

UCITS notifications in the Netherlands

The UCITS IV Directive was implemented in the Netherlands in July 2011. The Directive has the following practical consequences for the registration and maintenance of all incoming UCITS in the Netherlands. The below guidance relates to incoming UCITS only and is based on information which Clifford Chance received from the Dutch Authority for the Financial Markets ("AFM").

Registration and AFM information

Initial UCITS registrations

Initial registrations of UCITS will be a matter between regulators. The home state regulator will notify the AFM and the UCITS will be registered by the AFM upon receipt of that notification. The UCITS may be marketed in the Netherlands as of that moment. The AFM will inform the UCITS in writing about such registration and will charge a registration fee of €1500 (payable directly to the AFM). The AFM does not charge ongoing fees at this moment.

Home state regulators should among other matters ensure that a Dutch translation of the Key Investor Information Document ("KIID") is part of the information sent to the AFM (please also see the remarks on KIID below).

New sub-funds

The notification of new sub-funds of existing AFM-registered UCITS can be made by the UCITS (or the management company) to the AFM but also by the home state regulator to the AFM (the so-called "regulator-regulator route"). The regulator-regulator route for such changes is the result of a practical approach by the AFM.

This notification regime of new-sub-funds also applies to other notifications that

need to be made to the AFM. The main rule for such notifications is that the AFM only requires notifications of situations that lead to a change of the AFM's public register, such as name changes or de-registrations of subfunds (see below).

Key Investor Information Document

The KIID can be used in the Netherlands as of 1 July 2011. UCITS which can benefit from the transitional regime in their home state that allows them to continue to use a simplified prospectus, can also benefit from that transitional regime in the Netherlands until 1 July 2012.

De-registration

The procedures for de-registration of UCITS or sub-funds remain the same. The type of information to be provided to the AFM will depend on whether there are Dutch investors in the UCITS or sub-fund. If there are no Dutch investors in the relevant UCITS or sub-fund, a statement from the UCITS that there are no more Dutch investors in the UCITS or sub-fund should be provided. If there are Dutch investors, the AFM should receive information on the communication to the investors regarding the envisaged termination of the UCITS or sub-fund.

Share classes

Currently it is not required to register share classes with the AFM. Since other regulators do require this, there is a debate within the AFM about this point and it may be that the AFM will introduce a new policy for the registration of share classes.

An overview of the required actions and documentation is set out at the end of this briefing.

Other information

No changes have occurred as to the type of information the AFM needs to receive in addition to the above. This means that eg the (semi) annual accounts of the UCITS do not have to be filed with the AFM. **However, the information requirements towards Dutch investors remain.** Therefore, an up to date Dutch KIID (or for the transitional regime simplified prospectus) should be available in Dutch. Other documents should be available in English or Dutch. This includes the information that needs to be disclosed to investors pursuant to the law and regulations of the home state of the UCITS.

Marketing

It is important to realise that an incoming UCITS needs to adhere to Dutch rules when marketing the UCITS to Dutch investors.

A mandatory risk warning needs to be inserted in marketing material together with a warning sentence: "*Loop geen onnodig risico. Lees de Essentiële Beleggersinformatie.*" The risk warning is required when marketing takes place in printed media (newspaper, flyers), on television, the internet and other media

that enable the reflection of the warning. Dutch versions of the mandatory risk warning to be included in the KIID (or simplified prospectus) are available on <http://www.afm.nl>. An example of the mandatory risk warning for use in printed media when using a KIID is presented below.

A separate format of the risk warning for use in television commercials or on the internet is available on the AFM website. Radio commercials have to include a standard voice recording at

the end of the commercial, also warning for the risk of investment in a prescribed format. Apart from the risk warning several other requirements will apply to marketing material as well. Such requirements concern *inter alia* the presentation of the historic or expected performance of a UCITS.



Overview of required actions and documentation

The following table sets out the actions to be taken in various situations.

Situation	Documents & regulator				
	Regulator	UCITS Certificate	Prospectus	KIID in Dutch	Other
<i>Initial UCITS registration</i>	Home state	Yes	Yes	Yes	Notification specifying the requested registration.
<i>New sub-fund(s) registration</i>	AFM or home state	Yes	Yes	Yes	Letter or email specifying the new sub-fund(s).
<i>De-registration of sub-fund</i>	AFM or home state	No	No	No	Letter or email specifying sub-fund de-registration, plus: (i) a statement from the UCITS that there are no more Dutch investors in the sub-fund, if applicable; or otherwise (ii) the communication to the investors regarding the envisaged termination of the sub-fund.
<i>Name change of UCITS or sub-fund</i>	AFM or home state	Yes	Yes	Yes	Letter or email specifying the name change made.
<i>De-registration of UCITS</i>	AFM or home state	No	No	No	Letter or email specifying UCITS de-registration, plus: (i) a statement from the UCITS that there are no more Dutch investors in the UCTIS, if applicable; or otherwise (ii) the communication to the investors regarding the envisaged de-registration of the UCITS.
<i>Share classes</i>	Not applicable	Not applicable	Not applicable	Not applicable	Currently the registration of share classes is not required.

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