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No..4598, 15.10.2012

R.A.D. 398/2012

The Open-Ended Undertakings for Collective Investment (UCI) Law of 2012

Directive DI 78-2012-30

of the Securities and Exchange Commission regarding the notification of events to the Commission for the UCITS domiciled in another member state and which are subject to the Directive 2009/65/EU

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The Securities and Exchange Commission, exercising the powers vested in it by virtue of sub-section (1) of section 141 of the Open Ended Undertakings for Collective Investment (UCI) Law of 2012, hereby issues the following Directive:

Short title  
1. This Directive shall be cited as the Directive on the notification to the Commission events that relate to UCITS with state of domicile a member state and which adopt the Directive 2009/65/EC.

Interpretation  
2. For the purposes of this Directive, unless the context shall prescribe otherwise:

'Directive' shall mean this Directive.

'Directive DI 78-2012-30' shall mean the Directive regarding the notification of events to the Commission for the UCITS domiciled in another member state and which are subject to the Directive 2009/65/EU.

78(l)/2012

'Law' shall mean the Open-Ended Undertakings for Collective Investment (UCI) Law of 2012.

'Persons contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus' shall mean credit institutions, firms providing investment services or other investment firms, as well as Management Companies through which, the UCITS Management Company or the UCITS itself may market its units in the Republic of Cyprus.

'Regulation (EU) no 584/2010' shall mean the Regulation implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities.

Where in the present Directive reference is made to 'UCITS', this includes also the investment compartments of UCITS.

Terms used in this Directive that are not interpreted differently have the meaning given to them by Law.

Scope of application  
3.

The purpose of the present Directive is to define the events of section 148 (5) of the Law that may affect the marketing of the UCITS' units in the Republic of Cyprus that fall under sub-chapter 2, chapter 4 of Part II of the Law as well as the unit-holders' rights, which must be communicated to the Commission without delay and be accompanied with the relevant additional information and clarifications provided for in the Directive.

Events to be notified to the Commission  
4.

The events that the Commission deems to affect the marketing of UCITS' units of other member states in the Republic of Cyprus and the rights of unit-holders, are the following, as defined in paragraphs 5-13 below:

- (a) Changes in the documents of the UCITS'
- (b) Merger / absorption of a UCITS'
- (c) Marketing new shares classes of UCITS' units'
- (d) Appointing new person entering into agreement with the Management Company for the marketing of UCITS in the Republic of Cyprus'
- (e) Appointing new paying agent'
- (f) .Closing of the offering period of a UCITS launch'
- (g) Termination of the UCITS' operation'
- (h) Termination of the marketing of the UCITS in the Republic of Cyprus'
- (i) Suspension of the issue / redemption of UCITS units.

The Commission with respect to above-mentioned events may, if it deems this necessary, to request further information or/and clarifications from the ones required in paragraphs 5-13 below.

It is further understood that the Commission may also, if it deems this necessary, to request information or/and clarifications for other events that the ones defined in the above sub-paragraph.

Changes in the documents of the UCITS  
5.

(1) A UCITS shall keep its documents filed with the Commission, up-to-date at all times. Thus, the UCITS is required to submit to the Commission, any modifications with respect to its fund rules or its instruments of incorporation, its prospectus, its key investor information document as well as its latest publications of annual reports and half-yearly reports, as provided for in section

69(4) of the Law.

The above-mentioned documents must be submitted to the Commission without delay, once they will be issued for the first time and submitted to the home member state of the UCITS.

(2) In the case the revised documents of the UCITS reflect changes of:

- (a) The UCITS' name
- (b) The name or/and the number of sub-funds of UCITS marketing their units in the Republic of Cyprus through the notification procedure made to the Commission, as provided for in the Law.
- (c) The UCITS' and its sub-funds' investment policy
- (d) The UCITS' Management Company
- (e) The UCITS' Depositary

then the revised documents of the UCITS must be also accompanied by the following information:

- (i) A recent attestation by the home member state supervisory authority of the UCITS, drafted in accordance with Annex II of the Regulation EU 584/2010 of the Commission of 1<sup>st</sup> of July 2010.
- (ii) A letter by the UCITS which it shall indicate/describe the changes, as defined in the present sub-paragraph.

(3) In the case the revised documents of the UCITS do not reflect/incorporate any of the changes provided for in sub-paragraph (2) above, then the UCITS must submit to the Commission a confirmation that none of the above-mentioned cases of changes are applicable.

Merger / absorption and  
split of a UCITS  
6.

(1) In the case a UCITS, which is marketing its units in the Republic of Cyprus, is being merged with/or absorbed by/or absorbing another UCITS, the information required in sub-section (2) of section 92 of the Law must be submitted to the Commission.

In addition, the UCITS must notify to the Commission the way investors in the Republic of Cyprus will be informed regarding the merger/absorption (i.e. by an announcement, notice, circular or by any other way) and the measures taken for their effective information.

(2) In the case a UCITS, which is marketing its units in the Republic of Cyprus, is being split into two or more availing UCITS the information required in sub-section (5) of section 101 of the Law, must be submitted to the Commission.

In addition, the UCITS must notify to the Commission the way investors in the Republic of Cyprus will be informed regarding the split (i.e. by an announcement, notice, circular or by any other way) and the measures taken for their effective information.

Subject to the provisions of sub-section (2) of section 70 of the Law, the UCITS is obliged to provide to investors in the Republic of Cyprus all the information and documents it is required to provide to investors in its home member state regarding the merger/absorption/split.

A copy of the relevant announcement, notice, circular etc, as this has been communicated to the investors in the Republic of Cyprus must be submitted to the Commission before the said event takes place.

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(3) In the case where from the merger/absorption/ or split new UCITS result, for which the Commission has not been notified for the marketing of their units in the Republic of Cyprus, then for the marketing their units in the Republic of Cyprus the procedure provided for in the Law and in the Regulation (EU) no 584/2010 must be followed.

(4) In the case where the UCITS resulting from the merger/absorption/ or split do not wish to market their units in the Republic of Cyprus, this must be notified in writing to the Commission.

Marketing new shares classes of UCITS' units  
7.

If a UCITS wishes to market new share classes in the Republic of Cyprus, then the said UCITS must notify in writing the Commission, as soon as possible, disclosing the new shares classes added and the objective criteria on which they are based (e.g. the subscription & redemption fees etc.).

The UCITS may commence marketing the new share classes in the Republic of Cyprus immediately, provided that other reasons, which prohibit marketing, do not apply.

Appointing new person to be contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus  
8.

If a UCITS's Management Company wishes to appoint a new person to be contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus, then the Management Company notifies, in writing, its intention to the Commission. Also, the new person entering into agreement with the Management Company for the marketing of UCITS in the Republic of Cyprus, must submit to the Commission the information provided for in subparagraph (2) of paragraph 4 of the Directive DI 78-2012-11.

Appointing new paying agent  
9.

In the case where the UCITS wishes to appoint new credit institution as paying agent for the investors in the Republic of Cyprus, according to sub-section (1) of section 70 of the Law, it must notify, in writing, the Commission its intention by submitting to the Commission the required information in accordance with the national rules for the marketing in the Republic of Cyprus units/shares of UCITS of another member state.

Closing of the offering period of a UCITS launch  
10.

In the case where an offering period for a launch of UCITS exists, once the said offering period is closed, the UCITS must immediately notify in writing the Commission whether or not all conditions of the launch have been met.

Termination of the UCITS' operation  
11.

If the UCITS' operation is terminated for any reason such as liquidation of the UCITS, termination of the UCITS' life (in the case of a UCITS with a limited life), revocation of the UCITS' license etc., the following information must be submitted to the Commission:

(a) A copy of the decision of the home member state supervisory authority of the UCITS to terminate the UCITS' operation (in the case, the said termination is a decision made by the home member state supervisory authority of the UCITS).

(b) A letter by the home member state supervisory authority of the UCITS to attest that it has been informed regarding the UCITS' decision and that it has any opposition as to the matter (in the case, the said termination is a decision made by the UCITS).

(c) A written notification by the UCITS as provided for in paragraph 17 of the Directive DI 78-2012-11.

Termination of the marketing of the UCITS in the Republic of Cyprus  
12.

A UCITS that wishes to terminate the marketing of its units in the Republic, it must immediately notify in writing the Commission in accordance with paragraph 17 of the Directive DI 78-2012-11.

Suspension of the issue / redemption of UCITS units  
13.

In the case the issue or / and the redemption of UCITS' units is suspended the following information must be submitted to the Commission:

(a) A copy of the decision of the home member state supervisory authority of the UCITS to suspend the NAV for the issue or / and redemption of units (*in the case where the said suspension is a decision made by the home member state supervisory authority of the UCITS*).

(b) A letter by the home member state supervisory authority of the UCITS confirming that it has been informed on the UCITS' decision to suspend the issue or / and redemption of units and that it does not object to this matter (in the case where the said suspension is a decision made by the UCITS).

(c) A written notification to the Commission of the reasons founding the suspension, the duration of the suspension and the way investors in the Republic of Cyprus will be informed regarding the said event (i.e. by an announcement, notice, circular or by any other way) and the measures taken in order to provide investors with adequate information with respect to the redemption of their units. A copy of the relevant announcement, notice, circular etc, as this has been communicated to the investors in the Republic must be submitted also to the Commission.

Entry into force  
14.

The Directive shall enter into force on the date of its publication in the Official Gazette of the Republic of Cyprus.