

20 December 2013

J.no. 141-0014 /KOIN

Guidelines for completing the Notification Letter in order to comply with rules and regulations in Denmark

The Danish Financial Supervisory Authority (The Danish FSA) has created these guidelines as a help in connection with notification of foreign UCITS for marketing in Denmark. The purpose of the guidelines is to facilitate completion of the Notification Letter in order to ensure that the application complies with rules and regulations in Denmark.

Please note that these guidelines are only indicative and cannot be considered as official guidelines. The guidelines do not replace the rules and regulations applicable under Danish law. Hence, the guidelines must be read in addition to amongst others the following rules and regulations:

- Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 (UCITS Directive)
- Commission Regulation (EU) no. 584/2010 of 1 July 2010 implementing Directive 2009/65/EC
- The Investment Associations, etc., Act no. 935 of 17 September 2012
- Executive Order no. 1298 of 14 December 2012 on Marketing Carried Out by Foreign Investment Undertakings in Denmark (the Executive Order)

Content

Guidelines for completing the Notification Letter in order to comply with rules and regulations in Denmark	1
The Notification Letter.....	3
1. List of compartments (sub-funds), share classes and code numbers.....	3
2. Key Investor Information Document	3
3. Annual report.....	3
4. Other information, which must be provided.....	3
5. Translation requirements	4
6. Scope of marketing activities	4
7. Marketing to retail investors.....	4
8. Marketing to professional investors only	5
Notifications that are not subject to the notification procedure of Commission Regulation No 584/2010 of 1 July 2010	7
The Notification Letter.....	7
1. Cessation of marketing of UCITS and sub-funds.....	7
2. Merger of sub-fund(s) registered for marketing in Denmark	8
3. Change of registered marketing scope and appointment of a Danish representative in order to approach retail investors, appointment of a new Danish representative and change in name and/or address of a registered Danish representative	8
4. Changes in names of sub-funds registered for marketing in Denmark.....	8
Registration fee	9

The Notification Letter

1. List of compartments (sub-funds), share classes and code numbers

The Notification Letter must contain a list of sub-funds and share classes to be marketed in Denmark. The names of the sub-funds and share classes listed in the Notification Letter must correspond to the information given in the relevant Key Investor Information Document (KIID), otherwise the Danish FSA will not be able to register the sub-funds.

If information regarding sub-funds and share classes is attached the Notification Letter in a separate excel-file, the file must use the same layout as used in the Notification Letter in order for the Danish FSA to register the sub-funds. If a separate file is used, please refer to the file in Part B, no. 3, of the Notification Letter.

2. Key Investor Information Document

The latest version of the KIID must always be enclosed the Notification Letter and published in Danish or in a Danish translation, cf. Section 10(3) and (4) of the Executive Order.

If representative KIIDs, i.e. a KIID which combines information for one or more share classes of a UCITS, cf. article 26 of Commission Regulations No. 583/2010 of 1 July 2010, are used, this should be noted in Part B, no. 3, of the Notification Letter.

3. Annual report

The latest published annual report and subsequent interim report must be submitted if they are available. If the notification regards a UCITS, which has not yet submitted an annual or interim report in its home Member State, the documents are not required. However, this should be noted under Part B, no. 3, of the Notification Letter.

4. Other information, which must be provided

In accordance with Section 3(2) of the Executive Order, the UCITS must state the type of investors which the UCITS intends to market its units to, e.g. retail investors, professional investors or unit-link investors, when notifying a UCITS for marketing in Denmark. This should be noted under Part B, no. 3, of the Notification Letter.

Furthermore, in accordance to Section 3(3) of the Executive Order, the UCITS must include information on the UCITS' Danish representative in the prospectus or in a supplement hereto; cf. Section 8 of the Executive Order. If the information is provided in the prospectus, a reference must be made in Part B, no. 3, of the Notification Letter to the relevant page or pages in the prospectus.

If the information is provided in a separate supplement to the prospectus, the supplement must be attached the Notification Letter together with the prospectus in Part A, Attachments, no. 2), and a reference to the supplement should be made. The supplement must be provided to investors together with the prospectus and the Key Investor Information Document.

5. Translation requirements

In accordance with Section 10 of the Executive Order, all documents enclosed the Notification Letter may be provided and published in Danish, English, Swedish or Norwegian, except for the Key Investor Information Document, which must always be in Danish or in a Danish translation. Pursuant to Section 10(4), translations of information or documents shall be produced under the responsibility of the UCITS and shall faithfully reflect the content of the original information.

6. Scope of marketing activities

Under Danish law, distinction is made between marketing to investors in general, including retail investors, and marketing solely to professional investors.

Any investor who cannot be classified as a professional investor will be deemed to be a retail investor. If the UCITS only intends to market its units to professional investors, it will not be allowed to carry out direct or indirect marketing activities towards retail investors and the UCITS will be liable for any breach of the regulations.

As described above in paragraph 4, the Notification Letter must clearly state which type of investors the UCITS intends to market its share to. A UCITS may change its scope of marketing activities to include retail investors. In this case, the UCITS must notify the Danish FSA of the changes in the registered marketing and submit a new Notification Letter as described below.

Please note, that indirect marketing through unit-linked schemes is not considered marketing to retail investors, but any other kind of resale or distribution to retail investors, through a professional investor or otherwise, is considered indirect marketing towards retail investors.

Furthermore, marketing must always be in accordance with the Executive Order on Good Business Practice for Financial Undertakings in Denmark, and must comply with other legislation, including the Danish Marketing Practices Act.

7. Marketing to retail investors

In accordance with Section 8 of the Executive Order, foreign UCITS must have a Danish representative in order to market its units to retail investors in

Denmark. Details of the representative should be provided under 'Details of the paying agent' in Part B, no. 2, of the Notification Letter.

In accordance with section 8(2) of the Executive Order, a representative must have a license as a securities dealer, cf. Section 9 of the Danish Financial Business Act (the FBA), or an investment management company, cf. Section 10 of the FBA. The representative may also be a branch which legally does not comprise an independent part of a credit institution, investment firm, management company, or insurance company, and which carries out the type of activities for which the undertaking has a license, pursuant to Section 5, no. 19, of the FBA.

The tasks and obligations of a Danish representative are set out in Section 8(3) of the Executive Order. These are not entirely the same as a paying agent.

Please note, that the Danish FSA considers marketing towards retail investors at fund level, and that it is not possible to register some sub-funds for marketing towards retail investors and others for marketing towards professional investors only. Consequently, if one sub-fund or share class is directly or indirectly marketed towards retail investors, the UCITS must be registered for marketing towards retail investors, and the UCITS must have a representative of all sub-funds and share classes marketed in Denmark. Hence, an agreement with a Danish representative will only comply with Section 8 of the Executive Order if it includes all sub-funds and share classes registered for marketing in Denmark and the agreement with the representative must at all times be consistent with the registration.

If the Danish representative is a branch of a foreign company, it is a precondition that the branch is registered with the Danish FSA in accordance with Article 32 of The Markets in Financial Instruments Directive 2004/39/EC (MiFID). It is not sufficient to be registered as a tied agent, appointed in accordance with Article 23 of The Markets in Financial Instruments Directive 2004/39/EC (MiFID).

8. Marketing to professional investors only

If the UCITS only intends to market its units to professional investors, it may omit to have a Danish representative if the requirements in section 8(5) of the Executive Order are fulfilled.

In accordance with Section 8(5) of the Executive Order, a UCITS, which only intend to market units to professional investors, may omit to have a representative, provided that

- 1) The UCITS only markets its units indirectly to retail investors through unit-linked schemes established by undertakings which are under supervision by the Danish FSA, cf. section 1 of the FBA, or through a branch, cf. section 5(1), no. 19 of the FBA, or

- 2) Through agreements with Danish professional investors, the UCITS ensures that the units cannot be resold to retail investors, and
- 3) Declares that the UCITS will not itself sell units to Danish retail investors.

In order to comply with the requirements of Section 8(5), the UCITS must declare that it fulfills the requirements and will be liable of any breach of the regulation. The declaration may be included in the Notification Letter or in a separate document attached hereto. Please note that the declaration will only be accepted, if it is clear that the UCITS intends to comply with the regulation in practice.

Notifications that are not subject to the notification procedure of Commission Regulation No 584/2010 of 1 July 2010

The following applies for notifications that are not subject to the notification procedure of Commission Regulation No 584/2010 of 1 July 2010.

A notification of this kind must be sent to the Danish FSA to the email address: ucits@ftnet.dk

A foreign UCITS is only required to send a notification directly to the Danish FSA if there are changes to the UCITS' registration with the Danish FSA or in order to fulfill statutory information requirements. Changes to the UCITS' registration may include:

- Cessation of marketing of the UCITS or its sub-funds in Denmark
- Merger or division of one or more sub-funds with one or more sub-funds registered for marketing in Denmark
- Change of marketing scope and appointment of a Danish representative in order to approach retail investors, cf. Section 8 of the Executive Order, appointment of a new Danish representative or changes to the registered information of an existing Danish representative
- Changes in names and addresses for UCITS and sub-funds registered for marketing in Denmark
- Change in management company and/or address for registered office

Information regarding updated prospectuses and KIID's, which does not infer changes as mentioned above, may be submitted to the Danish FSA via email. If an updated prospectus or KIID include changes to the registered information, please follow the procedure below.

The Notification Letter

The following describes the procedure for notification depending on the nature of the notification:

1. Cessation of marketing of UCITS and sub-funds

In accordance with Section 12(1) of the Executive Order, if a UCITS ceases to market its units in Denmark or a sub-fund ceases to be market in Denmark, the UCITS must notify the Danish investors and the Danish FSA no later than 14 days after the decision to cease marketing has taken effect.

The notification must include information on which sub-funds cease marketing and when the cessation will take effect. Notification to the Danish FSA may be made in the Notification Letter or in a separate document.

If the notification regards a UCITS, no excel file should be submitted as the UCITS including all sub-funds will be deleted from the register.

If the notification regards cessation of marketing of one or more sub-funds an excel file with a list of names of the relevant sub-funds must be submitted with the Notification Letter. A copy of the notification to the Danish investors should be attached the Notification Letter as a separate document.

2. Merger of sub-fund(s) registered for marketing in Denmark

In case of merger of two sub-funds both registered for marketing in Denmark, the merger will be regarded as a cessation of marketing in Denmark of the absorbed sub-funds, and notification should be made in accordance with Section 12(1) of the Executive Order, cf. the paragraph on Cessation of marketing directly above. However, the notification should include information on which sub-funds will absorb the terminated sub-funds.

If a sub-fund registered for marketing in Denmark merges with and is absorbed by a sub-fund that is not registered for marketing in Denmark, the merger will be regarded as a cessation of marketing in Denmark of the absorbed sub-fund. In this case, notification should also be made in accordance with Section 12(1) of the Executive Order. If the absorbing sub-fund is to be marketed in Denmark, the sub-fund must file a separate notification for marketing in Denmark prior to commencing marketing activities towards Danish investors.

3. Change of registered marketing scope and appointment of a Danish representative in order to approach retail investors, appointment of a new Danish representative and change in name and/or address of a registered Danish representative

If the UCITS wishes to expand the scope of its marketing in Denmark to include retail investors, the UCITS must notify the Danish FSA to this regard and include information on the name and address of a Danish representative in accordance with Section 8 of the Executive Order. Contact details for the representative should be written under point 6 of the Notification Letter.

This also applies if the UCITS appoints a new representative that replaces another or if the representative changes its name or address.

4. Change in names of sub-funds registered for marketing in Denmark

In accordance with section 9(1) of the Executive Order, all changes of name or address must be submitted no later than 14 days after the changes applies.

The notification should clearly state the old and the new name, address and/or code number with a clear indication on what replaces the old name, address or code number. This may be explained in the Notification Letter under "Other announcements concerning UCITS (specify)" or in a separate

document. All changes must be clearly visible and easy to read in the excel file.

5. Change in Management Company and/or address for registered office/seat/domicile (Section 4 and/or 5)

In accordance with section 9(1) of the Executive Order, all changes of name or address must be submitted no later than 14 days after the changes applies. The new contact details should be provided under point 4 or 5 of the Notification Letter depending on which is relevant.

Registration fee

According to Section 13 of the Executive Order, the following fees are payable in connection with a registration for marketing in Denmark, cf. Chapter 22 of the FBA:

- An annual basic fee of DKK 8,000 in 2004-prices
- A fee of DKK 2,500 in 2004-prices for each notification or application for cross-border marketing of units in a UCITS, including amongst others any enquiry regarding registration of new UCITS, sub-funds or share classes for marketing, name or address changes, changes in marketing scope, change of Danish representative and cessation of marketing of UCITS or sub-funds.

Please note, that the fees are adjusted on a yearly basis. For more information regarding the fees and current fee levels, please refer to: www.dfsa.dk, About Us > Financing and collection of fees

- www.dfsa.dk, About Us > Financing and collection of fees > Frequently asked questions about fees <http://www.finanstilsynet.dk/en/Om-os/Finansiering.aspx>.

The fees are not payable in advance, but will be charged by the Danish FSA at the beginning of December and will be payable by the end of December. Failure to pay on time is considered a violation of the rules set out in the Executive Order and the Danish FSA may demand that the UCITS cease marketing its units in Denmark in accordance with Section 11(1), no. 2, of the Executive Order.