

**The present English text is for information purposes only and is not legally binding. The legally binding document is in the Greek language.**

No. 4598, 15.10.2012

R.A.D 378/2012

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

Directive D 78-2012-11

of the Securities and Exchange Commission regarding the terms and the procedure for the marketing network of UCITS' units in the Republic of Cyprus, the organisation of the marketing network and the obligations of the persons participating in the network

CLASSIFICATION OF PARAGRAPHS

Paragraph 1	Short title
Paragraph 2	Interpretation
Paragraph 3	Scope of application
Paragraph 4	Persons contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus
Paragraph 5	Obligations and duties of the persons entering into agreement with the Management Company for the marketing of UCITS in the Republic of Cyprus
Paragraph 6	Certification of the persons participating in the marketing network of UCITS in the Republic of Cyprus
Paragraph 7	Obligations of the representatives of the persons participating in the marketing network of UCITS in the Republic of Cyprus
Paragraph 8	Submission of information to the Commission
Paragraph 9	Liability of the UCITS' Management Company
Paragraph 10	Liability of the persons participating in the marketing network of UCITS in the Republic of Cyprus
Paragraph 11	Liability of the representatives of the persons participating in the marketing network of UCITS in the Republic of Cyprus
Paragraph 12	Display of statement on the UCITS' documents addressed to investors
Paragraph 13	Investors information
Paragraph 14	Marketing UCITS' units through internet
Paragraph 15	Electronic submission of application for the marketing of units
Paragraph 16	Obligation of the UCITS or the Management Company for the provision of information through internet
Paragraph 17	Termination of marketing of units in the Republic of Cyprus
Paragraph 18	Entry into force
Annex I	Record of persons participating in the marketing of UCITS' units in the Republic of Cyprus
Annex II	Table with statistics/information for the marketing and redemption/repurchase of UCITS' units in the Republic of Cyprus

The Securities and Exchange Commission, exercising the powers vested in it by virtue of subsection (7) of section 16 of the Open Ended Undertakings for Collective Investment (UCI) Law of 2012, hereby issues the following Directive:

Short title            1. This Directive will be cited as the Directive on the terms and the

procedure for the marketing network of UCITS' units in the Republic of Cyprus, the organisation of the marketing network and the obligations of the persons participating in the network.

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

'Advanced electronic signature' means the electronic signature that fulfils all the following conditions:

- (a) is uniquely linked to the signatory,
- (b) is capable of specifically and exclusively determine the identity of the signatory,
- (c) is created using means that the signatory can maintain under his sole control and
- (d) is linked to the data referred to in a way that it can be traced to any subsequent alteration.

'Competent supervisory authority' means:

- (a) the Cyprus Securities and Exchange Commission in relation to an Investment Firm, Management Company and UCITS,
- (b) the Central Bank of Cyprus in relation to a bank;
- (c) the Registrar of the Authority for the Supervision and Development of Cooperative Societies in relation to a credit institution.

'Directive' shall mean this Directive.

78(I)/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 in accordance with section 16(5) of the Law.

144(I) of 2007  
106(I) of 2009 'Public register' shall mean the public register as set out in section 53 of the Investment Services and Activities and Regulating Markets Law.

'Representatives' means the persons who may market UCITS' units in the Republic of Cyprus under an agreement signed with the persons entering into an agreement with the Management Company for the marketing of UCITS in the Republic of Cyprus, in accordance with section 16(6) of the Law.

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

Scope of application 3. The Directive applies to the Management Company for marketing in the Republic of Cyprus, the units of the UCITS it manages, to the persons contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus, to their representatives who market UCITS' units in the Republic of Cyprus according to relevant contacts, and to the persons who the representatives use for the marketing of UCITS' units in the Republic of Cyprus.

Persons contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus

4. (1) The persons of section 16(5) of the Law can enter into a contract with the UCITS' Management Company for the marketing of UCITS' units in the Republic of Cyprus, provided that all of the following conditions shall apply:
  - (a) UCITS or investment compartments, in the case where a UCITS is comprised by several investment compartments that are or shall be marketed in the Republic of Cyprus through such persons, to have been licensed by the Commission or if they are incorporated in another member state, to have notified their marketing in the Republic of Cyprus, following the notification procedure provided for in section 69 of the Law.
  - (b) Either operating as Management Companies under the Law or the Directive 2009/65/EC or to have been licensed to provide investment services of reception and transmission of orders in one or more financial instruments, in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law or of the Directive 2004/39/EC, or if they are companies of another Member State, to have complied with the process required for cross-border provision of the service in another Member State.
- (2) The following information must be submitted to the Commission prior to the commencing of marketing of UCITS' units in the Republic by the persons entering into a contract with the UCITS Management Company for the marketing of UCITS's units in the Republic of Cyprus:
  - (a) A written confirmation certifying that they accept to take over the marketing of units of UCITS in the Republic of Cyprus, with explicit reference to UCITS or to any investment compartment under a UCITS comprising by several investment compartments, for which their units wish to market in the Republic of Cyprus, and
  - (b) If the Commission does not have evidence that the conditions of case (b) of the preceding sub-paragraph are met, a written confirmation certifying that their license includes the provision of investment services of reception and transmission of orders, in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law or Directive 2004/39/EC or if they are companies of another Member State, that the process required for cross-border provision of the service in another Member State, has been fulfilled.
- (3) Details on the persons contracted with the UCITS Management Company for the marketing of UCITS in the Republic of Cyprus, are reported to the Commission, under the responsibility of both the UCITS Management Company and of the persons contracted with it, and are filed in a registry kept by the Commission.

Obligations and duties of the persons contracted with the Management Company for the marketing of UCITS in the Republic of Cyprus

5. (1) In exercising of their duties, persons contracted with the UCITS Management Company for the marketing UCITS in the Republic of Cyprus, must:

- (a) draw up a written contract with the UCITS Management Company for which they intend to market its units in the Republic of Cyprus, or with any other person empowered by the Management Company, regarding the marketing of units in the Republic of Cyprus, where the rights and obligations of the involved parties shall be explicitly described,
- (b) deliver to the applicants for participation in the UCITS, the latest versions of their documents provided in section 16 (4) of Law,
- (c) send or deliver to unit-holders, and in general, have available and easily accessible any document or information supplied by the Management Company and which is associated with investing in units of the UCITS,
- (d) inform unit-holders about the frequency and manner of disclosure to the Republic of Cyprus of UCITS' prices (net asset value, issue price, redemption price / payment) subject to the provisions of section 60 of the Law,
- (e) comply with the provisions of the Directive on the publication of marketing communications of UCITS, as applicable,
- (f) comply with the provisions governing the provision of investment services of reception and transmission of orders of the Investment Services and Activities and Regulated Markets Law, as applicable,
- (g) ensure that their employees engaged in the marketing of UCITS' units in the Republic of Cyprus and their representatives and the persons they use for the marketing, act honestly and with professionalism,
- (h) refrain from charging fees, the nature and amount which are not justified by the quality and type of investment services they offer to the unit-holders of UCITS,
- (i) keep records of the applications they receive for the subscription and redemption/repurchase of units of UCITS and in which any related document with the marketing and the repurchase/redemption of the UCITS' units must be held,
- (j) keep records of both their employees and their representatives involved in the marketing of UCITS' units in the Republic of Cyprus. These files shall include, as minimum, the information set out in Annex I of the Directive and must be updated at regular intervals and at least annually,
- (k) provide free and immediate access to the records of this paragraph to the UCITS Management Company, the units of which are being marketed in the Republic of Cyprus through these persons.

(2) The records in paragraph 5 (1)(i) and (j) of the Directive shall be kept in an electronic format for at least five (5) years from the date of liquidation, dissolution, or otherwise, from the date of termination of the marketing of UCITS in the Republic of Cyprus or from the date of termination of the agreement signed between the person contracted with the UCITS Management Company for the marketing UCITS in the Republic of Cyprus, and of the UCITS Management Company.

(3) For ensuring the safe keeping of the data stored in the records of paragraph 5 (1)(i) and (j) of the Directive, the persons contracted with the UCITS Management Company must:

- (a) Keep backup records of the stored data in their computerized system of records of paragraph 5 (1)(i) and (j) of the Directive, and
- (b) Ensure the free and immediate access to all movements, changes and alterations made in the records by users during the period of keeping the records.

Certification of the persons participating in the marketing network of UCITS in the Republic of Cyprus

6. (1) The employees of the Management Companies, the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus, the representative-physical persons and also legal persons used by the representative-for the marketing of units, can participate in the network for marketing units in the Republic of Cyprus, provided that the following conditions shall be met:

- (a) they have been certified for the provision of investment services of reception and transmission of orders, in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law, and
- (b) they have been registered in the public register of section 53 of the Investment Services and Activities and Regulated Markets Law.

(2) Regardless of sub-paragraph (1), the Commission may, in exceptional and substantiated cases permit persons not registered in the public register of section 53 of the Investment Services and Activities and Regulated Markets Law to participate in the marketing network, provided that this shall be communicated to the Commission and approved by it, by setting deadline for the registration to the public register, in accordance with section 53.

Obligations of the representatives of the persons participating in the marketing network of UCITS in the Republic of Cyprus

7. (1) The representatives of the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus must, at minimum, during the exercising of their duties:

- (a) comply with the obligations derived from paragraph 5(1)(b),(c)(d)(e)(f)(g)(h)(i) and (k) of the Directive and from the requirements regarding the provision of the investment services of reception and transmission of orders,
- (b) have a written agreement with the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus or with other person empowered by them, regarding the marketing of units in the Republic of Cyprus, in which, the way of marketing of units will be explicitly described and also the rights and the obligations of the involved parties and will not include provisions that shall be against of the terms of the agreement between the UCITS Management Company and the persons contracted with the Management Company for the marketing of UCITS' units in the Republic of Cyprus,

- (c) ensure that the persons they use for the marketing of units comply with the obligations derived from the Directive and from the requirements regarding the provision of the investment services of reception and transmission of orders,
- (d) keep records of the persons they use for the marketing of units, which shall include, at minimum, the information provided for in Annex I of the Directive. This record must be updated in regular intervals and at least each year, and must be sent to the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus, with which the representative is contracted with for the marketing of UCITS' units in the Republic of Cyprus. The said record must be kept in accordance with the requirements of paragraphs 5(2) and (3) of the Directive are applied.

Submission of information to the Commission

8. (1) The persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus must submit to the Commission, each calendar quarter, a table with information on the marketing and the redemption/repurchase of UCITS' units in the Republic of Cyprus made by them or from their representatives, as provided for in Annex II of the Directive. The said table must be submitted within ten (10) working days, the latest, from the end of each calendar quarter for which information is given.

(2) The persons who submit the certification required in paragraph 4(2)(b) of the Directive, must inform the Commission, with no delay and within three working days, the latest, on any change made with regards to the terms and preconditions according to which they have been granted license for the provision of the investment services of reception and transmission of orders in one or more financial instruments, in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law.

Liability of the UCITS' Management Company

9. The Management Company shall be responsible for:
- (a) the way according to which the UCITS it manages, are being marketed in the Republic of Cyprus through its marketing network,
  - (b) the choice of the persons which is contracted with for the marketing of UCITS's units in the Republic of Cyprus.

Liability of the persons participating in the marketing network of UCITS in the Republic of Cyprus

10. (1) The persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus, shall be responsible for:
- (a) the compliance of their selves, of their employees and of their representatives, as well as of the persons which the latter uses for the marketing of units, with the obligations derived from the Directive and with the requirements regarding the provision of investment services of reception and transmission of orders,

- (b) monitoring the creditability, morality, experience and the sufficient professionalism of their representatives participating in the marketing network, as well as of the persons which the representatives use for the marketing of units,
- (c) the choice of the representatives for any action or omission by the representatives and the persons they use for the marketing of units,
- (d) The continuous education of their employees and of the persons they use for the marketing of units.

Liability of the representatives of the persons participating in the marketing network of UCITS in the Republic of Cyprus

11. The representatives of the people contracted with the UCITS Management Company for the marketing UCITS in the Republic of Cyprus, shall be responsible for any act or omission on their own or of the persons they use for the marketing of units.

Display of statement on the UCITS' documents addressed to investors

12. The key investor information document for investors, the fund rules or the instruments of incorporation of UCITS, the prospectus and the latest annual and half-yearly report of the UCITS to be given to persons applying for participation in UCITS, any updated documents and any other documents or message to be addressed to investors and to be posted on the internet or to be disclosed to investors, must clearly state, in a readily visible way, that the investment of UCITS has no guaranteed return and that past performance does not guarantee future results. In the case of UCITS of guaranteed return, the above statement can be limited to the fact that past performance does not guarantee future results.

Investors information

13. The Management Company shall provide, per each calendar quarter, information to UCITS' unit-holders regarding their investment by sending to them relevant information which, at minimum, shall include:

- (a) The number of units which the investors acquires for each UCITS, the purchasing price and the current net asset value of the units, as this has been formed on the last working date of the calendar quarter for which information is given.
- (b) The percentage yield of the UCITS' units in which the investors participates, from the beginning of the calendar year until the last date of the calendar quarter for which information is given.
- (c) The cumulative percentage yield of the UCITS' units in which the investor participates, for the period of five (5) years, ending in the last working date of the calendar quarter for which information is given.
- (d) The management and custodian fees charged from the UCITS' assets for which the investor participates during the calendar quarter for which information is given.

Marketing

14. The marketing of UCITS's units in the Republic of Cyprus can made

UCITS' units  
through  
internet

through the internet provided that the following conditions shall be met:

- (a) The UCITS or the Management Company shall post on its website the documents of section 16(4) of the Law, and specifically the key investor information documents, the fund rules or the Instruments of Incorporation as well as the latest annual and half-yearly report, as these shall be valid in order to safeguard the immediate, easy and free access of the applicant to the said documents before the submission of application for the subscription. Any changes or updated documents shall, with no delay, be posted by the Management Company or the UCITS on its website.
- (b) The application of section 16(1)(aa) of the Law for the marketing of UCITS' units in the Republic of Cyprus, as provided for in paragraph 15 of the Directive, shall be accompanied by a declaration of acceptance of the UCITS' fund rules or instruments of incorporation, which must be posted on the website, as well, by completing the relevant field.
- (c) The payment of the required amount for the acquisition of units shall be made in accordance with section 16(1)(c) of the Law.

Electronic  
submission of  
application for  
the marketing  
of units

15. (1) The application of section 16(1)(a) of the Law for the marketing of units in the Republic of Cyprus may be submitted also by an electronic mean provided that the application bears the electronic signature of the applicant. The application to be submitted through an electronic mean shall be regarded to be complete once an electronic proof shall be given to the investors which shall bear the electronic signature of the UCITS or of the Management Company.
- (2) The electronic submission of the application does not exempt the applicant from his/her obligation to submit to the UCITS or the Management Company, the information or documents required by the existing legal framework to accompany his/her application.
- (3) The UCITS or the Management Company shall adopt and enforce appropriate procedures and techniques in order to safeguard the safe marketing of UCITS' units through the internet and the protection of the personal information of investors.

Obligation of  
the UCITS or  
the  
Management  
Company for  
the provision  
of information  
through  
internet

16. (1) When the marketing of units of UCITS in the Republic of Cyprus is made through internet, the UCITS or the Management Company safeguard that their website includes, in a visible and in a clear manner, the following information:
- (a) the manner of calculating the sale price of units for which application shall be made,
  - (b) any commissions charged regarding the participation in the UCITS,
  - (c) any limitations or preconditions imposed on the marketing of UCITS's units in the Republic of Cyprus and any references, clarifications, warnings which, according to the existing legal framework, or on the initiative of the UCITS or the Management



Company, should be notified to the unit-holders before the submission of a UCITS' subscription application.

(2) In the case an application for subscription to a UCITS is made through an electronic mean, as provided for in paragraph 15 of the Directive, the UCITS or the Management Company shall immediately inform the investors regarding the sale price on which he/her obtained participation in the UCITS.

- |   |     |  |
|---|-----|--|
| Termination of marketing of units in the Republic of Cyprus | 17. | <p>In the case a UCITS wishes to terminate the marketing of its units in the Republic of Cyprus, it must submit to the Commission, at least two months before the time of effect of the termination, written notification according to which it will inform the Commission for its intention and also the following information:</p> <ul style="list-style-type: none"><li>(a) the exact time of termination of the marketing of its units in the Republic of Cyprus,</li><li>(b) The reasons founding the termination of its units in the Republic if Cyprus,</li><li>(c) the exact number of existing unit-holders in the Republic of Cyprus during the submission of its notification, and</li><li>(d) The measures and actions taken for safeguarding investors rights, the redemption, repurchasing of their units and the provision to them of the required information.</li></ul> |
| Entry into force  | 18. | <p>The Directive shall enter into force on the date of its publication in the Official Gazette of the Republic of Cyprus.</p>  |

## ANNEX I

### Record of persons participating in the marketing of UCITS' units in the Republic of Cyprus

#### A) RECORD OF EMPLOYEES

The record with the employees (physical persons) of the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus, must include the following information:

- name and surname,
- nationality,
- identity card or passport number,
- address of permanent residence,
- department/post / employment position,
- academic qualifications,
- certification for the provision of the investment services of reception and transmission of orders,
- experience,
- date of employment.

#### B) Record of Representatives

The record with the representatives (physical and legal persons) of the persons contracted with the UCITS Management Company for the marketing of UCITS' units in the Republic of Cyprus, must include the following information:

##### B.1. Representatives– physical persons:

- name and surname,
- nationality,
- identity card or passport number,
- address of permanent residence,
- employment position,
- academic qualifications,
- experience,
- certification for the provision of the investment services of reception and transmission of orders.

##### B.2. Representatives–legal persons:

- trade name,
- legal form,
- competent supervisory authority,
- address of registered office,
- address of head offices,
- telephone, fax numbers,
- website,
- number of persons which the representative uses for the marketing of UCITS' units in the Republic of Cyprus,
- certification of the persons who the representative uses for the marketing of UCITS' units in the Republic of Cyprus with respect to the provision of the investment services of reception and transmission of orders.

**ANNEX II**

**Table with statistics/information for the marketing and redemption of UCITS' units in the Republic of Cyprus**

Persons contracted with the UCITS Management Company for the marketing of units in the Republic of Cyprus must submit the information of paragraph 8(1) of the Directive with the following manner:

NAME OF THE PERSON OF SECTION 16(5) OF THE LAW: .....												
Quarter of reference:.....												
S/ N	UCI TS	State grant ed UCIT S Licen se	ISI N Co de (if any )	Unit's curre ncy of issue	Marketing/sale of UCITS units in the Republic of Cypus				Redemption/repurchase of UCITS units in the Republic of Cyprus			
					No. of applic ations	No. of unit s	Units' value		No. of applicati ons	No. of unit s	Units' value	
							In unit's curren cy of issue	In €			In unit's curren cy of issue	In €
<b>TOTAL:</b>												
<b>Declaration:</b> <i>I hereby declare and confirm that I am a person authorized to sign the said table on behalf of the company and to the best of my knowledge and belief the information included in the said table is correct and complete.</i>												
..... <b>FULL NAME</b> Legal representative of Distributor			..... <b>SIGNATURE</b>			..... <b>Post/Capacity</b>			..... <b>DATE</b>			

**Notes:**

1. The information in the table pertains to the total (accumulative) numbers realized during the reference quarter. The quarter is the calendar quarter ending 31/03, 30/06, 30/09 and 31/12 each year.
2. In the case of UCITS with several investment compartments, information must be given for each investment compartments for which their marketing has been permitted in the Republic of Cyprus.

3. In the case of several classes in the UCITS, the information can be given cumulatively for all the share classes, without the need of presenting information per class.
4. In the case where no marketing/sale and/or redemption/repurchasing, the table shall be submitted for the UCITS/investment compartments for which the marketing is permitted in the Republic of Cyprus but with an indication in the fields of 'marketing/sale' and/or 'redemption/repurchase' of the sign «0» or use of «()».