



TO : Regulated Entities Οντότητες

(i) Cyprus Investment Firms ('CIFs')
(ii) Administrative Service Providers ('ASPs')
(iii) UCITS Management Companies ('UCITS MC')
(iv) Internally Managed UCITS
(v) Alternative Investment Management Companies ('AIFMs')
(vi) Internally Managed Alternative Investment Funds ('AIFs')
(vii) Internally Managed Alternative Investment Funds with Limited Number of Persons ('AIFLNP's')
(viii) Companies with sole purpose the management of Alternative Investment Funds with Limited Number of Persons

FROM : Cyprus Securities and Exchange Commission

DATE : 10 August 2018

CIRCULAR No : C279

SUBJECT : Discretions of Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)

A. INTRODUCTION

1. The Cyprus Securities and Exchange Commission (the 'CySEC') reminds the Regulated Entities that the [Regulation \(EU\) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products \(PRIIPs\)](#) (the 'Regulation') entered into force on 1 January 2018 and is directly applicable in all Member States.
2. A PRIIP is defined as a packaged retail investment product or insurance-based investment product. Packaged retail investment products are investments, where, regardless of their legal form, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor. An insurance-based investment product is an insurance product which offers a maturity or surrender value which is wholly or partially exposed to market fluctuations, directly or indirectly.
3. CySEC, along with the Central Bank of Cyprus and the Superintendent of Insurance, are the designated competent authorities for PRIIP manufacturers and the persons advising

on or selling the PRIIP that fall under their supervision, per the Notification from the Minister of Finance of the Republic of Cyprus (RAD 283/2015).

4. The following delegated acts and relevant documents have also been adopted:
 - a. The [Commission Delegated Regulation \(EU\) 2017/653 of 8 March 2017 supplementing Regulation by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents](#) (the 'Delegated Regulation'),
 - b. The [Guidelines on the application of Regulation](#), and
 - c. The three [European Supervisory Authorities](#)¹ have adopted relevant [Questions and Answers](#) and [Flow diagrams for the risk and reward calculations](#) for the implementation of the Regulation and the Delegated Regulation.

B. DRAWING UP THE KID AND INVESTOR INFORMATION

5. The Regulation introduces a standardised, pre-determined key investor document ('KID') which is drawn up from PRIIP manufacturers, on the basis of uniform rules on the format and content of the KID and on its provision to retail investors.
6. The Regulation is applied to PRIIP manufacturers and the persons advising on, or selling, the PRIIP, that fall under their supervision. Indicatively, it is stated that PRIIP manufacturers include managers of investment funds, insurance undertakings, credit institutions or investment firms. These entities must draw up the KID for the PRIIPs that they manufacture, as they are in the best position to know the product. They are also responsible for its accuracy.
7. The key information document should be drawn up by the PRIIP manufacturer before the product can be sold to retail investors. However, where a product is not sold to retail investors, there should be no obligation to draw up a key information document.
8. In order for retail investors to be able to make an informed investment decision, persons advising on or selling PRIIPs are required to provide the KID in good time before any transaction is concluded. Persons advising on, or selling, PRIIPs include intermediaries and the PRIIP manufacturers themselves where the PRIIP manufacturers choose to advise on, or sell, the PRIIP directly to retail investors.. This requirement applies irrespective of where or how the transaction takes place. However, where the transaction is by means of distance communication, the KID may be provided immediately after the transaction is concluded as long as it is not possible to provide the KID in advance and with consent of the retail investor.

¹ The European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA).

9. While undertakings for collective investment in transferable securities (UCITS) constitute investment products within the meaning of the Regulation, the recent establishment of the KID requirements under Directive 2009/65/EC means that it would be proportionate to provide to such UCITS a transitional period of five years after the entry into force of the Regulation during which they would not be subject to the Regulation. After the expiry of that transitional period and in the absence of any extension thereto, UCITS should become subject to the Regulation. This transitional period also applies to management companies, investment companies and persons advising on, or selling, units of non-UCITS funds when a Member State applies rules on the format and content of the KID, as laid down in Articles 78 to 81 of Directive 2009/65/EC, to such funds.
10. Open ended Alternative Investment Funds ('AIFs') that market their units/shares to retail investors have an obligation to draw up a KIID in accordance with Article 36 (3) (c) of the Alternative Investment Funds Law 2018, while open ended AIFs that market their units/shares to well-informed investors, closed ended AIFs that market their units/shares to retail and well-informed investors, as well as AIFs with Limited Number of Persons ('AIFLNPs') that market their units/shares to well-informed investors are obliged to draw up a KID in accordance with the Regulation, since Article 36 is not applied to them.
11. The KID should be drawn up in a standardised format which allows retail investors to compare different PRIIPs, since consumer behaviour and capabilities are such that the format, presentation and content of information must be carefully calibrated to maximise understanding and use of information. The same order of items and headings for these items should be followed for each document. The KID should be clearly distinguishable and separate from any marketing communications.
12. The KID should contain short and concise information that will allow retail investors to make informed investment decisions and compare different PRIIPs. Therefore, it should only contain key information, in particular as regards the nature and features of the product, including whether it is possible to lose capital, the costs and risk profile of the product, as well as relevant performance information, and certain other specific information which may be necessary for understanding the features of individual types of product. The Delegated Regulation sets out the standardised template and content of information that the KID should include.

C. DISCRETIONS EXERCISED BY MEMBER STATES

13. Although the Regulation is directly applicable, member states and the designated competent authorities have the discretion to decide upon certain operational matters.
14. Therefore, with the present Circular, CySEC wishes to inform regulated entities that:
 - (a) The ex-ante notification of the KID by the PRIIP manufacturer or the person selling a PRIIP to the competent authority for PRIIPs marketed in that Member State is not required for the PRIIPs that are distributed in the Republic of Cyprus. In any case, the

competent authorities should be provided, upon request, with all the information necessary to check the content of the KID, to assess compliance with the Regulation and to ensure full investor protection.

(b) The KID may be written in Greek, as one of the official languages of the Republic, and/or in English, as it is a language that is widely used in the financial sector.

15. CySEC emphasizes that all regulated entities should comply with the Regulation and any legislative acts are issued in accordance to it.

Sincerely,

Andreas Andreou
Vice Chairman, Cyprus Securities and Exchange Commission