

Chapter 10

Operating on a cross-border basis



10.3 AIFM marketing passport

Application

10.3.1

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This section applies to:

- (1) a *full-scope UK AIFM* of:
 - (a) a *UK AIF*; and
 - (b) an *EEA AIF*;

that intends to *market* the *AIF* it manages in an *EEA State* other than the *UK*; and
- (2) a *full-scope EEA AIFM* of:
 - (a) a *UK AIF*; and
 - (b) an *EEA AIF*;

that intends to *market* the *AIF* it manages in the *UK*.

Feeder AIFs

10.3.2

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If the *UK AIF* or *EEA AIF* is a *feeder AIF*, the *full-scope UK AIFM* or *full-scope EEA AIFM* may only *market* the *AIF* using the *marketing passport* if the *master AIF* is a *UK AIF* or an *EEA AIF* that is managed by a *full-scope UK AIFM* or a *full-scope EEA AIFM*. However, the *AIFM* of such an *AIF* will be entitled to *market* the *AIF* if it meets the conditions in regulation 57 (Marketing under Article 36 of the directive) of the *AIFMD UK regulation*, as explained in ■ FUND 10.5.3 G to ■ FUND 10.5.5 G.

Marketing passport for full-scope UK AIFMs

10.3.3

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Information on the use of the *marketing passport* by a *full-scope UK AIFM* is contained in ■ SUP 13 (exercise of passport rights by UK firms), which includes:

- (1) *guidance* on the conditions for providing *cross-border services* to market an *AIF* in an *EEA State* other than the *UK* (SUP 13.4.2FG);
- (2) the notice of intention that a *full-scope UK AIFM* must submit to provide *cross-border services* to market an *AIF* (SUP 13 Annex 8BR); and
- (3) *guidance* on changes to *cross-border services* to *market* an *AIF* in an *EEA State* other than the *UK* (SUP 13.7.14G).

Marketing passport for full-scope EEA AIFMs

10.3.4 **G** Information on the use of the *marketing* passport by a *full-scope EEA AIFM* is contained in ■ SUP 13A (Qualifying for authorisation under the Act) and ■ SUP 14 (Incoming EEA firms changing details, and cancelling qualification for authorisation), which include:

- (1) *guidance* on the conditions for providing *cross-border services to market an AIF into the UK* (■ SUP 13A.5.3 G); and
- (2) *guidance* on changes to *cross-border services to market an AIF in the UK* (SUP 14.3.9G and SUP 14.3.10G).

10.3.5 **G** In accordance with article 32(5) of *AIFMD* arrangements for the *marketing* of *AIFs* (referred to in point (h) of Annex IV of *AIFMD*) are subject to the laws and supervision of the *Host State* of the *AIFM*. This means that a *full-scope EEA AIFM* that is *marketing* an *AIF* in the *UK* using the *marketing* passport should have regard to the *financial promotions* regime, as explained in ■ PERG 8.37.6 G (3) (Communications with investors in relation to draft documentation).

Further guidance on marketing an AIF

10.3.6 **G** Further guidance on marketing an *AIF* can be found in ■ PERG 8.37 (AIFMD Marketing).

Marketing an ELTIF

10.3.7 **G** To *market* an *ELTIF* in an *EEA State* other than the *United Kingdom* a *full-scope UK AIFM* should submit a notice to the *FCA* using the forms in:

- (1) ■ SUP 13 Annex 8BR (Passporting: AIFMD); and
- (2) ■ FUND 4 Annex 1R (Additional documentation and information to market an ELTIF).