

# Undertakings for Collective Investment in Transferable Securities (UCITS)

A UCITS is an open-ended European investment fund established in accordance with the UCITS Directive. UCITS are typically domiciled in tax-neutral jurisdictions such as Ireland or Luxembourg. UCITS must be organized under the laws of an EU member state and subject to regulation by the EU member state in which it is domiciled. Once registered in one EU country, the fund can be marketed throughout the EU and other jurisdictions that recognize UCITS, subject to local marketing requirements. Although subject to a pan-European regulatory regime, the legal structures and form of organization of UCITS vary considerably and are governed by the laws of the UCITS' country of domicile. For example, [Irish Variable Capital Companies](#), [UK Open Ended Investment Companies](#), and [Luxembourg SIFs](#) may all qualify as UCITS.

## Investor Profile

- Any investor of any EU member state in which the fund has given proper notification can invest.
- In the U.S., when offered as private fund to investors, requirements are the same as those for [Private Funds](#).
- Feeder funds are permitted under the UCITS IV Directive. A UCITS feeder fund must invest at least 85% of its assets in a UCITS master fund.

## Regulatory Reporting Requirements

- A Key Investor Information Document ("KIID" – may be provided by way of website or by durable medium) must be approved in the country of domicile, translated for cross-border marketing in the host country's language, and made available and delivered to investors at pre-contract stage.
- A full prospectus is required as part of the regulatory filing.
- Filing of Annual and Semi Annual Reports.
- Publication of its share price each time a UCITS issues, sells or redeems shares, or at a minimum, twice monthly.
- The UCITS Directive and Guidelines issued by the European Securities Market Authority (ESMA) apply harmonized rules. These rules are transposed into local laws and regulations in each EU member state and the fund must comply with the rules of their home member state.
- Where there is cross-border marketing, the local marketing rules of the target member state will apply.

## Distribution, Advertising and Promotion

Banks are a commonly used distribution channel. Among EU member states:

- UCITS can be marketed in EU member states under the notification process and to other non-EU jurisdictions that recognize UCITS.

- EU cross-border marketing requires notification of the regulatory authority in the UCITS' home Member State which, in turn, is required to transmit notification to the financial regulator in the other Member State and is then, provided it meets local marketing rules, will be permitted to market within 10 business days.
  - Notification involves submission of the following information:
    - Notification Letter
    - Attestation that the UCITS fulfills requirements of the UCITS Directive
    - Fund constituent or incorporation documents
    - Prospectus
    - Latest annual and semi-annual reports
    - Key Investor Information Document (replaces the prior Simplified Prospectus and is the only document required to be translated)
- UCITS may be marketed within 10 business days of notification of host country regulator, which has no authority to review, approve or impose additional administrative requirements with respect to marketing the UCITS in the host country (other than local marketing requirements).
- Other non-EU jurisdictions may recognize the UCITS, subject to their own regulatory requirements. For example, in the United States, a public offering of foreign issuer securities is not permitted without obtaining an SEC order, but a UCITS may be offered as a private 3(c)(1) or 3(c)(7) fund. See [Private Funds](#).

## Fund Launch Timeline and Authorization Requirements

- Fund launch is considered lengthy, as it requires prior regulatory authorization (although note that speed will depend on jurisdiction e.g., average Irish authorization timeline is 4-6 weeks for UCITS).
- Various minimum capital requirements and or subscription fees may apply depending on the country in which the UCITS is organized.

## Fund Organizational Structure

- A UCITS may be formed as an unincorporated fund with a management company, a trust, a common contractual fund or an investment company. The form that the UCITS may take will largely depend on the country in which it is organized.
- The UCITS IV Directive created greater flexibility in allowing authorized management companies to manage UCITS that are situated in member states different from the management company's domicile.
- Management companies are subject to certain capital, organizational and experience and requirements in order to gain authorization in member states.
- Depository/Custodian Bank – a UCITS must appoint a depository/custodian bank which supervises fund investments in addition to safekeeping the fund's assets, and which must be established or have its registered office in the EU member state in which the UCITS is based.
- Other service providers which will be appointed include fund administrator, investment manager, and fund directors.

## Fees and Fee Limitations

- The UCITS Directive requires that legal or fund rules prescribe the fee (or calculation method) that a management company may charge the fund. In general, UCITS are permitted to have share classes that charge different management fees and performance fees.

## Taxation

- UCITS are not subject to any standard tax regime across the EU; the tax laws of the UCITS' home state and tax laws of the investor's jurisdiction must be considered.
- Irish domiciled funds are exempt from Irish income tax and Irish corporation tax and are not subject to Irish tax on their net asset value.
- Investors that are not tax resident (or ordinarily tax resident) in Ireland may receive distributions, and redeem or transfer their units, without any Irish withholding tax arising, provided appropriate documentation is completed. Such investors generally have no further Irish tax liability in respect of their units.
- No capital duty is payable on the issue of units and no Irish transfer taxes are payable on the transfer of units.
- Irish withholding tax is generally deducted by Irish domiciled funds from distributions to, and on redemptions or transfers of units by, investors that are tax resident (or ordinarily tax resident) in Ireland. Certain categories of Irish investors, such as other Irish domiciled funds, pension funds, life assurance companies and other Irish investors, are exempt from this Irish withholding tax, provided appropriate documentation is completed.
- There is no annual subscription tax for Irish funds and no obligation to levy a withholding tax under the EU Taxation of Savings Directive.
- In Luxembourg, UCITS are exempt from Luxembourg income, capital gains and withholding taxes, but are subject (with certain exceptions) to an annual subscription tax of 0.05% of net assets.

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