public takes place;

b) the category of persons is specified and the parties approached are in a qualified relationship with the advertiser;

c) the category of persons is limited and small in terms of numbers, with it being of no relevance when these persons are approached and whether they are approached at the same time, or in stages, or whether the advertising was successful;

d) the public advertising does not take place more frequently than specified; or

e) an asset management agreement is in place, governing the function purely as an intermediary in respect of units of foreign undertakings for collective investment comparable with UCITS, with no advisory function.

7) Any reciprocity agreements are reserved.

8) The Government shall establish more specific regulations by Ordinance, in particular concerning the rights and obligations of the paying agent and the representative; it may establish exemptions from the obligation to obtain authorisation.

Art. 123

Obstacles to business in third countries

1) The FMA shall inform the ESMA and the EFTA Surveillance Authority of any general difficulties:[165]

a) encountered by management companies having their registered office in Liechtenstein, when establishing a branch or in providing services and/or performing investment activities in third countries;

b) encountered by UCITS having their registered office in Liechtenstein when marketing units in third countries.

165 Art. 123 (1) introductory sentence amended by LGBl. 2016 no. 12.

2) Repealed[166]

3) Repealed[167]

4) The provisions of (1) shall not apply if the measures implemented by the EFTA Surveillance Authority or the FMA are incompatible with the obligations of the EEA Member States under multi-lateral or bi-lateral international agreements.[168]

XIII. Supervision

A. General

Art. 124

Basic principle

The following authorities are charged with the implementation of this Law:

a) the Financial Market Authority (FMA);

b) the Princely Court of Justice;

c) the Conciliation Board.

Art. 125[169]

Processing of personal data

The competent domestic authorities and agencies may process personal data, including personal data concerning criminal convictions and offences, or give instructions for such data to be processed, insofar as this is necessary for the performance of their duties under this Law.

166 Art. 123 (2) repealed by LGBl. 2017 no. 400.
167 Art. 123 (3) repealed by LGBl. 2017 no. 400.
168 Art. 123 (4) amended by LGBl. 2017 no. 400.
169 Art. 125 amended by LGBl. 2018 no. 302.

Art. 125a[170]

Cooperation with other authorities and agencies

1) The FMA shall work together with other domestic authorities and agencies in order to guarantee the smooth functioning of the oversight of undertakings for collective investment in transferable securities and their management companies.

2) The competent domestic authorities and agencies may exchange data as referred to in Art. 125, insofar as this is necessary for the performance of their supervisory duties.

3) Cooperation with foreign authorities shall be governed by Art. 26b FMAG, subject to Art. 126 (4) to (6) and Art. 146 (4).

Art. 126

Professional confidentiality

1) All persons acting for the FMA and the authorities it consults or who have acted for them, as well as the auditors and experts acting on their instructions, are subject to professional confidentiality.

2) Confidential information acquired by such persons in their professional capacity may not be disclosed to any person or authority, save in a summarised or general form, in such a way that the UCITS, the management company and the depositary cannot be identified. Provisions of criminal law and particular statutory provisions are reserved.

3) If a UCITS or an undertaking contributing towards its business activity has been cited in bankruptcy proceedings or is being wound up by order of the courts, confidential information that does not concern third parties involved in rescue attempts may be divulged in the course of civil or commercial proceedings.

4) Professional confidentiality shall not prevent the exchange of information between the FMA and the competent authorities of other EEA Member States, or competent authorities of third countries or the communication of this information to ESMA, the EFTA Surveillance Authority or the ESRB in accordance with this Law. The information exchanged shall be subject to the conditions of professional confidentiality. When communicating information to the competent authorities of other EEA Member States or the competent authorities of third countries, the FMA

170 Art. 125a inserted by LGBl. 2018 no. 302.

shall point out that the information communicated may be published and disclosed only with the express permission of the FMA. Such permission may be granted only if the exchange of information can be reconciled with the public interest and the protection of investors. The transfer of personal data shall be permissible only if the conditions of Chapter V of Regulation (EU) 2016/679[171] are met.[172]

5) The Government or the FMA, acting on its authority, may only conclude cooperation agreements providing for exchange of information with the competent authorities of third countries, or with the authorities or agencies of third countries as determined in (4) and Art. 138 (1), for the purpose of performance of the supervisory functions of these authorities or agencies, and then only if the confidentiality of the information disclosed is subject to guarantees equivalent to those referred to in this Article. If the information originates in another EEA Member State, it may only be published and disclosed with the express consent of the disclosing authorities and if applicable, only for purposes for which these authorities have given their consent.[173]

6) If the FMA receives confidential information as referred to in (1) to (4) it may only use such information for the following purposes:

a) to verify whether authorisation conditions applying to the UCITS, or the undertakings contributing to its business activity, have been met and to facilitate the monitoring of the conditions of the conduct of the business, management and accounting procedures and internal control mechanisms;

b) to impose penalties;

c) to conduct an appeal against a decision of the competent authorities in administrative proceedings;

d) in the course of proceedings referred to in Art. 140.

7) The Government may provide exemptions for the information received pursuant to (5) by Ordinance.

8) (1) to (3) and (6) shall not preclude the communication of confidential information to the agencies involved in the management of compensation systems in the EEA.

171 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1)

172 Art. 126 (4) amended by LGBl. 2021 no. 229.

173 Art. 126 (5) amended by LGBl. 2016 no. 55.

Art. 127

Supervisory charges and fees

The supervisory charges and fees are governed by the legislation applying to the Financial Market Authority.

B. FMA

Art. 128

Duties

1) The FMA shall monitor execution of this Law and the implementation ordinances issued in association with it as well as the EEA acts applicable in accordance with Art. 1 (3). It shall take the necessary measures directly, in collaboration with other supervisory bodies, or by reporting matters to the Public Prosecution Service.[174]

2) The FMA shall perform the following duties, in particular:

a) granting, amendment and withdrawal of authorisation;[175]

b) approval of the constitutive documents and specimen documents;

c) scrutiny of the auditors' reports;

d) appointment of administrative agents and determination of their remuneration;

e) collaboration in order to facilitate oversight with the competent authorities of other EEA Member States;

f) impose penalties for infringements as referred to in Art. 143.

g) monitor compliance with the remuneration principles and practices referred to in Art. 20a;[176]

h) monitor the suitability of the procedures employed in accordance with Art. 23 (1a) and assess the references to external ratings.[177]

i) …[178]

174 Art. 128 (1) amended by LGBl. 2020 no. 322.
175 Art. 128 (2) a) amended by LGBl. 2016 no. 12.
176 Art. 128 (2) g) inserted by LGBl. 2016 no. 12.
177 Art. 128 (2) h) inserted by LGBl. 2016 no. 12.
178 Art. 128 (2) i) inserted by LGBl. 2019 no. 363. Not yet in force.

k) the authorisation of money market funds as well as the approval of management companies to manage money market funds, including notification to ESMA in this regard.[179]

Art. 129

Powers

1) If the FMA becomes aware of contraventions of this Law or the EEA acts applicable in accordance with Art. 1 (3) or of other abuses, it shall take the action necessary to restore the legal status and remedy the abuses.[180]

2) The FMA is empowered in particular:

a) to demand all reports, information and documents required for execution of this Law and the EEA acts applicable in accordance with Art. 1 (3), from all parties subject to this Law, the EEA acts applicable in accordance with Art. 1 (3) and the supervision thereof, any person connected with the activities of the management company, the UCITS or the money market fund and such persons who are under suspicion of conducting activities in contravention of the obligation to obtain authorisation under this Law or the EEA acts applicable in accordance with Art. 1 (3);[181]

b) to issue decisions and orders; it may publish these after prior warning if the management company continues to resist them and/or refuses to restore the legal status;[182]

c) to impose a temporary ban on practicing the professional activity;

d) to request the Public Prosecution Service to apply for measures to safeguard against the decline in assets in accordance with the Code of Criminal Procedure;[183]

e) to conduct scheduled or unannounced inspections or investigations on site or arrange to have them conducted by qualified auditors or experts;[184]

f) to request the suspension of the issue, redemption or repurchase of units in the interests of the unit holders or the public;

179 Art. 128 (2) k) inserted by LGBl. 2020 no. 322.
180 Art. 129 (1) amended by LGBl. 2020 no. 322.
181 Art. 129 (2) a) amended by LGBl. 2020 no. 322.
182 Art. 129 (2) b) amended by LGBl. 2016 no. 55.
183 Art. 129 (2) d) amended by LGBl. 2016 no. 161.
184 Art. 129 (2) e) amended by LGBl. 2013 no. 50.

g) to demand records of telephone conversations, electronic messages and other data traffic in the possession of UCITS, management companies, self-managed investment companies, depositaries or other agencies already in existence in accordance with this Law;[185]

h) to demand a written statement from the UCITS, the management company or the remuneration committee confirming the extent to which the variable remuneration elements meet the requirements in respect of remuneration principles and practices referred to in Art. 20a;[186]

i) to impose a temporary prohibition or, for repeated serious violations, a permanent prohibition on the responsible member of the management body of the management company, the self-managed investment company or another responsible natural person on performing management functions in these companies, or other companies of this nature;[187]

k) to prohibit practices that are in contravention of this Law or the EEA acts applicable in accordance with Art. 1 (3).[188]

3) The FMA is empowered to demand a quarterly report from the management companies and investment companies with reference to themselves and each UCITS or sub-fund under their management. The Government may establish more detailed regulations by Ordinance.

4) The Government may stipulate by Ordinance that only qualified auditors shall be authorised to conduct the inspections and reports required under this Law and determine the procedure to establish the qualifications of the auditors. This shall exclude checking the figures quoted in the annual reports as referred to in Art. 70 b).[189]

5) The FMA may require confirmation by an auditor qualified in accordance with (4) for all or individual statements, data or information in respect of facts enclosed with an application for authorisation or approval, or collected for supervisory purposes. The Government may restrict the FMA's powers to specific facts by Ordinance.

6) If the FMA publishes forms for the completion of applications, notices, reports and notifications required under this Law or the EEA acts applicable in accordance with Art. 1 (3), the applicants and those obliged to submit notices, reports and notifications must use them. Otherwise the FMA shall have the right to take the view that the application has not been

185 Art. 129 (2) g) amended by LGBl. 2016 no. 12.
186 Art. 129 (2) h) amended by LGBl. 2016 no. 12.
187 Art. 129 (2) i) inserted by LGBl. 2016 no. 12.
188 Art. 129 (2) k) amended by LGBl. 2020 no. 322.
189 Art. 129 (4) amended by LGBl. 2013 no. 50.

submitted and the notice, reporting and notification obligations have not been met.[190]

7) In the supervision of auditors the FMA may, in particular, conduct quality controls and provide support for the auditors in their auditing duties for the UCITS and their management companies. The right to conduct on-site inspections pursuant to Art. 26 (4) of the Financial Market Authority Act is not affected.[191]

8) Repealed[192]

Art. 129a[193]

Emergency measures

1) If circumstances exist that appear to jeopardise the protection of investors, the reputation of Liechtenstein as a financial centre or the stability of the financial system, the FMA may, in particular, without warning or notice:

a) collect information from the management company, the auditor, the depositary, from all delegates as defined in Art. 22 and 34 (2) to (5) and from all other parties involved; in this connection the FMA may also operate on site;[194]

b) employ an observer to collect information for the FMA and to whom all business transactions are to be reported;

c) employ a commissioner without whose consent the management company or its directors cannot make any statements of intent for the management company or the UCITS;

d) with reference to some or all UCITS:

   1. require the suspension of unit issue and redemption;

   2. prohibit the marketing of UCITS;

   3. withdraw authorisation;

e) employ a commissioner without whose involvement the management company or the management company's directors are unable to make statements of intent for the management company or the UCITS;

190 Art. 129 (6) amended by LGBl. 2020 no. 322.
191 Art. 129 (7) amended by LGBl. 2013 no. 50.
192 Art. 129 (8) repealed LGBl. 2013 no. 50.
193 Art. 129a inserted by LGBl. 2013 no. 50.
194 Art. 129a (1) a) amended by LGBl. 2016 no. 12.

f) order a ban on disposal with reference to the assets of the management company;

g) employ an administrative agent with the functions set out in Art. 30 to replace the existing directors;

h) order the withdrawal of the management company's authorisation;

i) order the winding up of the management company.

2) The measures referred to in (1) d) to i) are, in derogation of Art. 963 (5) PGR, to be noted in the Commercial Register in the entry concerning the management company and the UCITS concerned, with a reference to the fact that the order is not yet legally valid and may, insofar as this is required for the protection of the investors and the public interest, be communicated to the investors and published on the FMA's website.[195]

3) The FMA may request an advance on costs from the management company for the measures referred to in (1) and (2). The obligation to pay an advance on costs may be linked to the measure. The advance shall be refunded if no legal infringements can be established. It may be retained if costs of at least the same amount can be expected due to further measures in accordance with (1) and (2).

4) The FMA shall consider the proportionality of means when selecting the measures referred to (1).

5) The Government may establish more specific regulations by Ordinance, in particular in respect of:

a) the duties of the observer referred to in (1) b);

b) the collaboration of the existing directors with the commissioner referred to in (1) c) and e);

c) the type of publication and communication to the investors referred to in (2);

d) more specific requirements concerning the selection of the observers, commissioners and administrative agents.

195 Art. 129a (2) amended by LGBl. 2016 no. 12.

Art. 130

Authorisation subject to conditions, binding statements and specimen documents

1) If it is not counter to the public interest the FMA may in appropriate cases, on request, grant one or more authorisations subject to conditions. Conditions may be of a formal, time-related or objective nature. The authorisation comes into effect upon fulfilment of the conditions. The FMA shall confirm that the authorisation has become effective on request.

2) Provided that the material facts are correctly and fully disclosed upon application, the FMA may respond to judgements concerning issues of law and fact, on request, by binding statements in advance. Provided that it is not counter to the public interest, the FMA shall be bound by a binding statement in the event of a subsequent interpretation of the facts and exercise of discretion to the extent of its written statements. Verbal statements do not establish any protection of legitimate expectations.

3) The FMA may approve and publish specimen documents for the approval of constitutive documents, and approval will be deemed to be granted if they are used, unless this is contrary to the public interest.

4) The FMA may charge separate fees for the measures and statements referred to in this Article.

5) The Government may establish more specific regulations by Ordinance.

Art. 131

Prospectus inspection

1) The inspection of prospectuses by the FMA is confined to verifying that:

a) the constitutive documents, or a reference address where they can be obtained, are enclosed;

b) the content of the prospectus complies with the minimum requirements set out in the Annex with regard to form;

c) an assurance on the part of the management of the management company is attached, confirming that any information of significance in the prospectus is correct and up-to-date;

d) insofar as they are attached, the annual reports have been certified by the auditor;

e) the prospectus is made available to the investors in accordance with the requirements of this Law.

2) If the sequence of the presentation in the prospectus differs from the order specified in the Annex or lists other bullet points, the management company shall submit a summary, showing the compliance with the requirements of the Annex.

3) The FMA is under no obligation to check the accuracy of the information in the prospectus.

Art. 132[196]

Liability of the FMA

The liability of the FMA under civil law is governed by Art. 21 of the Financial Market Authority Act.

C. Administrative assistance

1. Cooperation with domestic authorities, authorities of other EEA Member States, the ESMA and the EFTA Surveillance Authority[197]

Art. 133

Basic principle

1) In the exercise of its supervisory function, the FMA shall work together with other domestic authorities, the competent authorities of other EEA Member States, the ESMA and the EFTA Surveillance Authority.[198]

2) In the course of its cooperation with the ESMA, the EFTA Surveillance Authority and the competent authorities of other EEA Member States, it is authorised and obliged:[199]

a) to make use of its powers, even if the practice that is the subject of investigation does not represent a violation of Liechtenstein legal provisions;

196 Art. 132 amended by LGBl. 2013 no. 50.
197 Heading of Art. 133 amended by LGBl. 2016 no. 12.
198 Art. 133 (1) amended by LGBl. 2016 no. 12.
199 Art. 133 (2) introductory sentence amended by LGBl. 2016 no. 12.

b) to immediately provide the ESMA, the EFTA Surveillance Authority and the competent authorities of other EEA Member States with the information required for the exercise of their functions and powers.[200]

Art. 134

Common anti-abuse measures

1) If the FMA has reasonable grounds to assume that persons who are not subject to its supervision are, or have been in breach of EEA legal provisions in another EEA Member State, the FMA shall inform the competent authority of this fact as accurately as possible. The powers of the FMA are not affected.

2) If the FMA receives a notification according to the terms of (1) from the competent authority of another EEA Member State, it shall take appropriate measures and inform the reporting authority of the outcome of these measures and – as far as possible – of any significant developments occurring in the meantime.

3) The FMA shall inform the ESMA if a notification as referred to in (1) has been rejected or no answer has been received within a reasonable period of time.

Art. 135

On-site investigations conducted by the FMA in other EEA Member States

1) The FMA may request the competent authorities of another EEA Member State for cooperation in a monitoring operation, an on-site inspection or an investigation in the sovereign territory of this EEA Member State.

2) The FMA may inform the ESMA if a request:

a) for an inspection or an investigation on site, or an exchange of information has been declined, or did not produce any response within a reasonable time; or

b) for permission to accompany the competent authority has been rejected, or did not produce any response within a reasonable time.

200 Art. 133 (2) b) amended by LGBl. 2016 no. 12.

3) In other respects Art. 6 to 11 of Commission Regulation (EU) no. 584/2010 shall apply.

Art. 136

On-site investigations by competent authorities of another EEA Member State in Liechtenstein

1) If the FMA receives a request from the competent authority of another EEA Member State for cooperation in a monitoring operation, an on-site inspection or an investigation in Liechtenstein:

a) it shall conduct the inspection or investigation itself. The requesting authority may accompany the FMA;

b) it shall permit the requesting authority to conduct the inspection or investigation. The FMA shall accompany the requesting authority; or

c) it shall instruct auditors or experts to conduct the inspection or investigation.

2) The FMA may decline a request for exchange of information or cooperation in an investigation or inspection on site, if:

a) the investigation, the on-site inspection or the exchange of information might compromise the sovereignty, the security or public order of Liechtenstein;

b) court proceedings are pending or a final judgement has already been passed against the person in question in respect of the same offences in Liechtenstein.

3) The requesting authority must be informed of the rejection and the reasons for it.

4) In other respects Art. 6 to 11 of Commission Regulation (EU) no. 584/2010 shall apply.

5) The Government may establish more specific regulations by Ordinance.

Art. 137

Mediation of disputes between the FMA and the competent authorities of other EEA Member States

The FMA shall use the mechanisms established by the ESMA for the mediation of disputes, if the FMA and the competent authority of another

EEA Member State differ in their opinion with regard to official measures, rights and obligations under this Law.

Art. 138

Exchange of information

1) The FMA shall exchange information with other domestic authorities or the competent authorities of other EEA Member States, if these authorities:

a) are responsible for the supervision of banks, credit institutions, investment firms, insurance undertakings or other financial institutions or the supervision of financial markets;

b) are involved in the winding up, insolvency proceedings or similar proceedings in respect of a UCITS and undertakings that contribute to its business activity;[201]

c) are responsible for the supervision of persons responsible for inspection of the accounting of insurance undertakings, banks, credit institutions, investment firms or other financial institutions.

1a) The FMA shall also exchange information with the ESMA, the EFTA Surveillance Authority, the EBA, the EIOPA and the ESRB.[202]

2) The FMA may, for the purpose of protecting the stability and integrity of the financial system, also exchange information with competent authorities in Liechtenstein, in EEA Member States and Switzerland, other than those referred to in (1).

3) The disclosure of information communicated in the course of an exchange of information referred to in (1), (1a) and (2), is permissible, if:[203]

a) the information is used only to perform the specific supervisory function;

b) professional confidentiality pursuant to Art. 126 is respected;

c) for information that has been communicated by the competent authority of another EEA Member State, its consent to disclosure has been given. On behalf of the competent domestic authorities in accordance with (1) and (3) the FMA shall inform the communicating authorities of the name and exact function of the persons to whom the information in question is to be sent.

201 Art. 138 (1) b) amended by LGBl. 2020 no. 397.

202 Art. 138 (1a) inserted by LGBl. 2016 no. 12.

203 Art. 138 (3) introductory sentence amended by LGBl. 2016 no. 12.

4) The FMA may inform the ESMA if a request for exchange of information pursuant to Art. 119 has been rejected or did not produce any response within a reasonable time.[204]

Art. 139

Disclosure of information to central banks and similar institutions

1) The FMA shall exchange information with central banks of other EEA Member States and other institutions with similar functions that will assist them in the performance of their duties, in their capacity as monetary authorities.

2) The FMA shall exchange information that is covered by professional confidentiality as set out in Art. 126, with a clearing house or a similar recognised body for the provision of clearing or settlement services in Liechtenstein, provided that this information is required in order to guarantee the proper functioning of these bodies in the event of infringements – or potential infringements – by market participants. The FMA may only disclose information communicated in the course of exchange of information by competent authorities of other EEA Member States, with the express consent of the communicating authorities.[205]

3) The information communicated under (1) and (2) is subject to professional confidentiality (Art. 126).

4) The Government may establish more specific regulations by Ordinance.

2. Cooperation with competent authorities of third countries

Art. 140

Exchange of information with the competent authorities of third countries

The FMA may exchange information with the competent authorities of third countries, provided that the disclosure of information is necessary for the protection of investors and the public interest. Art. 138 and 139 shall apply mutatis mutandis.

204 Art. 138 (4) inserted by LGBl. 2016 no. 12.
205 Art. 139 (2) amended by LGBl. 2016 no. 55.

XIV. Right of appeal, procedures and extrajudicial dispute resolution

Art. 141

Right of appeal and procedures

1) Appeals may be lodged against decisions and orders of the FMA with the FMA Complaints Commission within 14 days of delivery.

2) If no decision is taken in respect of a full application for authorisation of a management company, or a self-managed investment company, within three months from receipt, an appeal may be lodged with the FMA Complaints Commission.

3) Appeals may be lodged against decisions and orders of the FMA Complaints Commission with the Administrative Court of Liechtenstein within 14 days of delivery.

4) In the interests of the investors or on their initiative, the Office of Economic Affairs shall have all legal rights of recourse and remedies at its disposal in order to ensure that the provisions of this Law are applied.[206]

5) Unless specified otherwise in this Law, the proceedings shall be subject to the provisions of the National Administration Act.

Art. 142

Extrajudicial mediation body

1) The Government shall appoint a mediation body by Ordinance for the resolution of disputes between investors, management companies, self-managed UCITS and depositaries.

2) The function of the mediation body is to mediate in disputes between the parties in an appropriate manner and thereby bring about agreement between the parties.

3) If agreement cannot be reached between the parties, they shall be referred to the ordinary courts for due process of law.

206 Art. 141 (4) amended by LGBl. 2013 no. 50.

4) The Government shall establish more specific regulations by Ordinance, in particular the organisational structure, composition and the procedure. It may establish different rules for professional and private clients in such Ordinance.

XV. Criminal provisions

Art. 143

Offences[207]

1) The following shall be punished for an offence by the Princely Court of Justice with a custodial sentence of up to two years:[208]

a) a board member or employee or person acting in another capacity for a UCITS, or a management company, or a person acting as auditor who knowingly violates the obligation of confidentiality or induces or seeks to induce such violation;

b) any person who manages a UCITS or markets its units in Liechtenstein without authorisation, or accepts or holds assets of third parties for that purpose;

c) any person who knowingly makes false statements or withholds essential information in the prospectuses, periodic reports or key information for investors and the reports and notifications to the FMA, or other competent supervisory authorities of EEA Member States, or of third countries.

2) The following shall be punished for an offence by the Princely Court of Justice with a custodial sentence of up to one year, or a fine of up to 360 daily units:[209]

a) any person who is in breach of FMA requirements in connection with an authorisation;

b) any person who uses designations contrary to Art. 12 (4);

c) any person who fails to provide information to the FMA or the auditor, or gives them false or incomplete information;

207 Art. 143 heading amended by LGBl. 2016 no. 12.
208 Art. 143 (1) introductory sentence amended by LGBl. 2016 no. 12.
209 Art. 143 (2) introductory sentence amended by LGBl. 2016 no. 12.

d) any auditor in gross breach of his obligations, who in particular, knowingly makes untrue statements or withholds essential facts in his report, or fails to make a prescribed request to the management company, or fails to issue prescribed reports and notifications;

e) any board member of a management company or a self-managed investment company who fails in the obligation to segregate assets pursuant to Art. 21 (4) and to transfer the assets to a depositary pursuant to Art. 32 (1);[210]

f) any person who fails to maintain proper business accounts or fails to keep business accounts, documents and receipts in safekeeping;

g) any person in breach of capital adequacy requirements pursuant to Art. 17.

3) The responsibility of legal persons for an offence referred to in (1) or (2) is governed by §§ 74a et seq. of the Criminal Code.[211]

4) If the Princely Court of Justice is competent in the same case on account of an offence in the Criminal Code or one mentioned in this Article, the Princely Court of Justice shall also be competent instead of the FMA for the prosecution of infringements referred to in Art. 143a. Competence shall revert to the FMA if the proceedings are terminated by the Princely Court of Justice.[212]

5) If several criminal offences should coincide, Art. V (5) of the Criminal Law Adjustment Act shall apply with the proviso that:[213]

a) the special sentencing guidelines of Art. 143b for offences and infringements referred to in this Article and Art. 143a are to be applied, as well as the financial penalty criteria referred to in Art. 143a; and

b) the term of imprisonment replacing a fine that is uncollectible in the case mentioned in Art. 143a (1) may not exceed two years, and in the case referred to in Art. 143a (2), one year.

6) A conviction under this Article is not binding for the civil court judges with reference to the assessment of guilt and illegality, and the determination of the loss.[214]

7) In the event of negligence the upper limits stated in (1) and (2) shall be reduced by half.[215]

210 Art. 143 (2) e) amended by LGBl. 2016 no. 12.
211 Art. 143 (3) amended by LGBl. 2016 no. 12.
212 Art. 143 (4) amended by LGBl. 2016 no. 12.
213 Art. 143 (5) amended by LGBl. 2016 no. 12.
214 Art. 143 (6) inserted by LGBl. 2016 no. 12.
215 Art. 143 (7) inserted by LGBl. 2016 no. 12.

8) The statute-barred period for prosecution shall be three years.[216]

Art. 143a[217]

Infringements

1) The following will be sanctioned by the FMA for infringement by fines as stated in (3), provided that the act does not form the basis of a criminal offence falling within the remit of the courts:

a) any person who has obtained an authorisation through false statements or in another way that is fraudulent;

b) any person who substantially and systemically violates the provisions on risk management(Art. 23).

2) The following will be sanctioned by the FMA for infringement, by fines of up to 200 000 Francs, provided that the act does not form the basis of a criminal offence falling within the remit of the courts:

a) any person failing to make periodic reports to the FMA and investors in the manner specified, or submitting them late or not at all;

b) any person who fails to have an ordinary audit or an audit ordered by the FMA carried out;

c) any person in breach of their obligations to the auditors;

d) any person who fails to submit the prescribed reports, announcements and notifications to the FMA or competent authorities of another EEA Member State, or whose reports, announcements and notifications are incorrect or late;

e) any person who fails to comply with the request to restore the legal status or other order from the FMA;

f) any person failing to comply with a request for cooperation in investigative proceedings conducted by the FMA;

g) any person in breach of the requirements for marketing notifications set out in Art. 4 of Regulation (EU) 2019/1156;[218]

h) any person who does not comply with the code of conduct (Art. 20);

i) any person who, in breach of Art. 21, fails to employ and maintain effective organisational and administrative arrangements to prevent the negative impact on customer interests through conflicts of interest;

216 Art. 143 (8) inserted by LGBl. 2020 no. 9.

217 Art. 143a amended by LGBl. 2016 no. 12.

218 Art. 143a (2) g) amended by LGBl. 2021 no. 229.

k) any person who presents the key information for investors, or other brief information concerning UCITS, specifically addressed to private clients in a form that in all probability will not be understood by private clients;

l) any person who makes statements in the key information for investors concerning the key features of the UCITS in accordance with Art. 80 (3), that are inaccurate, incomplete, incomprehensible or late, or fails to make such statements;

m) any auditor in breach of his obligations under this Law, in particular pursuant to Art. 93 (3), Art. 94 (1) and (3) and Art. 95 (1) and (2);

n) any person who, in breach of Art. 11 (1) fails to apply for approval of changes to the constitutive documents or, in breach of Art. 11 (3), fails to report, or inaccurately or belatedly reports a change in the auditor or a director of the depositary;

o) any interested purchaser who, in breach of Art. 19 (1) fails to address a written notification to the FMA;

p) any management company that in breach of Art. 19 (3) fails:

1. to inform the FMA of the acquisition or disposal of holdings with reference to its capital, of which it has become aware, that exceed or fall below the thresholds stated in Art. 19 (1);

2. to inform the FMA at least once a year of the names of the unitholders and shareholders who hold qualifying holdings and the amount of their respective holdings;

q) any management company that fails to meet the requirements with regard to delegation of functions set out in Art. 22;

r) any management company that fails to meet the requirements with regard to risk management set out in Art. 23 and repeatedly fails in its duties with reference to the investment strategy referred to in Chapter VI;[219]

s) any depositary that fails to perform its duties set out in Art. 33;

t) any management company or self-managed investment company that repeatedly fails to meet the requirements in respect of investor information set out in Chapter VIII;

t[bis]) any person who is in breach of the obligation to make facilities and investor information available under Art. 96;[220]

219 Art. 143a (2) r) amended by LGBl. 2021 no. 229.

220 Art. 143a (2) tbis) inserted by LGBl. 2021 no. 229.

u) any management company that fails to send the FMA the notification referred to in Art. 98 (1)

v) any person who is in breach of Regulation (EU) 2017/1131 by:[221]

1. contrary to Art. 4, having obtained authorisation of money market funds through false statements or any other irregular means;
2. contrary to Art. 6, using the designation "money market fund" or "MMF";
3. contrary to Art. 9 to 16, failing to comply with any of the requirements regarding asset composition;
4. contrary to Art. 17, 18, 24 or 25, failing to comply with any of the portfolio requirements;
5. contrary to Art. 19 or 20, failing to comply with any of the requirements regarding the internal credit quality assessment;
6. contrary to Art. 21, 23, 26 to 28 or 36, failing to comply with any of the governance, documentation or transparency requirements;
7. contrary to Art. 29 to 34, failing to comply with any of the requirements regarding valuation; or
8. contrary to Art. 37, failing to comply with any of the reporting requirements.

3) The amount of the fines referred to in (1) shall be:

a) for legal persons, up to 6 million francs or up to 10 % of the legal person's total annual turnover, as stated in the last available financial statements approved by the management body; for a parent company or a subsidiary of the parent company that is obliged to produce consolidated financial statements in accordance with Directive 2013/34/EU, the relevant total turnover shall be the total annual turnover or the equivalent category of income, in accordance with the relevant EEA Law in the field of accounting, stated in the last available consolidated financial statements approved by the management body of the parent company that is at the head of the group;

b) for natural persons, up to 6 million francs or at least double the amount of the benefit from the infringement, insofar as it can be determined in figures, even if this amount exceeds the maximum amount of 6 million francs.

4) The FMA shall impose fines in accordance with (2) and (3) a), if the infringements referred to in (1) and (2) are committed in the course of the normal business of the legal person (underlying offence) by persons acting

221 Art. 143a (2) v) inserted by LGBl. 2020 no. 322.

either alone or as a member of the Board of Directors, the management, the managing board or the supervisory board of the legal person, or on the basis of another management position within the legal person, through which they:

a) are authorised to represent the legal person outside its organisation;

b) exercise powers of control in an executive position; or

c) otherwise exercise a considerable influence over the management of the legal person.

5) For infringements referred to in (1) and (2), committed by employees of the legal person, without them being personally at fault, the legal person shall be responsible even if the infringement was made possible or substantially facilitated by the fact that the persons mentioned in (4) have failed to take the necessary and reasonable measures to prevent such underlying offences.

6) The responsibility of the legal person for the underlying offence and the criminal culpability of the persons mentioned in (4) or of employees referred to in (5) for the same offence, are not mutually exclusive. The FMA may refrain from imposing a penalty on a natural person, if a fine has already been imposed on the legal person for the same offence and there are no special circumstances that would make it inappropriate not to impose a penalty.

7) A conviction under this Article is not binding for the civil court judges with reference to the assessment of guilt and illegality, and the determination of the loss.

8) In the event of negligence the upper limits stated in (1) to (3) shall be reduced by half.

9) The statute-barred period for prosecution shall be three years.[222]

Art. 143b[223]

Proportionality and imperative of efficiency

1) In the imposition of penalties pursuant to Art. 143 and 143a, the Princely Court of Justice and the FMA shall consider:

a) with reference to the infringement in particular:

1. its severity and duration;

222 Art. 143a (9) inserted by LGBl. 2020 no. 9.

223 Art. 143b inserted by LGBl. 2016 no. 12.

2. the profits achieved and losses prevented, insofar as they can be determined in figures;
3. third party losses, insofar as they can be determined in figures;
4. possible effects relevant to the system;

b) with reference to the natural or legal persons responsible for the infringement, in particular:
1. the degree of responsibility;
2. financial strength;
3. the willingness to cooperate with the FMA;
4. reports to the internal reporting system of a management company or depositary in accordance with Art. 21 (3a) or Art. 32 (2) no. 10 or the FMA's reporting system referred to in Art. 146a;
5. previous infringements and the measures taken to prevent a repetition of this infringement.

2) In other respects the General Section of the Criminal Code shall apply.

Art. 143c[224]

Disgorgement of benefit

1) If an infringement is committed pursuant to Art. 143a, thereby giving rise to a financial advantage, the FMA shall order the disgorgement of the financial benefit and oblige the beneficiary to pay a corresponding sum of money.

2) (1) shall not apply if the financial advantage is offset by compensation or other payments. If the beneficiary does not make such payments until after the disgorgement of benefits, the amount paid is to be refunded up to the amount of payments for which there is supporting evidence. The amount of the financial benefit may be estimated.

3) The disgorgement of benefits shall become statute-barred after a period of five years has passed since the end of the infringement.

4) The procedure shall be governed by the provisions of the National Administration Act.

5) Expiry in the event of offences referred to in Art. 143 (1) and (2) shall be governed by §§ 20 et seq. of the Criminal Code.

224 Art. 143c inserted by LGBl. 2016 no. 12.

Art. 144

Responsibility

If infringements are committed in the business operation of a legal person, a collective partnership, or limited partnership, or sole trader in connection with a UCITS, the criminal provisions shall apply to the persons who acted, or should have acted for them, but with the legal person, the company or the sole trader having joint and several liability for fines and financial penalties.

Art. 145[225]

Publication of sanctions and reporting to the ESMA

1) The FMA shall publish all legally enforceable fines and measures imposed and the results of the associated appeal proceedings on its website, immediately after the person on whom the penalty has been imposed has been informed of this decision. Such publication does not constitute a violation of professional confidentiality referred to in Art. 126. The publication - provided that no measures of an investigative nature are imposed with the decision - shall contain:

a) the type and nature of the infringement;

b) the respective name or legal style of the natural or legal person responsible.

2) If publication of the details referred to in (1) b) regarding identity would be disproportionate or would jeopardise the stability of the financial markets or current investigations, the FMA may:

a) only publish the decision once the reasons for not publishing it have ceased to apply;

b) publish the decision in an anonymous form; or

c) refrain from publishing the decision if the options stated in a) and b) are not deemed sufficient to ensure that:

   1. the stability of the financial markets will not be jeopardised;

   2. in the case of measures that can be deemed to be minor, proportionality can be guaranteed if such decisions are published.

225 Art. 145 amended by LGBl. 2016 no. 12.

3) The FMA may defer the publication referred to in (2) b) for a reasonable period of time, if the reasons for publication in an anonymous form can be expected to lapse in the course of this period of time.

4) The publication shall remain accessible on the website for at least five years. In this connection the publication of personal data contained therein is only to be maintained to the extent that one of the criteria of (2) would not otherwise be met.

5) The publication referred to in (1) shall be ordered by the FMA; this does not apply to publications issued in an anonymous form, as referred to in (2) b).

6) The FMA shall send the ESMA an annual summary of all the penalties and fines imposed in accordance with Art. 143 and 143a, as well as any appeals associated therewith, and the results of these appeal proceedings. Publications in accordance with (1) are also to be reported to the ESMA, including in cases where a decision is not published pursuant to (2) c).

Art. 146[226]

Cooperation

1) The courts shall send the FMA a complete copy of all rulings and discontinuation orders that concern members of the administration or management of management companies and auditors. Likewise the Public Prosecution Service shall notify the FMA of discontinued proceedings and alternative settlements.

2) The FMA has the right to request specific information from the Public Prosecution Service and the courts concerning criminal investigations or proceedings, that have been opened in respect of alleged infringements against this Law; the FMA shall comply with similar requests for information from the competent supervisory authorities of other EEA Member States or from the ESMA, as part of its duty of cooperation for the purposes of this Law.

3) The FMA may work with the competent authorities of other EEA Member States to facilitate the collection of fines.

4) The FMA may only refuse a request for information or a request for cooperation in an investigation from a competent authority in another EEA Member State, if:

226 Art. 146 amended by LGBl. 2016 no. 12.

a) the provision of the relevant information might compromise the security of Liechtenstein, in particular in the fight against terrorism and other serious crimes;

b) this would be likely to compromise its own investigations, enforcement measures or any criminal investigations;

c) court proceedings are already pending against the same person in respect of the same actions in Liechtenstein; or

d) a final judgement has already been passed against the same person in respect of the same actions in Liechtenstein.

Art. 146a[227]

Reporting of violations of the Law

1) The FMA shall set up a reliable and effective reporting system, through which potential or actual violations of provisions of this Law, and the ordinances issued in association therewith, can be reported via a publicly accessible, secure reporting line.

2) The reporting system shall comprise as a minimum:

a) special procedures for receiving reported violations and for following them up;

b) appropriate protection for employees of management companies, self-managed investment companies and depositaries, who report infringements committed within these companies or agencies, at the very least against retaliation measures, discrimination and other forms of unfair treatment;

c) protection of personal data in accordance with data protection legislation, both for the person who reports the infringements and the natural person who is alleged to be responsible for the infringement;[228]

d) clear provisions to ensure that confidentiality is guaranteed with reference to the person who reports a violation, unless disclosure of the information is necessary in connection with a prosecution, court proceedings or administrative proceedings.

3) If employees of management companies, self-managed investment companies or depositaries report an incident to the FMA or the ESMA, this shall not constitute a breach of a contractual or statutory obligation

227 Art. 146a inserted by LGBl. 2016 no. 12.

228 Art. 146a (2) c) amended by LGBl. 2018 no. 302.

of confidentiality, nor result in any liability for the reporting person in this respect.

4) The Government may establish more specific regulations by Ordinance.

XVI. Transitional and Final Provisions

Art. 147

Implementation ordinances

The Government shall enact the required ordinances for the implementation of this Law.

Art. 148

Electronic provision of legal texts

The FMA shall make this Law and the implementing ordinances issued in connection therewith available for retrieval in the version currently applying, in German and English, on its website or a website that can be reached via a link from its website. The Government shall establish who shall arrange for the translation of the legal texts by Ordinance.

Art. 149

Transitional provisions

1) UCITS and their management companies already authorised in Liechtenstein before this Law comes into effect and falling within the scope of this Law, shall be deemed to be authorised for the purposes of this Law and may continue their operations in accordance with the provisions of this Law.

2) The simplified prospectus shall be replaced by the Key Information for Investors pursuant to Art. 80 to 84 (KIID) by 1st July 2012.

3) Until repeal of the Investment Undertaking Act, management companies that manage both UCITS and other undertakings for collective investment shall comply with the provisions applying to the relevant undertaking for collective investment.

4) Management companies that have already obtained authorisation to manage UCITS in the form of an investment fund or an investment company in their home Member State, prior to 13th February 2004, in accordance with Directive 85/611/EEC, shall be deemed to be authorised for the purposes of this Law, if the statutory provisions of this EEA Member State provide that in order to commence such operations, the companies must satisfy conditions equivalent to the conditions of authorisation under this Law and/or Art. 7 and 8 of Directive 2009/65/EC.

5) In derogation of Art. 10 (4) to (6), up to 30th April 2012 the time allowed for the FMA to process applications for the authorisation of UCITS and the addition of sub-funds shall be six weeks from receipt of the full application. The de facto approval upon the expiry of the time limit referred to in Art. 10 (6) shall only apply to applications received by the FMA after 30th September 2012.

6) In derogation of Art. 16 (4) and (5) and Art. 98 (3) b), up to 30th June 2014 the time allowed for the FMA to process applications:

a) for the authorisation of management companies and the first authorisation of self-managed investment companies pursuant to Art. 16 shall be three months from receipt of the full application; and

b) for the remittance of the documents to the competent authorities of the state of marketing referred to in Art. 98, ten working days from receipt of the notification letter and the full set of documents.

7) The existing law shall apply to proceedings already pending when this Law comes into effect.

Art. 150

Entry into force

Provided that the referendum deadline expires unutilised this Law shall enter into force on 1st August 2011, otherwise on the day of announcement.

By proxy for the Prince of Liechtenstein:
signed *Alois*
Hereditary Prince

signed *Dr. Klaus Tschütscher*
Head of the Princely Government

Annex[229]
(Art. 65, 71, 131)

Prospectus breakdown and information that must be included in periodic reports

I. Prospectus breakdown (Schedule A)

1. Information about the investment fund	1. Information about the management company with a note stating whether the management company is established in a different EEA Member State from the home Member State of the UCITS	1. Information about the investment company
1.1. Designation	1.1. Designation or style, legal form, registered office and location of the central administration if this is not the same as the registered office.	1.1. Designation or style, legal form, registered office and location of the central administration if this is not the same as the registered office
1.2. Date on which the investment fund was established. Information about the duration, if this is limited	1.2. Date on which the company was established. Information about the duration, if this is limited	1.2. Date on which the company was established. Information about the duration, if this is limited

229 Annex amended by LGBl. 2016 no. 12.

	1.3. If the company manages other investment funds, information about these other investment funds	1.3. Information about the sub-funds, if the investment companies have different sub-funds
1.4. Details of the place where the contractual conditions, if they are not annexed, and the periodic reports may be obtained.		1.4. Details of the place where the instruments of incorporation, if they are not annexed, and the periodic reports may be obtained.
1.5. Brief details of the tax rules applying to the investment fund, if they are of significance for investors. An indication of whether deductions are made at source from the income and capital gains paid to investors from the investment fund		1.5. Brief details of the tax rules applying to the company, if they are of significance for investors. An indication of whether deductions are made at source from the income and capital gains paid by the company to investors.
1.6. Closing date for the annual financial statements and frequency of distributions		1.6. Closing date for the annual financial statements and frequency of dividend distributions.
1.7. Names of the persons responsible for verifying the figures specified in Art. 70		1.7. Names of the persons responsible for verifying the figures specified in Art. 70
	1.8. Names and positions of the members of the administrative, management and supervisory bodies. Details	1.8. Names and positions of the members of the administrative, management and supervisory bodies. Details

	of the main functions of these individuals outside the company, if these are of significance for that company	of the main functions of these individuals outside the company, if these are of significance for that company
	1.9. Capital: Amount of capital subscribed and an indication of the capital paid up	1.9. Capital
1.10. Details of the types and main features of the units, in particular: - the nature of the right (material, claim-related or other right) represented by the unit - Original securities or certificates providing evidence of title, entry in a register or on an account - Characteristics of the units: Registered or bearer instruments, details of denominations, if applicable - Description of the investors' voting rights, if such rights exist - Conditions under which the winding up of the investment fund can be decided on and details of the		1.10. Details of the types and main features of the units, in particular: - Original securities or certificates providing evidence of title, entry in a register or on an account - Characteristics of the units: Registered or bearer instruments, details of denominations, if applicable - Description of the investors' voting rights - Conditions under which the winding up of the investment company can be decided on, and details of the winding up procedure, in particular with regard to investors' rights

winding up procedure, in particular with regard to investors' rights		
1.11. Where applicable, details of the stock exchanges or markets on which the units are listed or traded		1.11. Where applicable, details of the stock exchanges or markets on which the units are listed or traded
1.12. Procedures and conditions for the issue and/or sale of units		1.12. Procedures and conditions for the issue and/or sale of units
1.13. Procedures and conditions for redemption or repurchase of units and the circumstances under which redemption or repurchase may be suspended		1.13. Procedures and conditions for redemption or repurchase of units and the circumstances under which redemption or repurchase may be suspended. In the case of investment companies having different sub-funds, information about how an investor can change from one sub-fund to another, and the associated costs
1.14. Description of the rules for determining and applying income		1.14. Description of the rules for determining and applying income
1.15. Description of the investment objectives of the investment fund, including the financial		1.15. Description of the investment objectives of the company, including the financial objectives

objectives (e.g. capital or revenue growth), the investment policy (e. g. specialisation in geographical areas or economic sectors), any restrictions in this investment policy, as well as details of any techniques and instruments or borrowing powers that may be utilised in the management of the investment fund		(e.g. capital or revenue growth), the investment policy (e. g. specialisation in geographical areas or economic sectors), any restrictions in this investment policy, as well as details of any techniques and instruments or borrowing powers that may be utilised in the management of the company
1.16. Rules on the valuation of assets		1.16. Rules on the valuation of assets
1.17. Determination of the issue or sale price and the redemption or repurchase price of the units, in particular: - Method and frequency of the calculation of these prices - An indication of the costs associated with the sale, issue, redemption or repurchase of the units - Details of the means, place and frequency of the publication of those prices		1.17. Determination of the issue or sale price and the redemption or repurchase price of the units, in particular: - Method and frequency of the calculation of these prices - An indication of the costs associated with the sale, issue, redemption or repurchase of the units - Details of the means, place and frequency of the publication of those prices ([1])
1.18. Information concerning the		1.18. Information concerning the

method, amount and calculation of the remuneration payable by the investment fund for the management company, the depositary or third parties and the reimbursement of costs to the management company, the depositary or third parties by the investment fund		method, amount and calculation of the remuneration payable by the company to its directors and the members of the administrative, management and supervisory bodies, to the depositary or third parties and the reimbursement of costs to the directors of the company, the depositary or third parties by the company
(1) The investment companies mentioned in Art. 32 (5) of Directive 2009/65/EC shall also state - the method and frequency of calculation of the net asset value of the units; - the means, place and frequency of the publication of that value; - the stock exchange in the state of marketing, on which the quotation determines the price of the transactions effected outside stock exchanges in that country.		

2. Information about the depositary:
   2.1. Identity of the depositary of the UCITS and description of its duties, as well as the conflicts of interest that may arise;
   2.2. Description of the custodial functions delegated by the depositary, list of the delegates and sub-delegates together with an indication of any conflicts of interest that may arise from the delegation of functions;
   2.3 Confirmation that the investors will be provided with up-to-date information with reference to nos. 2.1 and 2.2 on request.
3. Information about the external consultancy firms or investment advisors, if their services are used on the basis of a contract and are paid for out of the UCITS assets:
   3.1. Name of the firm or advisor;
   3.2. Details of the contract with the management company or the investment company that are of interest to investors; this excludes details of remuneration;

3.3. Other activities of significance.

4. Information concerning the arrangements for making payments to investors, redeeming or repurchasing units and making available information concerning the UCITS. Such information must in any case be given in the EEA Member State in which the UCITS is established. In addition, if units are marketed in another EEA Member State, such information is to be given in respect of that EEA Member State in the prospectus published there.
5. Other investment information:
   5.1. Historical performance of the UCITS, where applicable; such information may either be included in the prospectus or attached to it;
   5.2. Profile of the typical investor for whom the UCITS is designed.
6. Financial information:
   6.1. Any costs or fees, other than those mentioned in no. 1.17, broken down into those to be paid by the investor and those to be paid out of the UCITS' assets.

II. Information to be included in the periodic reports (Schedule B)

1. Statement of assets and liabilities:
   1.1 transferable securities;
   1.2 bank balances;
   1.3 other assets;
   1.4 total assets;
   1.5 liabilities;
   1.6 net asset value;
2. Number of assets in circulation;
3. Net asset value per unit;
4. Portfolio, distinguishing between:
   4.1 transferable securities admitted to official listing on a stock exchange;
   4.2 transferable securities traded on another regulated market;
   4.3 recently issued transferable securities of the type referred to in Art. 51 (1) b);
   4.4 other transferable securities of the type referred to in Art. 51 (2) a).

An analysis is to be provided, in accordance with the most appropriate criteria in the light of the UCITS' investment policy (e. g. in accordance with economic, geographic or currency criteria, etc.) on the basis of a percentage of net assets; for each of the above-mentioned securities the proportion it represents in the total assets of the UCITS is to be stated. Changes in the composition of the portfolio during the reporting period shall also be stated;

5. Statement on the evolution of assets of the UCITS during the reporting period, to include the following:
   - 5.1 income from investments;
   - 5.2 other income;
   - 5.3 expenditure on management;
   - 5.4 expenditure on the depositary;
   - 5.5 other expenses and charges;
   - 5.6 net income;
   - 5.7 distributions and income reinvested;
   - 5.8 increase or decrease in the capital account;
   - 5.9 appreciation or depreciation of investments;
   - 5.10 any other changes affecting the assets and liabilities of the UCITS;
   - 5.11 transaction costs (costs incurred by the UCITS in connection with transactions in its portfolio);
6. Comparative summary of the last three financial years, stating, at the end of each financial year, the following:
   - 6.1 total net asset value;
   - 6.2 net asset value per unit;
7. Statement of the amount of outstanding liabilities arising from transactions defined in Art. 53, conducted by the UCITS during the reporting period, broken down according to the category.
8. Information on the remuneration principles and practices referred to in Art. 71 (2a).

Transitional Provisions

951.31 Law concerning specific undertakings for collective investment in transferable securities (UCITSG)

Liechtenstein Legal Gazette
2014 No. 355 issued on 23 December 2014

Law
of 7 November 2014
concerning the amendment of the Law concerning specific undertakings for collective investment in transferable securities

. . .

II.
Transitional provision

Management companies that are authorised for the provision of services in accordance with Art. 14 (2) a) and b) at the time at which this Law[230] comes into effect, may continue to engage in their activities if they sign up to a system for the compensation of investors, no later than nine months after this Law comes into effect. Proof of this is to be supplied to the FMA immediately. Art. 28 (1) a) UCITSG shall apply if this time limit is not observed.

. . .

230 Entry into force: 1 February 2014.

Liechtenstein Legal Gazette
2016 No. 12 issued on 28 January 2016

Law

of 2 December 2015

concerning the amendment of the Law concerning specific undertakings for collective investment in transferable securities

. . .

II.

Transitional provisions

1) Management companies that hold an authorisation at the time at which this Law comes into effect[231] shall, within one year, establish and implement remuneration principles and practices, as set out in Art. 20a and 20b and incorporate information on the subject, as set out in Art. 71 (1a) and (2a), in their prospectus and/or financial statements, and in accordance with Art. 80 (4a), in the key information for investors (KIID). The remuneration principles and practices, together with the prospectuses and KIID are to be submitted to the FMA within the period allowed.

2) Management companies that hold an authorisation at the time at which this Law comes into effect shall set up a special, independent, autonomous reporting line, as referred to in Art. 21 (1), within 6 months and immediately provide the FMA with evidence that it has been set up. Depositaries as referred to in Art. 32(2) c) no. 8 shall also meet this same commitment within the same time limit.

231 Entry into force: 18 March 2016.

3) If at the time this Law comes into effect management companies, or self-managed investment companies acting for the UCITS under their management, have already appointed an institution that does not meet the requirements set out in Art. 32 (2) as their depositary, they shall appoint a depositary that does meet these requirements by 18 March 2018.

4) Management companies or self-managed investment companies shall adjust the contents of their prospectuses already in existence at the time this Law comes into effect to comply with Annex no. I sub-section 2 within one year and submit them to the FMA within the period allowed.

5) The existing Law shall apply to proceedings pending at the time this Law comes into effect.

. . .

IV.

Entry into Force

1) Provided that the referendum deadline expires unutilised this Law shall enter into force on 18 March 2016, otherwise on the day after promulgation.

2) Art. 23 (2) b) and no. III b) shall enter into force at the same time as the Decision of the EEA Joint Committee concerning the incorporation of Directive 2013/14/EU.[232]

3) No. III a) shall enter into force at the same time as the Decision of the EEA Joint Committee concerning the incorporation of Directive 2010/78/EU, no. III c) shall enter into force at the same time as the Decision of the EEA Joint Committee concerning the incorporation of Directive 2014/91/EU.

. . .

232 Entry into force: 1 January 2020 (LGBl. 2019 no. 336).

Liechtenstein Legal Gazette
2020 no. 9 issued 29 January 2020

Law
of 4 December 2019
on the amendment of the Law concerning specific undertakings for collective investment in transferable securities

. . .

II.
Transitional provisions

1) Constitutive documents of a UCITS existing at the time this law [233] comes into force shall be adjusted to comply with the new law within five years from the coming into force of this Law.

2) Investment companies that have already been authorised before this Law comes into force in the legal form of an Establishment, require the recognition of the FMA pursuant to Art. 4 (3) provided there is no change to another legal form regulated by law. A relevant application must be submitted within three months from the coming into force of this Law.

. . .

233 Entry into force: 1 February 2020.

Liechtenstein Legal Gazette
2020 no. 322 issued 27 October 2020

Law
of 3 September 2020
on the amendment of the Law concerning specific undertakings for collective investment in transferable securities

. . .

II.
Entry into force

This Law shall enter into force at the same time as Decision of the EEA Joint Committee No 22/2020 of 7 February 2020 amending Annex IX (Financial Services) to the EEA Agreement.[234]

. . .

234 Entry into force: 2 August 2021 (IV. Coordination provision LGBl. 2021 no. 229).

Liechtenstein Legal Gazette
2021 no. 229 issued 6 July 2021

Law
of 6 May 2021
on the amendment of the Law concerning specific undertakings for collective investment in transferable securities

. . .

IV.
Coordination provision

The Law of 3 September 2020 on the amendment of the Law concerning specific undertakings for collective investment in transferable securities, LGBl. 2020 no. 322, shall enter into force at the same time as this Law.

V.
Entry into force

1) Provided that the referendum period expires without a referendum being called, this Law shall enter into force on 2 August 2021, otherwise on the day after its promulgation.

2) Article 1 (3) e) and Chapter II (Transposition of EEA acts) shall enter into force at the same time as the Decision of the EEA Joint Committee No 53/2021 of 5 February 2021 amending Annex IX (Financial services) to the EEA Agreement.

. . .