

Translation of Liechtenstein Law

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Ordinance

of 22 March 2016

**concerning the Managers of Alternative
Investment Funds (AIFMV)**

On the basis of Art. 3 (11), Art. 4 (2), Art. 5 (1), Art. 6 (2), Art. 7 (4) and (8), Art. 8 (4) and (6), Art. 9 (4) and 12, Art. 10 (3) and (9), Art.13 (4), Art. 16 (2), Art. 17 (5), Art. 19 (7), Art. 20 (3), Art. 21 (4), Art. 22 (5), Art. 24 (6), Art. 25 (4), Art. 29 (7), Art. 30 (5), Art. 31 (10), Art. 32 (10), Art. 33 (6), Art. 34 (4), Art. 35 (3), Art. 36 (3), Art. 37 (4), Art. 38 (3), Art. 39 (1), Art. 40 (2), Art. 45, 46 (7), Art. 55 (4), Art. 56 (4), Art. 64, 66 (2), Art. 67 (5), Art. 70 (4), Art. 71 (5), Art. 76 (6), Art. 79 (6), Art. 80 (9), Art. 81 (6), Art. 82 (4), Art. 83 (7), Art. 84 (8), Art. 86 (6), Art. 87 (2), Art. 88 (3), Art. 90, 91 (1) and (2), Art. 95 (5), Art. 96 (6), Art. 101 (2), Art. 102 (3), Art. 103 (7), Art. 104 (6), Art. 105 (4), Art. 106 (3), Art. 107 (9), Art. 108, 110 (7), Art. 111 (4), Art. 113 (3), Art. 115 (3) and (6), Art. 116 (4), Art. 120 (4), Art. 122 (7), Art. 124 (3), Art. 125 (3), Art. 130 (2), Art. 134 (4), Art. 149 (3), Art. 150 (4), Art. 157 (3) to (5), Art. 160 (1) and (2), Art. 175 (1) and (4), Art. 181, 182 and 186 (2) of the Law of 19 December 2012 concerning the Managers of Alternative Investment Funds (AIFMG), LGBL 2013 No. 49, in its current version, the Government decrees:

I. General Provisions**A. Object, purpose, scope of validity and definition of terms**

Art. 1

Object, purpose and applicable law

1) In implementation of the AIFMG this Ordinance sets out specific details regarding the taking up, pursuit and oversight of the business of

managers of alternative investment funds (AIFMs) and of alternative investment funds (AIFs).

2) It serves to transpose Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on the Managers of Alternative Investment Funds and to amend Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010 (Official Journal L 174 of 1.7.2011, p. 1).

3) The following provisions shall also apply:

- a) Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ. L 83 of 22.3.2013, p. 1);
- b) Commission Implementing Regulation (EU) No. 447/2013 of 15 May 2013 establishing a procedure for AIFMs, which choose to opt in under Directive 2011/61/EU of the European Parliament and of the Council (OJ. L 132 of 16.5.2013, p. 1);
- c) Commission Implementing Regulation (EU) No. 448/2013 of 15 May 2013 establishing a procedure for determining the Member State of reference of a non-EU AIFM pursuant to Directive 2011/61/EU of the European Parliament and of the Council (OJ. L 132 of 16.5.2013 p. 3);
- d) Commission Delegated Regulation (EU) No. 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards to determine types of alternative investment fund managers (OJ. L 183 of 24.6.2014, p. 18);
- e) Commission Delegated Regulation (EU) 2015/514 of 18 December 2014 on the information to be provided by competent authorities to the European Securities and Markets Authority pursuant to Art. 67 (3) of Directive 2011/61/EU of the European Parliament and of the Council (OJ. L 82 of 27.3.2015, p. 5).

4) Unless specified otherwise in this Ordinance the provisions applying to AIFMs shall apply to self-managed AIFs accordingly, with the proviso that the executive bodies of the AIF replace the AIFM.

Art. 2

Definition of terms and designations

1) Head Office for the purposes of the AIFMG shall mean the place where the main centre for the senior management of the business is located.

2) Investment firms as defined in Art. 2 (2) i) AIFMG are investment firms as defined in Art. 3 (2) Banking Act and all financial intermediaries that are authorised to manage financial instruments or trade in them on a regular basis.

3) Instructions according to the terms of Art. 96 (2) b) AIFMG applies to contractual relationships under civil law and other legal relationships that are to be understood as functionally equivalent to a contractual relationship, in particular structures with derivatives and agreements for the exercise of voting rights, according to which the AIFM can exercise control over the voting rights even without legal ownership of the company shares.

4) In other respects the definitions of terms of the applicable provisions of EEA Law shall apply, in particular the Commission Delegated Regulation No. 231/2013.

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

Small AIFMs

Art. 3

a) Registration

1) The registration of small AIFMs is governed by Art. 5 in connection with Art. 110 (1) of Commission Delegated Regulation No. 231/2013; the form set out in Annex IV of the Commission Delegated Regulation is to be used for registration. The information must be updated at least once a year.

2) The documents required as evidence of compliance with the requirements of Art. 3 (4) to (6) AIFMG are to be submitted as well as the documents referred to in (1).

3) A small AIFM may commence its activities immediately upon being registered through the FMA.

Art. 4

b) Calculation of thresholds

The calculation of the thresholds referred to in Art. 3 (2) and (3) AIFMG shall be governed by Art. 2 to 4 in connection with Art. 6 to 11 of Commission Delegated Regulation No. 231/2013.

Art. 5

c) Administrator's duties

1) The following may be appointed administrator of a small AIFM:

- a) an administrator authorised pursuant to Art. 65 to 68 AIFMG;
- b) an AIFM, whose operational authority pursuant to Art. 29 (2) a) AIFMG covers administration;
- c) another authorised undertaking subject to supervision and registered in the EEA, if its authorisation and the scope of the supervision to which it is subject covers administration as defined in Art. 4 (1) 43) AIFMG, provided that the undertaking declares to the FMA that it is willing to perform the administration functions in accordance with the AIFMG without restriction, and to communicate all information with reference to the AIFM, without restriction, upon being asked.

2) In the management of non-EEA AIFs by small AIFMs the administrator must perform the following operations itself, as a minimum:

- a) provision of legal services with reference to the AIFM, in particular in proceedings before the FMA; the right to consult a solicitor, tax advisor or trustee is not affected;
- b) monitoring compliance with legal provisions (Compliance) with reference to the AIFM;
- c) keeping of records with reference to the AIFM.

Art. 6

d) Programme of activity

1) The small AIFM's programme of activity shall contain a presentation of the intended operation, in particular:

- a) information about the type of funds to be managed (Art. 58 to 63), in particular:
 1. Enumeration of types;
 2. Designation of the most important fund types with which the small AIFM trades, and an indication of the most significant risks and concentrations for the purpose of monitoring systemic risks;
 3. Statement of all assets managed;
 4. The investor information referred to in Art. 105 AIFMG and the constitutive documents, unless these are already included in the investor information pursuant to Art. 105 AIFMG;
- b) the organisational structure with reference to each operation performed, with an indication of the signing authority.

2) In other respects the content of the programme of activity of a small AIFM shall be governed by Art. 3 (3) of Directive 2011/61/EU and Art. 5 and 110 of Commission Delegated Regulation No. 231/2013.

Art. 7

e) Organisation

1) The small AIFM shall arrange appropriate internal control procedures. The nature and scope of the control procedures are to be established in the organisation contract referred to in Art. 3 (6) AIFMG.

2) The organisation contract shall, as a minimum, contain rules on the nature and scope:

- a) of the operations, organisation and control procedures of the AIFM with reference to portfolio management, risk management and marketing;
- b) of the administration, in particular with reference to:
 1. monitoring of compliance with legal provisions (Compliance) taking into account the code of conduct referred to in Art. 35 (1) AIFMG;

2. the valuation in accordance with Art. 42 to 45 AIFMG;
 3. the documentation;
- c) of the supervision of delegates in accordance with Art. 46 AIFMG.

3) The FMA shall be informed immediately of the conclusion, cancellation and transfer of the organisation contract. If the organisation contract is cancelled the small AIFM shall be wound up at the same time, unless a new organisation contract is concluded before the cancellation comes into effect, which is to be brought to the attention of the FMA. Alternatively the small AIFM may offer evidence of appropriate organisation and the professional suitability of its personnel for the administration.

Art. 8

f) Risk management

1) In addition to the AIFMG and Commission Delegated Regulation No. 231/2013 the risk management of the small AIFM shall conform to market practices and international standards.

2) The FMA may declare standards equivalent to those referred to in (1) to be legally binding.

B. Legal forms

1. General

Art. 9

Exclusion of investors

1) An investor who fails to meet the investment criteria may be excluded in return for a refund of his contributions in accordance with the constitutive documents. Otherwise an investor may be excluded if this is provided for by the constitutive documents.

2) In the event of exclusion, equal treatment in financial terms shall be guaranteed.

2. Content of the constitutive documents

Art. 10

Guidelines in respect of investment policy

- 1) The investment policy of the AIF contained in the constitutive documents shall define the investment objective and the investment strategy referred to in Art. 91 to 101 AIFMG and establish the permitted investments.
- 2) If the AIF replicates an index, the index must be named and the extent of the replication must be estimated in figures.
- 3) The constitutive documents shall indicate whether the look-through approach applies to the investment limits.
- 4) Within the first six months from its being paid upon subscription, an AIF may deviate from the investment limits within the scope of the investment policy.

Art. 11

Rules on unit valuation

- 1) The rules in the constitutive documents for valuation of the assets and the calculation of the issue and sale price and the redemption or repurchase price of an AIF's units and shares shall conform to market practices and international standards.
- 2) The FMA may declare standards equivalent to those referred to in (1) to be legally binding.

Art. 12

Transparency requirement

- 1) Deductions from the assets of an AIF or the investor for costs and charges are to be set out in detail in the constitutive documents.
- 2) The rules concerning costs and charges in the constitutive documents shall be transparent. Transparency requirements are met if the information to be given in commensurate application of Art. 10 to 14 and Annex II of the Commission Regulation (EU) No. 583/2010 (OJ. L 176 of 10.7.2010, p. 1) is transparent and comprehensible for the investors.

Art. 13

AIFM's remuneration, charges and costs

1) The AIFM's remuneration system shall be consistent with Annex II of Directive 2011/61/EU and Art. 107 Commission Delegated Regulation No. 231/2013.

2) The nature, amount and calculation of the manager's remuneration, charges and costs in the constitutive documents shall conform to market practices and international standards, as well as the provisions of the AIFMG and this Ordinance.

3) The FMA may declare standards equivalent to those referred to in (1) to be legally binding.

Art. 14

Disclosure of regular charges, type of charges

1) In the constitutive documents, regular charges debited to the assets of the AIF are to be subdivided into the following, with an indication of the amount or percentage:

- a) expenses dependent on the assets (variable);
- b) expenses not dependent on the assets (fixed);
- c) expenses dependent on investment performance.

2) Minimum charges may be levied for expenses dependent on the assets.

3) Regular charges debited to the assets of the AIF are to be subdivided into the following according to type:

- a) individual expenses referred to in Art. 15 (1);
- b) inclusive expenses, i.e. the combination of individual expenses referred to in Art. 15 to produce one or more inclusive charge. The expenditure included in the inclusive expenses may not be entered as a repeat entry in the individual expenses.

4) Arrangements whereby a fixed inclusive charge can be charged in addition to the individual expenses for the same service is not permitted.

Art. 15

Minimum rules on regular charges

1) The charging system in the constitutive documents shall contain arrangements in respect of expenditure for the following, as a minimum:

- a) the AIFM, if necessary subdivided in terms of administration, investment decision-making and risk management, as well as marketing;
- b) the depositary;
- c) the auditing;
- d) supervision;
- e) transaction costs;
- f) publications;
- g) costs of marketing abroad; and
- h) cost of exceptional measures.

2) Performance-related expenditure (Performance Fee) is to be disclosed as a separate entry in addition to expenditure for the AIFM.

3) Transaction-related payments within the remit of the AIFM for administration or risk management are to be disclosed separately. Transaction-related payments for investment decision-making or marketing are not permitted.

4) The cost of exceptional measures is made up of the expenditure serving exclusively to protect the interests of investors, arising in the course of regular business operations and which was not foreseeable when the fund was established; it refers in particular to legal consultancy and procedural costs in the interests of the AIF or investors.

Art. 16

Rules on issue and redemption of units

1) The rules in the constitutive documents on the issue and redemption of units shall:

- a) conform to market practice and international standards that the FMA has declared legally binding;
- b) clearly state the cut-off time for each trading day;
- c) establish criteria for the suspension of unit redemption for open-ended AIFs.

2) The AIFM shall ensure that the marketing intermediaries comply with the cut-off time referred to in (1) b).

Art. 17

Rules on winding up

1) The rules in the constitutive documents concerning winding up shall, as a minimum, provide that the AIFM shall communicate the decision about the winding up of an AIF or a sub-fund to:

- a) the investors immediately, but at least 30 days before the winding up comes into effect; and
- b) the FMA immediately after communication to the investors; a copy of the investor information shall be submitted to the FMA at the same time.

2) The authorisation shall lapse upon conclusion of the winding up process.

3) If the constitutive documents do not contain sufficiently specific rules on winding up, the FMA may establish more specific requirements.

3. Entry in the commercial register

Art. 18

Basic principle

The AIFM shall apply to the Office for Justice for entry in the Commercial Register for the investment fund and the collective trusteeship, within 30 days from delivery of the admission pursuant to Art. 19 AIFMG, or the authorisation decision pursuant to Art. 24 AIFMG.

Art. 19

Formation of the investment company in the legal form of a foundation

An investment company in the legal form of a foundation is formed upon entry in the Commercial Register.

Art. 20

Formation of the limited partnership and partnership of limited partners

As long as a limited partnership or partnership of limited partners is not registered in the Commercial Register it shall be deemed a simple partnership. As soon as investors are involved, Art. 733 to 755 PGR shall apply accordingly in favour of the investors. The founders shall however continue to be liable as simple partners until registration.

II. Authorisation and admission of AIFs in Liechtenstein

Art. 21

Minimum Assets

1) If business operations do not commence immediately upon authorisation or admission, the FMA is to be notified as soon as the business operations of an authorised or admitted AIF commence. Operations are deemed to have commenced upon the first issue of units.

2) The minimum amount of assets referred to in Art. 19 (7) and Art. 21 (4) AIFMG shall be 1.25 million euro or the equivalent in Swiss Francs and shall be attained within one year from the authorisation or admission or, if business operations commence with a notification as referred to in (1), within one year from when the FMA receives the notification pursuant to (1). The FMA is to be informed immediately if the amount of assets falls below the minimum amount. A higher minimum amount of assets may be established for each AIF in the constitutive documents.

3) The FMA may upon a justified request from the AIFM grant exemption from the obligation to notify pursuant to (1) or extend the time limit referred to in (2) on a maximum of two occasions, to up to six months in each case.

4) The AIF may not be charged any minimum charges in the event of exemption or extension.

5) If at any time the amount of assets again falls below the minimum amount, (2) to (4) shall apply mutatis mutandis.

6) If the minimum amount of assets is not attained within the time limits provided in (2) and (3), the authorisation or admission of the AIF shall lapse.

Art. 22

Grounds for extension of the time limits pursuant to Art. 24 (2) AIFMG

In the course of the procedure for the authorisation of AIFs the FMA may allow an extension of the time limits, in particular if:

- a) a form provided by the FMA has not been used or the form has not been fully completed;
- b) notifications from other competent authorities within the EEA or from third countries have to be verified;
- c) the information concerning charges in the constitutive documents does not meet the requirements set out in Art. 12 to 15 or is not presented in a transparent way;
- d) the rules on valuation of units do not meet the requirements set out in Art. 42 to 45 AIFMG or have not been presented in a transparent way;
- e) there are indications of an infringement of the law, for which more information will be required in clarification; or
- f) the statements on investment policy do not clearly establish whether the investment policy complies with the provisions of the AIFMG, in particular Art. 91 to 101 AIFMG.

Art. 23

Changes as referred to in Art. 20 and 25 AIFMG

1) Material changes such as those referred to in Art. 20 (1) AIFMG shall not be deemed to have occurred if the information in the marketing notification referred to in Art. 17 (2) and (4) AIFMG has only been subject to drafting changes. The FMA may specify the material changes in more detail in a guidance note.

2) The amendments referred to in Art. 25 (1) AIFMG are to be published by the management company after approval by the FMA. They shall become effective upon being approved by the FMA.

Art. 24

Liquidation after discontinuation of the authorisation or admission

1) There may be no further marketing of the units of an AIF, for which the authorisation or admission lapses or is withdrawn pursuant to Art. 50 to 52 AIFMG.

2) After the lapse or withdrawal of the authorisation or admission pursuant to Art. 50 to 52 AIFMG the FMA may take one of the following measures in particular, in order to protect investors and the public interest:

- a) order the winding up of the AIF;
- b) transfer the AIF to another AIFM or another depositary;
- c) suspend the management(suspension).

III. Authorisation and obligations of AIFMs**A. Authorisation of AIFMs**

Art. 25

Legal form of the AIFM

A self-managed limited partnership or partnership of limited partners, in which the right of choice referred to in Art. 11 h) AIFMG has been exercised in a way that allows it to be a legal entity, can also be an AIFM.

Art. 26

Organisation of the AIFM

The AIFM must have a managing board and supervisory board, whose functions in accordance with the statutes or the articles of association are consistent with the functions of a managing board pursuant to Art. 344 to 349 PGR, the functions of a supervisory board pursuant to Art. 27 to 34 SEG, or of a foundation board pursuant to Art. 552 § 24 to 26 PGR.

Art. 27

Types of AIF

The types of AIF referred to in Art. 29 (6) AIFMG shall be consistent with the fund types and marketing structures referred to in Art. 58 to 63.

Art. 28

Minimum content of the programme of activity

1) In addition to the information to be submitted in accordance with Directive 2011/61/EU and Art. 110 of Commission Delegated Regulation No. 231/2013, the AIFM shall draw up a programme of activity.

2) The programme of activity referred to in Art. 30 (1) c) AIFMG shall contain in particular:

- a) information on:
 1. the organisation;
 2. the personnel;
 3. the office and business equipment;
- b) a balance sheet plan scrutinised by the auditor for mathematical accuracy and plausibility and a planned profit and loss account for the first three financial years at least.

3) The programme of activity must state the times at which the targets are expected to be achieved.

4) The FMA may establish minimum requirements in respect of (2) a).

Art. 29

Evidence of professional qualifications

1) Information about practical experience acquired during the working career of the managers referred to in Art. 30 (1) b) AIFMG is required as evidence of their professional qualifications, in addition to certificates of further education and training.

2) The managers shall attend to their further education and training as well as the education and training of the other board members and employees in accordance with Art. 21 d) and Art. 22 of Commission Delegated Regulation No. 231/2013.

Art. 30

Guarantee of proper business conduct

1) The managers of the AIFM must in general be sufficiently suited in professional terms to perform the functions expected of them on the basis of their education or their practical experience.

2) The types of funds being managed as set out in Art. 58 to 61 must be taken into account when assessing professional suitability. Attention should basically be paid to the following categories:

- a) liquid assets pursuant to Art. 58;
- b) illiquid assets pursuant to Art. 59;
- c) funds with significant employment of leverage pursuant to Art. 61.

3) If more than one fund of the types referred to in (2) is managed, the managers of the AIFM must overall have the appropriate qualifications for each fund type to be managed.

4) The managers shall generally be capable of performing their duties smoothly, taking into consideration their place of residence as well as the infrastructure, the organisation and the investment strategy of the AIFM. Each member of the management and the Board of Directors must have sufficient time at their disposal to perform their functions.

5) The FMA may stipulate that managers must sign jointly in twos in order to ensure that the business is conducted properly.

6) The persons assigned to the management and the Board of Directors and/or the managing board and supervisory board must have a good reputation as business professionals.

B. Obligations of the AIFM

1. Organisational requirements

Art. 31

Professional liability insurance, capital, investment options

1) The specific details concerning cover for professional liability risks referred to in Art. 32 (10) b) AIFMG are governed by Art. 12 to 15 of Commission Delegated Regulation No. 231/2013.

2) The capital referred to in Art. 32 (7) AIFMG is to be invested in particular in:

- a) credit balances at an authorised bank or a credit institution;
- b) fixed-term deposits;
- c) short-term investment-grade government bonds;
- d) money-market funds.

Art. 32

Material changes and new authorisation in the event of particularly significant changes

1) No material changes as referred to in Art. 33 (1) AIFMG shall be deemed to have occurred if the information in the authorisation application referred to in Art. 31 (2) and (3) has only been subject to drafting changes. The FMA may specify the material changes in more detail in a guidance note.

2) A new authorisation as referred to in Art. 33 (6) a) AIFMG is required if there have been particularly significant changes to the conditions of authorisation. The following in particular are deemed to be particularly significant changes:

- a) change of all qualified participants;
- b) change or resignation of all managers;
- c) transfer of all organisational and personnel resources to another legal entity;
- d) a complete change in the investment strategies administered by the AIFM on behalf of the AIF.

Art. 33

Qualifying holdings

1) The intention to purchase, increase or sell a qualifying holding according to the terms of Art. 34 (1) AIFMG is deemed to exist if a binding offer or a final decision to purchase, increase or sell has been made by the management or the Board of Directors, as determined by whichever occurs first.

2) The procedure and the criteria pertaining to assessment of the acquisition, increase or disposal of qualifying holdings are governed by Annex 8 of the Banking Ordinance mutatis mutandis.

Art. 34

Code of Conduct, remuneration system, conflicts of interest, organisation and risk and liquidity management

1) The specific details concerning the code of conduct (Art. 35 AIFMG), conflicts of interest (Art. 37 AIFMG), organisation (Art. 38 AIFMG), risk and liquidity management (Art. 39 and 40 AIFMG) and investment in securitised assets (Art. 41 AIFMG) are governed by Art. 16 to 66 of Commission Delegated Regulation No. 231/2013.

2) The FMA may in accordance with EEA Law issue additional guidelines on codes of conduct, remuneration systems, conflicts of interest and risk and liquidity management or declare existing guidelines to be binding.

2. Dissolution and liquidation, continuation of the AIFM

Art. 35

Basic principle

1) Unless specified otherwise in the AIFMG and provided that the FMA does not stipulate a different procedure for the protection of investors, winding up and liquidation procedures (Art. 54 and 56 AIFMG) are governed by the provisions of the PGR. The liquidator must have suitable professional qualifications or employ a professionally suitable person.

2) With the consent of the FMA the AIFM that has been wound up pursuant to Art. 54 (1) AIFMG may resolve to continue its business operations with a different company aim. The resolution of continuation may furthermore be structured in such a way that it becomes effective upon winding up pursuant to Art. 54(1)AIFMG.

3) An AIFM may only relinquish the authorisation when it finally ceases to manage any AIFs.

IV. Depositary and other business partners of the AIFM and the depositary

A. Administrator

Art. 36

Scope of application

1) The AIFM shall appoint an administrator authorised pursuant to Art. 65 to 68 AIFMG, if it delegates all administrative functions as defined in Art. 4 (1) 43) AIFMG and confines itself to supervision of the administrator.

2) Art. 46 (1) and (3) to (7) AIFMG shall apply exclusively to the delegation of individual administrative functions.

3) Employment of the services of such professionals as referred to in Art. 65 (3) AIFMG is not affected by (1). In such a case the administrator and such professionals must conclude an agreement for exchange of information.

Art. 37

Administrator's capital requirement

The capital adequacy requirements stated in Art. 32 AIFMG shall apply to a management company operating in accordance with the UCITS that is also authorised to act as an administrator.

Art. 38

Obligations of the administrator in the event of delegation of functions

1) In the event of delegation of functions the administrator shall guarantee compliance with the following provisions in particular:

- a) the provisions of the AIFMG;
- b) the provisions of Commission Delegated Regulation No. 231/2013;
- c) the provisions of this Ordinance;
- d) the AIFM's internal guidelines insofar as they apply to administration;
- e) the stipulations in the constitutive documents and the investor information;
- f) in the case of administration for a small AIFM the provisions of the organisation contract.

2) Delegation of individual administrative functions shall be governed by Art. 46 (1) and (3) to (7) AIFMG. In derogation thereof Art. 44 AIFMG shall apply to delegation of the valuation function.

3) If individual administrative functions are delegated by an authorised administrator this must not be to another authorised administrator.

B. Risk manager

Art. 39

Basic principle

The provisions of Section A applying to the administrator shall apply to the risk manager *mutatis mutandis*.

C. Selling agent

Art. 40

Functions

1) The AIFM may appoint a suitable selling agent for the fund types under its management.

2) The selling agent shall be responsible for the organisation and monitoring of the marketing of the units of the specific AIFs managed by the AIFM. It shall ensure that the provisions concerning the investor information are complied with.

Art. 41

Relationship with the Banking Act and the Asset Management Act

1) Insofar as the selling agent performs activities referred to in Annex 2 of the Banking Act or in Art. 3 (1) of the Asset Management Act, it shall require authorisation pursuant to the Banking Act or the Asset Management Act.

2) As far as financial instruments are concerned, banks as defined in the Banking Act and asset managers as defined in the Asset Management Act shall respectively be deemed selling agents pursuant to Art. 40.

V. Structural measures

A. Merger

1. General

Art. 42

Registration procedure

Mergers and other structural measures are to be entered in the Commercial Register.

Art. 43

Waiver and forfeiture of investor rights

1) Evidence shall be provided of the waiver of rights of the investors pursuant to Art. 81 (3), Art. 82 (2), Art. 83 (5), Art. 84 (5), Art. 86 (4) and Art. 87 (2) AIFMG by submitting the relevant investor information and a declaration by the authorisation holder responsible for maintenance of the unit register, that all waiver declarations have been received; the declarations of all investors are to be recorded in a verifiable form.

2) Evidence of forfeiture of investor rights referred to in Art. 86 (5) b) and Art. 87 (3) b) AIFMG through expiry of the time limit shall be provided by presentation of the relevant investor information, together with a declaration from the management of the AIFM that the required quorum was not achieved.

3) The FMA may prescribe a mandatory wording for the relevant investor information.

4) Waiver pursuant to Art. 83 (5), Art. 84 (6) b) and Art. 86 (5) a) AIFMG is not permitted in the case of an investment company operating in the legal form of a public limited company.

Art. 44

Qualified agreement to the decision not to issue a merger plan

1) Qualified agreement of the investors to the decision not to issue a merger plan, as referred to in Art. 81 (3) AIFMG, shall also be deemed to have been given if no investor demands that one be issued within 30 working days from being invited to do so by the AIFM.

2) The AIFM shall communicate the merger plan free of charge at the request of an investor. The AIFM is under no obligation to publish.

3) If it is decided not to issue a merger plan, the technical information concerning the merger is to be forwarded to the FMA. This shall include, as a minimum, the information listed in Art. 81 (2) f) to k) AIFMG. The FMA may ask for further essential technical information to be provided on a standard form.

Art. 45

Qualified agreement to dispensing with the checking of the merger plan, extent of the check

1) Qualified agreement of the investors to having a check of the merger plan conducted by the depositary pursuant to Art. 82 (2) AIFMG shall also be deemed to be given if no investor demands a check of the merger plan within 30 working days from being invited to do so by the AIFM.

2) If a check of the merger plan is conducted, it shall, as a minimum, cover the statutory provisions, EEA Law and the constitutive documents. If in the course of the check the depositary should have doubts

about the expediency of the merger, the depositary shall inform the AIFM.

Art. 46

Dispensing with depositary's report

The report from the depositary may also be dispensed with pursuant to Art. 83 (5) AIFMG, if no investor asks for one within 30 working days from being invited to do so by the AIFM.

Art. 47

Investor information

The investor information may be deemed to have been partly or entirely dispensed with pursuant to Art. 84 (5) a) AIFMG, and likewise, dispensing with the period allowed or a shortening of the period may be deemed to have been agreed pursuant to Art. 84 (5) b) AIFMG, if no investor requests anything to the contrary within 30 working days from being invited to do so the AIFM.

2. Content of the information concerning the merger

Art. 48

General provisions on the content of the information for investors

1) The information that must be communicated to the investors pursuant to Art. 84 (3) AIFMG is to be brief and drafted in readily understandable, non-technical language to enable the investors to make an informed judgement of the effects of the proposed merger on their investment.

2) In the event of a cross-border merger, the transferring AIF and the absorbing AIF shall clarify all terms and procedures with reference to the other AIF, that are different from the terms and procedures normally used in the other EEA Member State.

3) The information for the investors of the absorbing AIF should focus on the merger process and the potential effects on the absorbing AIF.

Art. 49

Specific provisions on the content of the information for investors

1) The information for investors of the AIFs involved in the merger referred to in Art. 84 (2) b) AIFMG shall include the following:

- a) details of the differences with reference to the rights of the investors of the transferring AIF before and after the proposed merger comes into effect;
- b) if the key information for the investors of the transferring AIF and the absorbing AIF presents synthetic risk and return indicators in different categories or different significant risks are described in the accompanying clarifying description, a comparison of these differences;
- c) a comparison of all costs, charges and expenditure of both AIFs on the basis of the amounts stated in the key information for the investors in each case;
- d) if the transferring AIF levies a performance-related fee, a note on the collection of this fee up to the time when the merger comes into effect;
- e) if the absorbing AIF levies a performance-related fee, a note on the collection of this fee, with a guarantee of fair treatment of those investors who previously held units of the transferring AIF;
- f) if the transferring or the absorbing AIF, or their investors referred to in Art. 87 (2) and (3) AIFMG may be assigned costs associated with the preparation and accomplishment of the merger, the details of how these costs are allocated;
- g) a statement as to whether the AIFM of the transferring AIF intends to conduct a restructuring of the portfolio before the merger takes effect.

2) The information for the investors of the absorbing AIF referred to in Art. 84 (2) b) AIFMG shall also include a statement indicating whether the AIFM of the absorbing AIF assumes that the merger will have significant effects on the portfolio of the absorbing AIF and whether it intends to conduct a restructuring of the portfolio before or after the merger comes into effect.

3) The information referred to in Art. 84 (2) c) AIFMG shall include the following:

- a) information about the procedure for dealing with the accrued income of the AIF in question;

b) an indication of how the investors can obtain the report from the independent auditor or the depositary referred to in Art. 83 (4) AIFMG.

4) If a cash payment is anticipated in the merger plan, the information for the investors of the transferring AIF shall contain information about the proposed payment, including information about the time and terms of the cash payment to the investors of the transferring AIF.

5) The information referred to in Art. 84 (2) d) AIFMG shall include the following:

- a) if relevant for the AIF in question, the procedure for seeking the investors' approval of the proposed merger and information about the arrangements that will be made to inform them about the result;
- b) details of any planned suspension of unit trading with the objective of ensuring that the merger is accomplished efficiently;
- c) the time when the merger will come into effect pursuant to Art. 88 (1) and (2) AIFMG.

6) If, in accordance with the legislation applying to the AIF in question the proposed merger has to be approved by investors, the information may contain a recommendation of the AIFM or the management or executive body of the self-managed AIF.

7) The information for the investors of the transferring AIF shall include the following:

- a) an indication of the period during which the investors in the transferring AIF may still issue orders for the subscription and redemption of units;
- b) an indication of the period during which investors who fail to exercise their rights granted in accordance with Art. 86 (1) and (2) AIFMG within the relevant time limit, may exercise their rights as investors of the absorbing AIF;
- c) if the proposed merger has to be approved by the investors of the transferring AIF, a note stating that when the required majority is attained, even those investors who vote against the proposed merger or abstain from voting will become investors of the absorbing AIF, if they fail to exercise their rights granted in Art. 86 (1) and (2) AIFMG within the relevant time limit.

8) If the information documents are preceded by a summary of the most important points of the proposed merger, this must refer to the sections of the information documents that contain further information.

Art. 50

Key information for investors

1) Private investors of the transferring AIF are to be sent an up-to-date version of the key information for the investors of the absorbing AIF.

2) If on account of the proposed merger, changes are made to the key information for the investors of the absorbing AIF, this information shall be passed to the investors of the absorbing AIF.

Art. 51

New investors

Between the date on which the information referred to in Art. 84 (1) AIFMG is communicated to the investors and the date on which the merger comes into effect, the information documents and the up-to-date key information for the investors of the absorbing AIF shall be passed to persons who:

- a) either buy or subscribe to units in the transferring or in the absorbing AIF; or
- b) request copies of the contractual conditions or the statutes, the investor information referred to in Art. 105 AIFMG, the prospectus or the key information for the investors of one of the two AIFs.

3. Communication of information

Art. 52

Procedure for the communication of information to investors

1) The transferring and the absorbing AIF shall provide the investors with the information referred to in Art. 84 (1) AIFMG on a durable medium or announce it in the publication referred to in Art. 85.

2) If the information is to be made available to all or certain investors in the publication, the following conditions must be met:

- a) The provision of information shall be commensurate with the framework conditions according to which the business relationship between the investor and the transferring or absorbing AIF or, if relevant, the respective AIFM is or is to be conducted.

- b) In choosing whether to have the information communicated or whether it should be made available in a publication, the investor shall decide expressly for the latter, or the constitutive documents of the AIF shall stipulate this form of publication. This form of publication is not sufficient to bring about the waiver or forfeiture referred to in Art. 43.

Art. 53

Qualified agreement to waive the right of conversion

Qualified agreement of all investors to the decision not to grant a right of conversion in accordance with Art. 86 (4) AIFMG shall also be deemed to have been given if no investor requests conversion within 30 working days from being invited to do so by the AIFM.

Art. 54

Qualified agreement to the waiver of the ban on cost allocation

Qualified agreement to the waiver of the ban on allocating costs referred to in Art. 87 (2) AIFMG shall also be deemed to have been given if no investor objects to allocation of costs within 30 working days from being invited to do so by the AIFM.

Art. 55

Qualified agreement to the shortening of the time limit or dispensing with the time limit for the validity of the merger

Qualified agreement to the shortening of the time limit or to dispensing with it altogether, as referred to in Art. 88 (2) b) AIFMG, shall also be deemed to have been given if no investor objects to the curtailment or waiver within 30 working days from being invited to do so by the AIFM.

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

Art. 56

Ban on allocation of costs to the investors in the event of structural measures

1) Art. 87 AIFMG shall apply mutatis mutandis to structural measures referred to in Art. 90 a) to c) AIFMG.

2) Unless specified otherwise in the constitutive documents, Art. 87 AIFMG shall apply mutatis mutandis to other structural measures referred to in Art. 90 d) AIFMG.

3) If in a case referred to in (2) a regulation that differs from Art. 87 AIFMG is established, the anticipated costs both overall and the approximate amount per unit are to be stated in the investor information referred to in Art. 84 AIFMG.

VI. Investment policy

A. Fund types

Art. 57

Basic principle

1) The name of an AIF may not be such that it gives rise to confusion or misrepresentation. If the name indicates a specific investment strategy, this shall be the strategy that is implemented overall.

2) The following must be established in the constitutive documents:

- a) the investment periods within which the respective investment limits have to be reached;
- b) the procedure to be applied in the event of deviations from the investment limits.

3) The FMA may establish more specific details regarding the types of funds and marketing forms referred to in Art. 58 to 63. It has the right in particular:

- a) to introduce more AIF sub-categories for illiquid AIFs;

- b) to make more requirements concerning the employment of certain capital assets and investment techniques.

Art. 58

AIFs for liquid assets

1) AIFs for liquid assets have at least 70 % of their net asset value (NAV) invested in liquid assets

2) Liquid assets are:

- a) capital assets permitted in accordance with Art. 51 UCITSG;
- b) precious metals, commodities or certificates in respect of precious metals and commodities, that are liquid and can be accurately valued at any time; and
- c) other capital assets, that are liquid and can be accurately valued at any time.

3) Capital assets referred to in (2) are:

- a) liquid, if they can be sold at limited cost in an adequately short time frame; Art. 4 of Directive 2007/16/EC shall apply mutatis mutandis;
- b) able to be valued accurately at any time, but at least once a month, if there are accurate and reliable valuation systems applying to the assets, that meet the following criteria:
 - 1. They enable the AIF to determine a net asset value, corresponding to the value at which the asset held in the portfolio could be exchanged in a transaction between knowledgeable, independent and willing business partners.
 - 2. They are based either on market data or on valuation models, including systems based on amortised costs.
 - 3. They meet the other requirements of Art. 4 of Directive 2007/16/EC mutatis mutandis.

4) With reference to AIFs for liquid assets the AIFM may not employ leverage that exceeds the amount of three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

Art. 59

AIFs for illiquid assets

1) AIFs for illiquid assets have at least 70 % of their net asset value (NAV) invested in illiquid assets.

2) Illiquid assets are assets that are not liquid assets as defined in Art. 58 (2).

3) With reference to AIFs for illiquid assets the AIFM may not employ leverage that exceeds the amount of three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

Art. 60

Flex funds

1) A flex fund is an AIF that in accordance with its investment policy is able to combine liquid and illiquid assets. The details of the investment policy are to be set out in the constitutive documents.

2) The combination, the investment limits and the conditions for any deviation from these requirements are to be established in the constitutive documents.

3) With reference to flex funds the AIFM may not employ leverage that exceeds the amount of three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

Art. 61

Leveraged AIFs

1) Leveraged AIFs are AIFs, in which the AIFM is permitted to employ leverage that exceeds the amount of three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

2) The AIFM may manage leveraged AIFs that invest in liquid assets as defined in Art. 58, if it is authorised for the management of AIFs for liquid assets and leveraged AIFs.

3) The AIFM may manage leveraged AIFs that invest in illiquid assets pursuant to Art. 59, if it is authorised for the management of AIFs for illiquid assets and leveraged AIFs.

4) The AIFM may manage leveraged AIFs that invest in the manner of a flex fund as defined in Art. 60, if it is authorised for the management of AIFs for liquid and illiquid assets and leveraged AIFs.

5) For leveraged AIFs the investor information and the subscription form must make particular reference to the risks associated with leverage.

6) The FMA may specify further stipulations for leveraged AIFs in accordance with EEA Law. These stipulations may refer in particular to:

- a) reporting to the supervisory authority;
- b) reporting to the investors;
- c) the AIFM's risk management.

B. Marketing forms

Art. 62

AIFs for qualifying investors

1) An AIF for qualifying investors may only be marketed to one or more qualifying investors. Qualifying investors are:

- a) professional investors as defined in Art. 4 (1) 31) AIFMG;

- b) private investors who meet at least one of the following conditions:
1. Contribution of a minimum investment of 100 000 euro, or the equivalent in another currency, if at the time of subscription the private investor has financial assets to a value of 1 million euro, or the equivalent in another currency, directly or indirectly at his disposal;
 2. Contribution of a minimum investment of 100 000 euro, or the equivalent in another currency, if:
 - aa) the investor states in writing in a document separate from the contract concerning the investment commitment, that he is aware of the risks involved in connection with the anticipated commitment or investment;
 - bb) the AIFM assesses the expertise, experience and knowledge of the investor, without assuming that the investor has the market insight and experience of a professional client;
 - cc) considering the nature of the anticipated commitment or investment, the AIFM is sufficiently convinced that the investor is capable of making his own investment decisions and of understanding the risks involved and that a commitment of this nature is reasonable for the investor in question;
 - dd) the AIFM confirms in writing that it has undertaken the assessment referred to under sub-section bb) and the requirements referred to under sub-section cc) have been met;
 3. Conclusion of an asset management contract in writing with persons having their registered office in Liechtenstein or abroad, who:
 - aa) are authorised to undertake asset management under EEA Law; or
 - bb) are authorised in third countries by the national supervisory authority to undertake asset management, or belong to a self-regulating organisation recognised by the national supervisory authority for their asset management operations and are subject to money laundering regulations equivalent to EEA Law. The FMA issues a list of countries with equivalent regulations.

2) The investor information with reference to AIFs for qualifying investors shall, as a minimum, comply with the requirements for AIFs that are exclusively marketed to professional investors. A reference shall be made in the constitutive documents, and at the time of marketing, to the reduced scope of the investor information, in particular in the event of dispensing with a half-yearly report and the key investor information. The

constitutive documents of the AIF for qualifying investors may specify additional investor information.

3) The acquisition of a unit in an AIF for qualifying investors shall require the qualifying investor, or the person with whom the qualifying investor has concluded a written asset management contract referred to in (2) b) 3, to sign a subscription form. The signatory of the subscription form shall confirm that at the time of signing one of the conditions set out in (2) b) has been met.

4) The agents that accept subscriptions (subscription agents) shall only accept subscriptions that appear plausible in the light of the declaration concerning the status of the subscriber as a qualifying investor.

5) The exemption from the obligation to produce a prospectus referred to in Art. 83 shall apply to the marketing of AIFs for qualifying investors. There is no obligation to communicate key information for the investors pursuant to Art. 77 to 80.

Art. 63

Smart funds

1) The investor base of a smart fund is confined to a family association. The family association comprises persons who are, or were associated with one another in a direct line, or in a collateral line, through marriage or registered partnership or through inheritance. The smart fund is managed externally and its units may be deposited. The constitutive documents may ordain that the units may not be deposited.

2) With reference to a smart fund the AIFM may not employ leverage that exceeds the amount of three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

3) The investor information with reference to smart funds shall, as a minimum, comply with the requirements for AIFs that are exclusively marketed to professional investors. A reference shall be made in the constitutive documents, and at the time of marketing, to the reduced scope of the investor information, in particular in the event of dispensing with a half-yearly report and the key investor information. The constitutive documents of smart funds may stipulate additional investor information.

C. Leverage

Art. 64

Setting of leverage limits

1) Art. 112 of Commission Delegated Regulation No. 231/2013 shall apply to the setting of leverage limits.

2) The FMA may define more extensive requirements for risk management if the leverage exceeds three times the net asset value in accordance with Art. 111 of Commission Delegated Regulation No. 231/2013.

3) Notification of the competent authorities and the ESMA shall be in the manner set out in Art. 116 of Commission Delegated Regulation No. 231/2013.

D. Acquisition of control of undertakings

Art. 65

Scope of application

The provisions of this section shall apply to all target companies with registered office within the EEA, irrespective of their legal form.

Art. 66

Requirements concerning the break-up of companies

1) The duties of the AIFM in accordance with Art. 101 (1) AIFMG shall extend to the following:

- a) distributions to unit-holders that are made if the net assets reported in the company's annual financial statements on the closing date of the last financial year are, or following such a distribution would become lower than the amount of subscribed capital plus reserves, which may not be distributed under the Law or the articles of association, in which case the uncalled part of the subscribed capital, if it is not included in the assets shown in the balance sheet, is deducted from the amount of subscribed capital;
- b) distributions to shareholders, the amount of which would exceed the amount of the profits of the last financial year, plus any profits brought forward and sums drawn from the reserves available for this purpose, less any losses from previous financial years and sums to be placed in reserves in accordance with the Law or articles of association;
- c) insofar as the purchase of own units is permitted, purchases by the company, including units, that have already previously been acquired and held by the company, and units acquired by a person, acting in their own name but on the instructions of the company, which

would have the effect of reducing the net assets to below the threshold set out in a).

2) For the purposes of (1) the following shall apply:

- a) the expression “distribution” used in (1) a) and b) refers in particular to the payment of dividends and interest in connection with units;
- b) the provisions concerning reductions in capital do not extend to reductions in subscribed capital made in order to compensate for losses incurred or to allocate funds to a reserve that is not available for distribution, on the condition that after this action has been taken such a reserve does not exceed 10 % of the subscribed capital that has been reduced; and
- c) the restriction referred to in (1) c) is governed by Art. 20 (1) b) to h) of Directive 77/91/EEC.

VII. Master-feeder structures and sub-funds

Art. 67

Conversion of a master or feeder AIF into an AIF

The constitutive documents shall establish the requirements for conversion of a feeder or master AIF into an AIF and vice versa.

Art. 68

Sub-funds

1) Sub-funds may also be sub-structures of an investment company, limited partnership or a partnership of limited partners.

2) A depositary shall be appointed for each sub-fund. The assets of several sub-funds under a single umbrella may be kept in safe custody with different depositaries.

3) Umbrella funds with one single sub-fund are permitted. A reference to the fact that there is only one sub-fund under the umbrella must be made in the investor information. Until a second sub-fund is authorised under the same umbrella, the name of the single sub-fund may not convey the impression that there would be a possibility of changing to other sub-funds.

VIII. Information for investors and the authorities

A. Annual Report, half-yearly report and quarterly report

Art. 69

Basic principle

1) The AIF's accounting practice is governed by the principle of "forward pricing". A valuation is made on the basis of closing prices on the valuation reference date of the net asset value.

2) If an AIF has more than one sub-fund, separate accounts shall be held for each sub-fund.

3) Information that might lead the investor to revise his investment decision shall be deemed a material change as defined in Art. 104 (3) f) AIFMG and Art. 106 of Commission Delegated Regulation No. 231/2013, in particular:

- a) changes in the investment strategy;
- b) changes in remuneration;
- c) changes in the valuation rules.

4) The number of beneficiaries as defined in Art. 104 (3) d) AIFMG shall correspond to the number of employees (including members of the Board of Directors) of the AIFM, who receive remuneration on the basis of a direct indicator, even if the payment of the remuneration is effected through the AIFM.

Art. 70

Annual report

1) The annual report of any given AIF shall, as a minimum, contain the information set out in Art. 103 to 109 of Commission Delegated Regulation No. 231/2015.

2) In conformity with EEA Law, the FMA shall lay down the structure and the minimum information required in the annual report. If applicable, the minimum information shall be supplemented by mandatory information that has to be included in the annual report, in accordance with the constitutive documents of the AIF.

3) All commission and costs that are regularly charged to the assets of an AIF are to be published in the annual report, in accordance with market practices and international standards, with an indication of the Total Expense Ratio (TER). The FMA may declare certain market practices and international standards to be binding.

4) Unless specified otherwise in this Ordinance, the annual report of an AIF, of which the units are also marketed to private investors, shall contain an inventory list.

5) The annual report must be accessible to the investors and forwarded to them free of charge on request.

Art. 71

Half-yearly report

1) In conformity with EEA Law the FMA shall lay down the structure and the minimum information required in the half-yearly report. If applicable, the minimum information shall be supplemented by mandatory information that has to be included in the half-yearly report, in accordance with the constitutive documents of the AIF.

2) If an AIF has made or proposes interim distributions, the figures must state the result after tax for the six-month period in question and the interim distribution effected or anticipated.

3) All commission and costs that are regularly charged to the assets of an AIF are to be published in the half-yearly report, in accordance with market practices and international standards, with an indication of the Total Expense Ratio (TER). The FMA may declare certain market practices and international standards to be binding.

4) The half-yearly report on the first six months of the financial year is to be issued two months from the end of the reporting period and made available to the competent authority of the home Member State of the AIFM and the AIF. It shall be accessible to investors and forwarded to them free of charge on request.

Art. 72

Quarterly report

1) If the AIF is obliged to report quarterly in accordance with the Disclosure Act or Directive 2004/109/EC, Art. 6 of the Disclosure Act regarding the interim management statement shall apply.

2) The contents of a quarterly report issued voluntarily for the investors shall take the form specified by the constitutive documents of the AIF. It is to be forwarded or made available to all investors on the same conditions.

3) The content of a quarterly report of the AIF or AIFM issued for supervisory purposes shall take the form stipulated by the FMA. The quarterly report may be restricted to individual details.

B. Prospectus for marketing of units to private investors

Art. 73

Prospectus for closed-end AIFs

1) For closed-end AIFs, of which the units are securities that are also marketed to private investors, the AIFM shall issue, up-date and publish a prospectus in accordance with the provisions of the Securities Prospectus Act (WPPG) and Annex XV of Regulation (EC) No. 809/2004. The prospectus shall include the information listed in Art. 105 AIFMG.

2) For closed-end AIFs that do not fall under (1) and of which the units are also marketed to private investors, the prospectus shall, in addition to the information listed in Art. 105 AIFMG, contain the following supplementary information:

- a) information concerning the delegation restrictions and special rights of the AIFM of one or more investor or a third party;
- b) information concerning the structure of the units and the associated rights.

3) In conformity with EEA Law, the FMA shall lay down the structure of the prospectus and the minimum information required. If applicable, the minimum information shall be supplemented by mandatory information that has to be included in the prospectus in accordance with the constitutive documents of the AIF.

Art. 74

Prospectus for open-ended AIFs

1) For open-ended AIFs, of which the units are also marketed to private investors, the AIFM shall issue a prospectus containing the information listed in Art. 105 AIFMG, and all other information that is required to enable the investors to make an informed judgement about the investment and the associated risks.

2) The prospectus must – irrespective of the nature of the assets – contain a clear and readily understandable explanation of the fund's risk profile.

3) In conformity with EEA Law, the FMA shall lay down the structure of the prospectus and the minimum information required. If applicable, the minimum information shall be supplemented by mandatory information that has to be included in the prospectus in accordance with the constitutive documents of the AIF.

Art. 75

Reference to assets and derivatives and heightened volatility, additional information

1) The prospectus shall state the categories of assets in which the AIF invests and whether the AIF is permitted to undertake transactions in financial derivative instruments. If this is the case, the prospectus must contain a prominent statement indicating whether these transactions may be carried out for the purpose of hedging asset positions or as part of the investment strategy and the possible effects of the use of derivatives on the risk profile.

2) The prospectus shall indicate whether the look-through-approach shall apply to the investment limits.

3) If the net assets of an AIF might potentially be subject to heightened volatility due to the composition of a portfolio or the portfolio management techniques employed, the prospectus and the promotional literature must include a statement drawing attention to this in a prominent position. Heightened volatility is deemed to exist if the Synthetic Risk and Reward Indicator (SRRI) with reference to the AIF shows a rating of at least 6.

4) The investors shall be provided on request with additional information concerning the investments limits applied by the AIF's risk management, the risk management methods and the most recent trends in risks and returns in the most significant asset categories.

Art. 76

Constitutive documents as a component of the prospectus

The constitutive documents are to be appended to the prospectus as a component thereof. This is not necessary if the investor's access to the constitutive documents is guaranteed by other means.

C. Key investor information in the marketing of units to private investors who are not qualifying investors pursuant to Art. 62 (2)

Art. 77

Basic Principle

1) For each AIF, of which the units are also marketed to private investors, who are not qualifying investors pursuant to Art. 62 (2), a brief document shall be issued containing essential information for the investors, to be entitled "Key information for investors" or "Basic information sheet"; the document must be comprehensible to investors. The expression "Key information for investors" or "Basic information sheet" shall be mentioned in this document clearly and unambiguously in an official language of each state of marketing, or in a language approved by the competent authorities of the state of marketing. Unless the FMA specifies otherwise, the information provided in the Key information for investors shall meet the specifications of Commission Regulation (EU) No. 583/2010.

2) The key information for investors shall contain useful information concerning the key features of the AIF in question and ensure that investors are in a position to comprehend the nature of the investment product offered and the risks it involves, and to make an informed investment decision on this basis.

3) Key features referred to in (2) include:

- a) the identity of the AIF;
- b) a brief description of the investment goals and the investment strategy;
- c) a presentation of previous performance or performance scenarios, if applicable;
- d) costs and charges;
- e) the risk/return profile of the investment using a synthetic indicator pursuant to Art. 8 and Annex I Commission Regulation (EU) No. 583/2010, including appropriate references to the risks associated with the investment in the AIF in question and relevant warning notices.

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

5) The key information for investors must be written in a concise manner and shall be drafted in generally comprehensible language. It is to be issued in a standard format that enables comparisons to be made and to be presented in a manner that in all probability is likely to be understood by private investors, who are not qualifying investors as referred to in Art. 62 (2).

6) The key information for investors shall be used in all EEA Member States in which shares and units of the AIF are marketed, and, apart from the translation, without amendments or supplements.

7) The Synthetic Risk and Reward Indicator (SRRI) must be appropriate to the AIF type and the investment strategy.

Art. 78

Accuracy and updating of key information

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

2) The information concerning the key elements of the AIF in question shall be kept up to date at all times. It shall be updated in any case if one of the figures or percentages stated deviates to the extent of more than 5 % of the figure published in the most recent version of the key information for investors. The information shall always be updated if a large number of new investors is anticipated as a result of a marketing campaign.

3) The key information for investors constitutes pre-contractual information. Liability for information contained in the key information, including any translations thereof, shall only be incurred if, in relation to other parts of the prospectus, it is misleading, inaccurate or inconsistent.

4) The key information for investors shall contain a warning notice stating the rule referred to in (3).

Art. 79

Provision and communication of key investor information to the FMA

Immediately upon being updated the key information for investors is to be published in the publication referred to in Art. 85 and communicated to the FMA at the same time. Marketing of the shares and units of the AIF is not permitted until the information has been made available and communicated to the FMA.

Art. 80

Communication of key investor information

1) An AIFM that markets shares and units of an AIF directly, or through another natural or legal person, who acts on its behalf and on its full and unconditional responsibility, shall provide investors with the key information concerning this AIF free of charge, in good time before the subscription of the units.

2) Otherwise the AIFM shall communicate the key information for investors to product designers and marketing intermediaries, on request, or publish it in the publication referred to in Art. 85. The marketing intermediaries shall provide clients with the key information for investors free of charge, as part of the marketing process or when providing investment advice.

3) In the event that the key information is communicated to investors on a durable medium other than on paper, Art. 38 of Commission Regulation (EU) No. 583/2010 shall apply *mutatis mutandis*.

D. Other investor information

Art. 81

Accessibility

1) Other information for investors required under the AIFMG, under Art. 108 and 109 of Commission Delegated Regulation No. 231/2013 or in accordance with this Ordinance shall be communicated to the investor free of charge or published in the publication referred to in Art. 85.

2) The form of the investor information referred to in (1) shall be established in the constitutive documents of the AIF.

E. Communication of investor information to the competent authorities

Art. 82

Basic principle

1) The AIFM shall communicate the investor information relating to each AIF to the FMA and, on request, also to the competent authority of the home Member State of the AIF.

2) The provisions of (1) have no effect on the AIFM's other reporting obligations to the FMA.

F. Private placements, marketing to professional investors

Art. 83

Exemptions from the obligation to publish a prospectus

There is no obligation to publish a prospectus for an offer of units of an AIF in Liechtenstein:

- a) that is exclusively aimed at professional investors;
- b) that is aimed at fewer than 150 non-professional investors in Liechtenstein;
- c) provided that the minimum unit denomination or the minimum contribution per investor amounts to 100 000 euro, or the equivalent in another currency; or
- d) if in accordance with the constitutive documents of the AIF, acquisition for the purpose of integration in other financial instruments and investment contracts that are marketed to private investors is excluded; acquisition for integration refers in particular to acquisition through AIFs, UCITS, index-based funds and as reference value of a structured product or certificate and as an asset in a life insurance policy.

Art. 84

Measures to prevent marketing of units to private investors

1) When marketing units of an AIF to professional investors, action shall be taken to avoid marketing to private investors, in particular by:

- a) an appropriate design of the subscription form;
- b) references on documents; and
- c) exclusion of marketing of units to private investors in the marketing contracts.

2) In cases of private placement (1) shall apply accordingly.

G. Publication

Art. 85

Publication

1) Provided that it is compatible with EEA Law, the publication for AIFMs registered in Liechtenstein shall, for the purposes of this Ordinance, be the website of the Liechtenstein Investment Fund Association (LAFV). The FMA may permit notices in other publications. The right of the AIFM to make the same information available by other means at the same time is not affected.

2) If they have no access to the publication referred to in (1) AIFMs that are not registered in Liechtenstein must make the information that would normally be published in that publication available on their website.

IX. Auditor

Art. 86

Qualification of the Auditor

1) Auditors are qualified pursuant to Art. 157 (4) AIFMG if they possess the required skills for the scrutiny of the AIFM's portfolio and risk management – according to the scope of the authorisation pursuant to Art. 29 (6) AIFMG - and are able to guarantee appropriate and ongoing

ing performance of the audit and reporting functions through their operational organisation – in particular through appropriate representational rules.

2) Auditors who are authorised in another EEA Member State in accordance with Commission Directive 2006/43/EC and wish to perform auditing and reporting functions in accordance with the AIFMG in Liechtenstein, must perform a function with respect to the supervisory authorities of other EEA Member States, that is comparable with the auditing and reporting operations required under the AIFMG, on a regular basis.

3) Auditors for the purposes of the AIFMG and this Ordinance shall also include audit companies in accordance with the Law on Auditors and Audit Companies.

Art. 87

Proof of Qualification

1) The auditor shall provide the FMA with evidence of his qualifications.

2) The FMA shall publish a list of the auditors who are qualified for the purposes of Art. 157 (4) AIFMG and Art. 86 of this Ordinance on its website.

Art. 88

Audit specifications

1) The FMA may after consultation with the Liechtenstein Auditors' Association provide mandatory audit forms for AIFs and their AIFMs.

2) The FMA may provide more specific details on the principle of the risk-oriented approach to auditing and the form and content of the annual audit report by issuing guidelines.

Art. 89

Duties of the Auditor

1) The professional fees received from one audit assignment may not on average make up more than 20 % of the auditor's total annual income from professional fees. Auditing assignments of all undertakings for

collective investments that are under the management of the same AIFM are deemed to be a single audit assignment.

2) The auditors shall be obliged:

- a) to inform the FMA of any change in the statutes and rules and any change in personnel with respect to the composition of their executive bodies and the auditors in charge;

- b) to assign the conduct of the audit exclusively to auditors who are registered with the FMA and who meet the necessary conditions;
- c) to provide the FMA with details of the manager responsible for the audit assignment and the auditor in charge before the audit commences; and
- d) to submit the annual report to the FMA every year.

3) The FMA may request information about the reasons for the withdrawal of members of the management and auditors in charge reported to the FMA.

Art. 90

Change of auditor

1) The AIFM shall inform the FMA in writing of any change in the auditor, six weeks before the change comes into effect, stating the reasons.

2) The notification referred to in (1) is to be signed jointly by the previous auditor. If the AIFM and the auditor are unable to agree on the reason for the change, the previous auditor shall submit his own notification pursuant to (1).

3) The AIFM shall publish the change of auditor in the publication when the change comes into effect. If the AIFM manages open-ended AIFs, the investors shall be informed that they may request the redemption of their units.

4) If the auditor's qualification should lapse or if an auditor has his authorisation withdrawn, the AIFM shall immediately appoint a new auditor, within one month at the latest. In exceptional cases the FMA may extend this time limit appropriately on request. The FMA shall be informed of the appointment of the new auditor within one week from his being commissioned.

Art. 91

Interim audit of the AIFM and the AIF

1) The auditor shall conduct at least one unannounced interim audit of the AIFM in the course of the financial year.

2) In application of the risk-oriented approach, the auditor shall, in the course of the interim audit of the AIFM, check that the following, in particular, are being complied with:

- a) the authorisation conditions;
- b) the rules on risk management;
- c) the code of conduct;
- d) the rules concerning delegation of functions and the associated obligations of the AIFM; and
- e) the rules concerning the marketing organisation of the AIFM, if no selling agent has been appointed pursuant to Art. 69 AIFMG.

3) During the interim audit of the AIF, the auditor shall check, in particular, whether:

- a) the accounting is conducted properly;
- b) the counter-value of newly issued units has accrued to the assets of the AIF;
- c) the valuation of the assets, the calculation and publication of the issue and redemption prices and the issue and redemption of units comply with the provisions of the AIFMG and the prospectus;
- d) the constitutive assets of the fund have been maintained in full;
- e) the investment rules have been complied with;
- f) any unencumbered promissory notes are held in safe custody by the depositary;
- g) the rules concerning the minimum assets pursuant to Art. 21 (2) are complied with at all times.

4) The FMA has the right to establish more key focus areas for the audit.

5) The result of the interim audit is to be reported in the annual audit report.

6) If in the course of the interim audit, the auditor detects serious violations or irregularities, he shall inform the FMA immediately and send it a report on the interim audit within 30 days.

Art. 92

Appointment of the auditor for AIFMs operating under the AIFMG with authorisation as a management company pursuant to the UCITSG or IUG

An AIFM shall appoint the same auditor for its operations in accordance with the AIFMG, the UCITSG or the IUG (Investment Undertakings Act).

Art. 93

Reporting obligations

Notifications in terms of Art. 111 (1) AIFMG are to be made to the FMA within three working days from verification of the circumstances.

Art. 94

Audit reports

1) Audit reports are the confidential, detailed reports of the auditor on the audit of the AIFM and the AIFs under its management conducted in accordance with supervisory regulations. They are not for publication.

2) The audit report shall mention all the information and notices communicated, verbally and in writing, to the AIFM and the AIFs under its management with reference to objections and legal doubts.

3) The audit report for the AIFM shall in addition to the information in the annual report contain, as a minimum:

- a) information on the ongoing compliance with the authorisation conditions referred to in Art. 30 AIFMG;
- b) information on compliance with the obligations of the AIFM set out in Art. 32 to 48 AIFMG; and
- c) the results of the interim audit of the AIFM pursuant to Art. 91.

4) The audit report for the AIF shall in addition to the information in the annual report contain, as a minimum:

- a) information on the ongoing compliance with the provisions concerning investment policy pursuant to Art. 91 et seq. AIFMG; and
- b) the results of the interim audit of the AIF pursuant to Art. 91.

5) Insofar as the auditors of the AIFM and the AIF are identical, audit reports on the AIFM and those on the AIF may be combined. The information concerning the AIFM and the AIF is to be stated in separate sections of the audit report. The audit report on the AIF may make reference to the information in the audit report on the AIFM.

6) The audit reports pursuant to the AIFMG and UCITSG may be combined. Otherwise (5) shall apply accordingly.

X. Cross-border activities of EEA AIFMs

A. Cross-border marketing of EEA AIFs to professional investors

Art. 95

Marketing notices

The FMA provides a form for marketing notices referred to in Art. 113 AIFMG.

Art. 96

Grounds for extension of time limits

1) The FMA may extend the time limits referred to in Art. 115 AIFMG, if:

- a) the applicant does not use the form provided by the FMA or has not completed it in full;
- b) an extension of the time limits is appropriate or necessary due to reports from the supervisory authorities of other EEA Member State or third countries regarding the AIFM or its managers;
- c) there are reasons to suspect an infringement of the Law and more information is required in order to clarify the situation; or
- d) it is not entirely clear from the statements concerning the investment policy, whether the investment policy complies with the provisions of the AIFMG, in particular Art. 91 to 101 AIFMG.

2) Grounds for extending the time limit referred to in Art. 115 (3) AIFMG may be due in particular to the number of applications received

by the FMA, the personnel or technical resources of the FMA or exceptional events on the financial market.

3) If a time limit is extended, the reason for the extension referred to in (1) and (2) is to be stated, quoting the relevant provision of the Ordinance.

4) The FMA shall determine the form and remittance of the documents, according to the terms of Art. 115 (3) and (4) AIFMG.

B. Management of EEA AIFs on a cross-border basis

Art. 97

Management notification

The FMA shall provide a form for the management notifications referred to in Art. 120 AIFMG.

Art. 98

Scrutiny and transmission by the FMA

Art. 96 of this Ordinance shall apply mutatis mutandis to the extension of time limit referred to in Art. 122 (2) AIFMG.

Art. 99

Notification of commencement of operations

The FMA shall provide a form for the notification of commencement of operations pursuant to Art. 124 AIFMG.

C. Cross-border activity of the EEA AIFM with reference to non-EEA AIFs

Art. 100

Basic Principle

The provisions that according to the terms of Art. 125 (3) AIFMG replace the provisions of Directive 2011/61/EU shall be governed by the Law of the AIF's home Member State as far as the depositary and the annual report are concerned.

D. Consequential obligations in the event of marketing AIFs to private investors in Liechtenstein

Art. 101

Paying agents, information and right of complaint

1) If AIFs are marketed to private investors the AIFM shall provide the following information in accordance with Art. 130 (1) c) AIFMG:

- a) the definition of the term "Marketing of AIF units" or the equivalent legal term under Liechtenstein Law or common practice;
- b) requirements for content, format and presentation of marketing notices, including all compulsory warnings and restrictions concerning the use of specific words or sentences;
- c) notwithstanding Chapter VIII AIFMG concerning investor information, details of all additional information that has to be made available to the investors;
- d) details of all exemptions from provisions and requirements for marketing agreements that apply in Liechtenstein for specific AIFs, specific categories of AIF units or specific investor categories;
- e) requirements for reporting or communication of information to the FMA and the procedure for the communication of up-dated versions of the required documents;
- f) requirements concerning charges or other sums that have to be paid in Liechtenstein to the FMA or another body governed by public law, either upon commencement of marketing or subsequently at regular intervals;

- g) requirements with reference to the options that must be available to the investors in accordance with Art. 130 Abs. (1) a) AIFMG;
- h) conditions for the discontinuation of marketing of AIF units in Liechtenstein by an AIF that is established in another EEA Member State;
- i) detailed information about the notification and the procedure for inspection and investigation on site and the exchange of information between competent authorities;
- k) the email address provided by the FMA for the purposes of updating investor information.

2) The information referred to in (1) is to be provided in the form of an explanatory description or a combination of an explanatory description and references or links to the source documents.

3) If no branch is established in Liechtenstein the obligations pursuant to Art. 130 (1) AIFMG are to be met by the appointment of a paying agent.

XI. Cross-border activities of non-EEA AIFMs

Art. 102

Basic principle

Unless specified otherwise, the provisions for cross-border business operations by EEA AIFMs shall apply accordingly to non-EEA AIFMs.

XII. Oversight

A. General

Art. 103

Lists

1) Indicating the scope of the authorisation in accordance with Art. 29 (6) AIFMG, the FMA shall issue a separate list for each of the following entities authorised in Liechtenstein:

- a) AIFMs;
- b) AIFs;
- c) Depositaries;
- d) Administrators;
- e) Risk managers; and
- f) Selling agents.

2) The lists are to be made available to interested parties in an appropriate manner.

Art. 104

Languages

1) Applications for authorisation and admission in accordance with the AIFMG are to be submitted in either German or English. The FMA may require applications to be made in German. The FMA may accept applications in other languages.

2) The documents that are to be enclosed with the applications are to be submitted in either German or English. The FMA may accept the documents in other languages or it may require certified translations of such documents.

3) The FMA may, at the request and at the expense of an applicant, produce a translation of an order issued under the AIFMG into a foreign language or arrange for a translation and confirm the contents of this translation.

B. FMA

Art. 105

Quarterly and half-yearly reports

1) The FMA may request quarterly reports from individual AIFMs, or concerning individual AIFs for supervisory purposes. In such cases the AIFMs shall draw up the quarterly reports on the basis of the form provided by the FMA and submit them to the FMA within two months from the cut-off date specified by the FMA.

2) AIFMs shall draw up a report every six months on the basis of the form provided by the FMA and submit it to the FMA within two months from the relevant cut-off date.

3) The provisions of (1) and (2) shall apply *mutatis mutandis* to the domestic branches of foreign AIFMs, with the proviso that the report is confined to the compliance with the applicable Liechtenstein Law for the management and marketing of AIFs to private investors, in particular the code of conduct.

Art. 106

Exceptional audit

1) The FMA may commission an auditor qualified in accordance with Art. 157 (4) AIFMG, in connection with Art. 86 of this Ordinance, to perform an exceptional audit as defined in Art. 157 (2) e) AIFMG.

2) The FMA may ask all authorisation holders for an advance on costs for the audit.

XIII. Extrajudicial dispute resolution

Art. 107

Extrajudicial Mediation Body

The provisions of the Ordinance on Financial Services Mediation Bodies shall apply to the exceptional mediation body.

XIV. Final Provisions

Art. 108¹

Translations

The Secretariat General of the Ministry for General Government Affairs and Finance shall arrange for the translation of the AIFMG and this Ordinance pursuant to Art. 182 AIFMG.

Art. 109

Repeal of the previous Law

The following are repealed:

- a) Ordinance of 2 July 2013 concerning the managers of alternative investment funds (AIFMV), LGBL 2013 no. 259;
- b) Ordinance of 10 December 2013 on the amendment of the Ordinance concerning the managers of alternative investment funds, LGBL 2013 no. 441;
- c) Ordinance of 20 January 2015 on the amendment of the Ordinance concerning the managers of alternative investment funds, LGBL 2015 no. 21;
- d) Ordinance of 30 June 2015 on the amendment of the Ordinance concerning the managers of alternative investment funds, LGBL 2015 no. 173.

Art. 110

Coming into Effect

This Ordinance shall come into effect simultaneously with the resolution of the EEA Joint Committee concerning the adoption of Directive 2011/61/EU.²

¹ Art. 108 amended by LGBL 2019 no. 40.

² Entry into force: 1 October 2016 (LGBL 2016 no. 305).

Princely Government:
signed *Adrian Hasler*
Head of the Princely Gov-
ernment