

Transmission and Deposit System for Investor Information

Terms of Use for Investment Companies for the
Transmission and Deposit System for Investor
Information pursuant to section 129 para 2 InvFA,
Federal Law Gazette I No. 77/2011, and the TD-D,
Federal Law Gazette II No. 263/2011, as amended

Version 1.4 / 07.09.2016, Notification Office under Capital Markets Act

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Definitions / Abbreviations

Administrator	A natural person authorized by the Management Company to administer the entire management of documents vis-à-vis the Notification Office, including the user administration.
AIF	Alternative Investment Fund within the meaning of section 3 para 1 no. 1 AIFMG
AIFMG	Alternative Investment Fund Manager Act, Federal Law Gazette 2013/135 as amended
CMA	Capital Markets Act (<i>Kapitalmarktgesetz</i>), Federal Law Gazette 1991/625 as amended
Consumer Protection Act	In German <i>Konsumentenschutzgesetz</i> , Federal Law Gazette 1979/140 as amended
DRM	Digital Rights Management
Electronic Signature Act	In German <i>Signatur- und Vertrauensdienstegesetz</i> , Federal Law Gazette I No. 50/2016 as amended
FMA	<i>Finanzmarktaufsichtsbehörde</i> , the Austrian Financial Market Authority
Fund Documents	Prospectus together with the fund rules, changes to the prospectus, the KIID, changes to the KIID, translations of these documents; Other documents under the InvFA, such as annual reports, semi-annual reports, audit reports etc. and section 21 para 1 AIFMG-information, are not part of the Fund Documents within the meaning of the TDS-ToU.
Investment Company	In German <i>Kapitalanlagegesellschaft</i> , see Management Company
InvFA	Investment Funds Act (<i>Investmentfondsgesetz</i>), Federal Law Gazette I 2011/77 as amended
KIID	Key Investor Information Document, in German " <i>Kundeninformationsdokument</i> "
Management Company	Company within the meaning of section 3 para 2 no. 1 InvFA, in German <i>Verwaltungsgesellschaft</i>
Notification Office	OeKB in the exercise of its tasks under CMA, InvFA and AIFMG.
OeKB	Oesterreichische Kontrollbank Aktiengesellschaft
OeKB CSD	OeKB CSD GmbH, Central Securities Depository within the meaning of section 1 para 3 SDA
OeNB	Oesterreichische Nationalbank Aktiengesellschaft, the Austrian central bank
Online Notification Office	Technical platform for notification data, Fund Documents and information on the TDS (http://meldestelle-online.oekb.at)
Prospectus and KIID-Website	<p>Overview containing the current (i.e. recently deposited) fund documents for Retail Funds not yet closed and those transmitted within the last 365 days. These documents are also offered as downloads if ordered by the Management Company (feature 'Provision on the Prospectus and KIID-Website'). Prospectuses and changes to prospectuses for AIFs are neither displayed nor provided as download.</p> <p>For Retail Funds not yet closed, current (i.e. recently deposited) reports under the InvFA and sec 21 para 1 AIFMG-information and those transmitted within the last 365 days are only displayed and provided</p>

	as download if ordered by the Management Company (feature 'Provision on the Prospectus and KIID-Website').
PDF/A	Portable Document Format/A (ISO 19005)
SCA	Austrian Safe Custody Act (<i>Depotgesetz</i>), Federal Law Gazette 1969/424 as amended
TD-D	Decree of the Austrian Financial Market Authority (FMA) on the determination of more detailed requirements for an electronic transmission and deposit of prospectuses and Key Investor Information Documents (Transmission and Deposit Decree, in German <i>Übermittlungs- und Hinterlegungsverordnung – ÜH-V</i>); Federal Law Gazette II No. 263/2011
TDS	Transmission and Deposit System, in German <i>Übermittlungs- und Hinterlegungssystem</i>
TDS-ToU	Terms of Use for the Transmission and Deposit System
ToU	Terms of Use (Nutzungsgrundlagen)
UCITS	Undertakings for Collective Investment in Transferable Securities
User	The Administrator and any further natural persons authorized by them to transmit documents.

Part A – Statutory Transmission and Deposit System ('TDS')

1. Legal basis for the TDS

A UCITS approved in Austria shall (inter alia) transmit the KIID and any changes to it as well as the prospectus of the UCITS and its changes together with any translations to the FMA. The transmission of these documents (together the 'Fund Documents') to the FMA takes place through the TDS of the Notification Office (sections 129 para 2 and 137 para 1 second sentence of the InvFA in connection with section 2 TD-D).

The Transmission and Deposit Decree of the FMA contains more detailed legal requirements for the transmission and deposit of Fund Documents.

The present Terms of Use ('ToU') inform about the functioning and use of the TDS. They will be updated if the need arises and held available in their respective current version on the website of the Online Notification Office for the Management Companies registered for the TDS at the Notification Office.

2. Access to the TDS

2.1 Registration

Prior to the first deposit of documents through the Management Company, the Management Company shall register for the TDS at the Notification Office via a registration form (Download at [Online Notification Office](#)).

With the registration for the TDS, the Management Company nominates, until a written revocation bearing a corporate signature, those natural persons who may transmit documents for deposit on behalf of, and with effect for, the Management Company to the Notification Office and who are authorized to act with regard to all technical and legal matters necessary in connection with the transmission for deposit vis-à-vis the Notification Office ('Administrators' and 'Users'). Administrators are in addition authorized to issue and revoke user rights (see clause 2.2).

2.2 Transmission of access data and user management

The access data for using the TDS (i.e. username and password) will be sent to the Administrator nominated in the registration form for his personal attention. The Administrator is authorized to create and delete further Users ('user management'). To this end, the Notification Office sends an RSA-key fob or creates further Users upon the Administrator's request.

In relation to the TDS, a creation of further user rights based on such requests shall be regarded as an authorization also of these Users to transmit Fund Documents with effect for the Management Company.

2.3 Authorization of legal entities

In case of an authorization of legal entities, when submitting the registration declaration, the Management Company also nominates the natural persons authorized to act as Administrator for the Management Company pursuant to clause 2.1 . Apart from that, clauses 2.1 and 2.2 (Registration; transmission of access data and user management) apply mutatis mutandis.

3. Transmission of Fund Documents

3.1 Transmission – General

Pursuant to section 129 para 2 InvFA the prospectus signed by the Management Company of a UCITS together with the fund rules as well as its changes and the KIID in the current version and (if applicable) translations thereof shall be submitted to the Notification Office in such a timely manner that they are available to the Notification Office on the day of publication of the prospectus at the latest. The transmission of the documents takes place exclusively electronically via the TDS of the Notification Office.

3.1.1 Information on document specifications

- i. When transmitting a document, its specifications must be stated (type, ISIN(s), document date, language, translation and signature; see entry fields of the Online Notification Office).
- ii. In addition, the Management Company can select the feature 'Provision on the Prospectus and KIID-Website' (on this also see clause 8)

3.1.2 Electronic transmission and signature

The transmission of Fund Documents takes place exclusively electronically by using the access data, which are provided by means of the registration (see clause 2). Documents which shall be transmitted in signed form under the law may be transmitted by using a certified electronic signature pursuant to section 4 Electronic Signature Act or as a scanned copy, depending on how the signature was produced (see explanatory statement on section 2 TD-D).

3.1.3 Document format

Documents shall be transmitted in the 'Portable Document Format/A (ISO 19005)'. The Notification Office may announce the use of an at least equally suitable (with respect to its long-term digital preservation) and customary data format. In this case, it will inform the Management Companies about this at least 4 weeks in advance on the website of the Online Notification Office.

3.1.4 Characteristics of Fund Documents

The Management Company is responsible that the characteristics of the Fund Documents are such, that there are no restrictions as to their content, technical features and time so that they can be made available to third parties without restrictions (prohibition of read protection devices, encryption features, DRM-features etc.).

3.1.5 Confirmation of receipt

Registered Management Companies may view all the documents transmitted by them by using their access data. Receipt will be confirmed in the course of the document transmission either through a print-out or by e-mail, as selected by the User.

3.1.6 Time of transmission

The Fund Documents must have been transmitted to the TDS on the day of publication of the prospectus or – in case of prospectus supplements – on the day of publication of the prospectus supplement at the latest (section 129 para 2 InvFA).

3.2 Transmission with regard to specific information

3.2.1 Prospectuses and fund rules

Fund rules are a part of the prospectus and have to be submitted to the TDS together with the prospectus (prospectus, including the fund rules as an attachment, in one PDF/A).

3.2.2 Prospectuses and changes to prospectuses

Changes to prospectuses must be published and transmitted by including them into a complete new version of the prospectus (consolidated prospectus supplements; section 2 para 3 TD-D).

3.2.3 Key Investor Information Document

Updates of the KIID shall be transmitted in consolidated form (see 3.2.2 above).

4. Quality standards

4.1 Data security / integrity of stored data

Transmitted documents will be stored in the TDS without changes to their content.

Documents transmitted to the TDS can no longer be called back, exchanged, amended or changed in any other manner. In case that a document has been submitted whose content does not correspond to the published version of the document (deviating or missing document publication), the document can be marked as invalid upon request, containing a valid reason, by the Management Company (see download [Invalidation request pursuant to 4.1 ToU](#)). The same applies to documents

- i. whose content corresponds to the published version of the document but do not meet the transmission requirements (e.g. missing signature, invalid document format; see 3.1.2 and 3.1.3) or
- ii. which were submitted more than one time.

4.2 Authenticity of data to be stored

The data transmission takes place via a secure line connection. The authenticity of the transmitted Fund Documents is checked by the Notification Office pursuant to the registration proceeding covered under clause 2 . There is no further examination by the Notification Office. The Management Company is responsible for the careful use of the TDS, which shall prevent an abuse of issued usernames and passwords.

4.3 Recording of time

The point of time when a transmission of documents successfully takes place is recorded electronically in the TDS. Management Companies can access the time specifications for the documents transmitted by them in the TDS.

5. System access times

The transmission of documents to the TDS is in principle possible without any restriction as to time. In case of a material interruption of operations, e.g. due to maintenance works, technical malfunctions or force majeure, documents may, after consultation with the Notification Office, be transmitted in a different manner than pursuant to clause 3.1 .

6. Fees

The current fee rates for the services of the Notification Office can be retrieved via the Online Notification Office.

7. De-registration from the TDS

The de-registration of a Management Company from the TDS (e.g. following the discontinuation of a fund administration for UCITS approved in Austria) occurs by way of a declaration bearing a corporate signature, addressed to the Notification Office and stating that the Management Company is no longer obligated to transmit Fund Documents in Austria.

8. Important notices

1. Documents transmitted to the TDS are sent to requesters by the Notification Office in accordance with statutory obligations. However, an electronic provision of documents on the Prospectus and KIID-Website of the Notification Office only takes place if the Management Company
 - i. either selects the feature 'Provision on the Prospectus and KIID-Website' for a document in the course of its transmission (individual provision, see above 3.1.1 ii) or
 - ii. orders the supplemental service (for prospectuses, changes to prospectuses, KIIDs and changes to the KIIDs) made available for this purpose in the course of the registration or at a later time (general provision on the 'Prospectus and KIID-Website'; see Part B 2.1).

Anyway, information (type, document date, language) on the transmitted prospectuses, changes to prospectuses, KIIDs and changes to the KIIDs is provided also in cases 'Provision on the Prospectus and KIID-Website' was not selected or ordered.

In case that a document to be made available pursuant to i enjoys copyright protection or protection under a similar right, the selection of this feature shall be regarded as a declaration by the Management Company to have all copyrights or similar rights in the documents to be made available, to indemnify and keep OeKB harmless in this respect vis-à-vis third parties and to permit OeKB the non-exclusive exploitation (in particular copying and dissemination) (see the corresponding declaration in Part B 1.5 in case of a general provision pursuant to ii) and to agree that this declaration shall be governed by Austrian law.

2. The error message in case of a technically unsuitable transmission of documents notwithstanding, neither the format, content, completeness, comprehensibility nor other characteristics of the documents transmitted by the Management Company are checked in the TDS.

3. Existing agreements on supplemental services pursuant to Part B of the ToU notwithstanding, the transmission of documents to the TDS is no substitute for the obligation of the Management Company to publish the documents in accordance with the respective applicable provisions, to make them available or to use them in another lawful manner.
4. FMA and OeNB are authorized to retrieve data of the TDS by means of Electronic Data Processing in accordance with the provisions of the InvFA and the CMA.

Part B – Supplemental Services

1. General Conditions

1.1 Scope of application, amendments, partial invalidity of conditions

Services made available by OeKB in its capacity as Notification Office pursuant to Part B of the ToU are rendered in addition to the functions that have a statutory basis (Part A of the ToU) and exclusively on the basis of party autonomy. They require an agreement with the respective Management Company and are rendered, subject to a different agreement in the specific case or to specific conditions, pursuant to the General and Special Conditions of Part B of the ToU (together: 'Conditions'). Rights and obligations resulting from other contractual relations between OeKB and the respective Management Company shall remain unaffected by the Conditions.

Amendments to the Conditions will be published on the website of the Online Notification Office (<http://meldestelle-online.oekb.at>). The Management Companies are notified about this, electronically or in writing, through information on the publication site and the point of time from which the amended Conditions shall apply. The changes shall be deemed accepted unless a written objection addressed to the Notification Office is received by OeKB within 14 days from the notification to the Management Company.

If individual provisions of these ToU are ineffective, the legal effectiveness of the remaining provisions shall remain unaffected. Instead of the ineffective provision such a provision shall be deemed to have been agreed that comes closest to the ineffective provision.

1.2 Liability

Supplemental services are generally only rendered to entrepreneurs within the meaning of the Consumer Protection Act, Federal Law Gazette 1979/140, as amended. If services are rendered, on an exceptional basis, to a consumer within the meaning of the Consumer Protection Act, the liability for damages caused by slight negligence, to the extent that these are not damages to the person, shall be excluded. In relation to entrepreneurs, OeKB's liability for its own culpability and the culpability of those employed in the performance of its obligations ('Erfüllungsgehilfen') shall be excluded to the extent legally permitted and shall be apart from that limited to a compensation for the direct damage.

1.3 Termination of supplemental service

In so far as there is no agreement for a limited duration and the Special Conditions contain no deviating provisions, supplemental services may be terminated by both parties by observing an appropriate notice period, in case of services offered free of charge OeKB also without observing a notice period, as per the last

day of each month. The possibility of an immediate termination for an important reason shall remain unaffected by this.

1.4 System processes of TDS

In so far as there are no deviating rules under the Special Conditions, the provisions on the registration in the TDS, the transmission of documents, the applied quality standards and the system access times shall also apply to the supplemental services, mutatis mutandis.

1.5 Use of data and rights of use

By submitting an order for a supplemental service, the Management Company declares that it agrees that OeKB may use the contact data provided by the Management Company, in so far as this serves the purpose of the respective supplemental service (e.g. notification about amended Terms of Use, transmission confirmations, information on the termination of a service and the like).

In case that documents or information transmitted in the course of a supplemental service enjoy copyright protection or protection under a similar right, the Management Company declares to have all copyrights or similar rights in the documents or information, to indemnify and keep OeKB harmless in this respect vis-à-vis third parties and to permit OeKB the non-exclusive exploitation (in particular copying and dissemination).

1.6 Choice of law and forum

Austrian law shall apply to these Conditions, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods and the rules of international private law. The court with subject-matter jurisdiction responsible for Vienna, Inner City, shall have exclusive jurisdiction.

2. Special Conditions

The Special Conditions shall apply to the respective supplemental service in addition to the General Conditions and shall prevail in case of deviations.

2.1 Provision of the prospectus and the Key Investor Information Document on the ‘Prospectus and KIID-Website’

2.1.1 Subject of the service

Among the obligations of the Management Company serving the information of investors is the obligation to make an always current version of the KIID and the prospectus available via a website (section 138 para 3 InvFA).

If this service is ordered, the Notification Office makes electronically available to download to investors on the 'Prospectus and KIID-Website' of the Online Notification Office the prospectuses, changes to prospectuses, KIIDs and changes to the KIIDs transmitted.

Compliance with the conditions that are a prerequisite for the use of a website pursuant to Regulation (EU) No. 583/2010 of the Commission dated 1 July 2010 (see art 38 of the regulation) is not part of the service of the Notification Office and is the exclusive responsibility of the Management Company.

2.1.2 Fee

The services pursuant to 2.1.1 are rendered free of charge.

2.1.3 Important notices

The provision of documents on the 'Prospectus and KIID-Website' of the Online Notification Office does not qualify as a publication within the meaning of section 136 para 3 InvFA and therefore is in particular no substitute for the obligation of the Management Company to publish documents within the meaning of this provision or to make them available otherwise.

Within the scope of this supplemental service, OeKB neither checks the content, completeness, comprehensibility nor other characteristics of the documents transmitted by the Management Company.

2.2 Physical provision of Fund Documents

2.2.1 Subject of the service

Pursuant to section 138 para 5 InvFA, Management Companies shall, upon request by unit holders, make available free of charge a paper version of the KIID, the prospectus, the annual and semi-annual reports and, in case of a master-feeder UCITS, also a paper version of the prospectus and the annual report and semi-annual report of the master UCITS respectively, in the current version respectively.

If this service is ordered, the Notification Office takes care of the physical provision of the documents transmitted by the Management Company to the TDS (i.e. KIID, prospectus including changes). The Notification Office also makes the further documents mentioned in previous paragraph (reports) available in physical form, to the extent that these documents were transmitted to the Notification Office by the Management Company before. For this purpose, the reports may be transmitted to the Notification Office by the Management Company in electronically form.

2.2.2 Fee

The current fee rates for the physical provision of documents can be retrieved via the Online Notification Office.

2.2.3 Important notices

Clause 2.1.3 shall apply mutatis mutandis.

2.3 Deposit of reports pursuant to the InvFA

2.3.1 Subject of the service

Annual reports, semi-annual reports and audit reports of the UCITS may, in addition to the Fund Documents whose transmission is mandatory, be transmitted to the TDS electronically for the purposes of their deposit and provision ('Prospectus and KIID-Website').

This service is ordered by conclusive action through the upload of these documents in the TDS; the electronic provision for downloading on the Prospectus- and KIID-Website has to be ordered by the Management Company for reports pursuant to the InvFA during the transmission process to the TDS.

2.3.2 Fee

The services pursuant to 2.3.1 are rendered free of charge.

2.3.3 Important notices

Clause 2.1.3 shall apply mutatis mutandis.

2.4 Deposit and provision of information pursuant to sec 21 para 1 AIFMG

2.4.1 Subject of the service

Sec 21 para 1 AIFMG-information can be electronically transmitted to the TDS by Management Companies in order to prove its creation, if necessary, at a future time. It can also be provided on the Prospectus- and KIID-Website. A confirmation of receipt (see Part A 3.1.5) can be issued.

This service is ordered by conclusive action through the upload of these documents in the TDS; the electronic provision for downloading on the Prospectus- and KIID-Website has to be ordered by the Management Company for sec 21 para 1 AIFMG-information during the transmission process to the TDS.

2.4.2 Fee

The current fee rates for this services of the Notification Office can be retrieved via the Online Notification Office.

2.4.3 Important notices

The supplemental service for the deposit and provision of information pursuant to section 21 para 1 of the Act on Alternative Investment Fund Managers (AIFMG) by the TDS is not based on any legal assessment, representation, warranty or other declaration by OeKB resulting in any liability of whatever kind for OeKB, pursuant to which such supplemental service is to be determined as a sufficient provision or publication within the meaning of the applicable legal provisions (see in particular the first sentence of section 21 para 1 AIFMG). A legal determination to this effect is the sole responsibility of the Management Company.

In case the information to be provided pursuant to section 21 para 1 AIFMG is prepared in a prospectus pursuant to the Capital Markets Act or in a document supplementing such prospectus pursuant to section 21

para 3 AIFMG, their deposit at the Notification Office does not take place within the scope of the TDS, but under the provisions applicable to the deposit of CMA-prospectuses.

2.5 Forwarding of fund rules to the OeKB CSD

2.5.1 Subject of the service

Fund rules authorized by the FMA which are transmitted to the TDS as an annex to the prospectus pursuant to section 129 para 2 InvFA (see Part A 3.2) or as annex to information pursuant to section 21 para 1 AIFMG (see Part B 2.4) are forwarded to OeKB CSD as Issuer CSD for purposes of their deposit and administration according to OeKB CSD's General Terms and Conditions, if this supplemental service is ordered.

This forwarding service is ordered if the Management Company selects the feature 'OeKB CSD forwarding' for a prospectus or information pursuant to section 21 para 1 AIFMG in the course of its transmission. The forwarding takes place according to OeKB CSD's General Terms and Conditions (see Download Center at <http://oe kb-csd.at>). The Notification Office forwards the document intended for forwarding (prospectus or section 21 para 1 AIFMG-information) unchanged and in its entirety. A validation or a separation of parts of the documents, containing the fund rules, are not part of this supplemental service.

2.5.2 Representations by the Management Company

Management Companies ordering this supplemental service represent to OeKB CSD, by ordering this service at the Notification Office, that

- i. each edition of fund rules will only be ordered for forwarding to OeKB CSD once in its respective current version and
- ii. that the legally required approvals of the supervisory board, Management Company and depository bank as well as the authorisation by the FMA are available for the fund rules ordered for forwarding to OeKB CSD.

2.5.3 Use of data and rights of use

Part B 1.5 (Use of data and rights of use) shall apply, within the scope of this supplemental service, also in the relation between Management Company and OeKB CSD.

2.5.4 Fee

The services pursuant to 2.5.1 are rendered free of charge.

2.5.5 Important notices

Within the scope of this supplemental service, OeKB neither checks the content, completeness, comprehensibility nor other characteristics of the documents transmitted by the Management Company.

Notwithstanding the forwarding of documents according to this supplemental service, OeKB assumes no rights and obligations under the relation between the Management Company and OeKB CSD.



Capital Market
Services

