



Asset Management and Investment Funds newsletter

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Welcome to the first issue of our newsletter. We are pleased to share the first issue of our new semi-annually newsletter, keeping you up to date with all the latest news in the asset management industry in Cyprus and Europe.

At anytime, you may unsubscribe from our newsletter by clicking the “opt out” link at the bottom of our emails. We welcome any feedback or comments you may have regarding our newsletter, and look forward to sharing exciting information with you.

A. Cyprus Updates

1. Investment based crowdfunding

On 15 November 2019 CYSEC has issued a consultation paper in relation to the introduction of a set of rules to govern investment based (i.e. through transferable securities) crowdfunding providers. These rules take the form of a CySEC directive (the “Directive”) which shall constitute a set of secondary rules under the Investment Services and Activities and regulated markets law 87(I)/2017 (the “CIF Law”). As such and pending the EU bespoke crowdfunding framework, crowdfunding service providers established in Cyprus are to be classified as investment firms (CIFs).

The Directive clarifies that in such case the CIF acts solely as intermediary in the below tripartite relationship between:

- (i) The business, being principally SMEs seeking financing by investors through the issuance of transferable securities;
- (ii) The crowdfunding service provider/CIF, that provides a publicly accessible internet-based electronic information system (the “Platform”) through which the interests of the businesses seeking financing are matched with those of the funding investors; and,

- (iii) The investors seeking to finance a business in exchange for a potential return through the said Platform.

Furthermore the Directive prescribes a set of rules complementary to the CIF’s obligations, including but not limited to: conduct of business rules; management of conflict of interests; holding clients’ money and financial instruments and product governance.

The consultation paper can be accessed [here](#).

On 15 January 2020 CySEC issued a policy Statement summarising the feedback received in response to the consultation and providing CySEC’s final position. The policy statement can be accessed [here](#).

CySEC will commence to evaluate applications from existing or prospective CIFs in relation to crowdfunding services as from February 2020.

2. Cyprus Government Equity Fund

On 19 June 2019 the Council of Ministers having decided the establishment of a Public Fund (the “Public Fund”) to offer alternative financing opportunities to the private sector in Cyprus to include SMEs, start-ups, technology and innovation

companies, shall be launching a call for tenders for the appointment of a Fund Manager for the establishment and

This Public Fund will be sponsored by the government as the seed investor with €20million and shall seek additional investors qualifying as Professional and/or Well-informed Investors under the AIF Law.

The outlined benefits of this Public Fund are as follows:

- (i) Access to capital by SMEs;
- (ii) Reduce the leverage levels required by SMEs by injecting additional capital;
- (iii) Improve competitiveness of Cyprus SMEs.

The draft Tender documents can be accessed [here](#).

3. Mini Managers Law

The draft Law regulating the operations of fund managers below the limits set by the Alternative Investment Managers Law, the so called “Mini-Managers” (*Ο περί της σύστασης και λειτουργίας των μικρών διαχειριστών οργανισμών εναλλακτικών επενδύσεων νόμος*) having been reviewed by the Attorneys’ general office is expected to be filed with the Parliament for voting.

These managers will be licensed by the CySEC and will be able to manage portfolios of funds whose assets will not exceed the limits as set by article 3, paragraph 2 of the Alternative Investment Fund Managers Directive 2011/61/EU (€100 million using leverage or €500 million without the use of leverage and a 5 years lock-up for investors). This category of managers does not fall under the said European Directive (nor the AIFM

management of this Public Fund as a Registered Alternative Investment Fund under Part VIII of the AIF Law 124(I)/2018.

Law 56(I)/2013 implementing the directive), as such national law will govern their operations.

The draft law amongst other regulates the authorization process and organizational requirements.

4. Amendments to the Companies Law

For the purpose of improving the existing institutional framework, CySEC has initiated in cooperation with the Registrar of Companies the preparation of a draft Law amending the Companies Law, in order to include provisions for the incorporation of “limited liability companies with variable capital” which shall operate as Investment Companies of Variable Capital under the Alternative Investment Funds (‘AIF Law’) and the Open-ended Collective Investment Funds Laws (“UCITS Law”). The relevant provisions regarding the operation of these companies will remain in the specific Laws for AIFs and UCITS, while the Companies Law will include, inter alia, provisions regarding the incorporation of such “limited liability companies with variable share capital”. By definition the share capital of such companies is divided into a number of shares without being assigned a nominal value.

5. CySEC quarterly statistics

On 10 December 2019 CySEC issued its quarterly statistics report in relation to management companies and undertakings of collective investments.

The Total Assets Under Management (AUM) for the 3rd quarter of 2019 reached €7.7 billion, recording a 12% increase compared to the 2nd quarter of 2019 and the UCIs, managed by the Management Companies had a Net Asset Value (NAV) of €5.6 billion. Approximately

64.6% of the AUM relate to Assets managed by the AIFMs, 28.2% by the Sub-threshold AIFMs, 3.2% by the UCITS Management Companies, 2.7% by the CIFs and only 1.3% by the Regulated UCIs that are managed by Foreign Fund Managers.

The statistics can be accessed [here](#).

The Cyprus funds industry in numbers (30

Sept 2019)

€7.7bn

Total assets under management in Cyprus



€5.5bn

Total assets of Cyprus domiciled funds



€2.2bn

Total assets of non-domiciled funds



€5.6bn

Total net assets value



€4.1bn

Net assets of CY UCIs



105

Number of funds domiciled in Cyprus



€4.9bn

Assets under management by AIFMs



€244m

Assets under management by UCITS ManCos



€2.1bn

Assets under management by sub-threshold AIFMs



B. European updates

6. European Securities and Markets Authorities (“ESMA”)

6.1 ESMA final report on integrating sustainability risks and factors in the UCITS Directive and AIFMD

Following the European Commission’s Action Plan on Sustainable Finance, ESMA has provided technical advice with a consultation paper for amendments to, or introduction of, delegated acts under Directive 2009/65/EC (UCITS Directive), and Directive 2011/61/EU (AIFMD) in particular that bring changes to three main areas: Organizational Requirements, Operating Conditions, and Risk Management.

One of the major concerns for UCITS ManCos and AIFMs is ensuring that employees have the competencies to ensure compliance with the regulation.

You can access the Final report dated 30 April 2019 on ESMA’s technical advice to the European Commission on integrating sustainability risks and factors in the UCITS Directive and AIFMD [here](#).

6.2 ESMA liquidity stress testing

On 5 February 2019, ESMA published a consultation paper on the draft guidelines on liquidity stress testing in UCITS and AIFS to fulfill the European Systemic Risk Board (ESRB) recommendations and gather input from stakeholders.

The Final Report issued on 2 September 2019 provides an overview of the feedback received through the responses to the consultation paper. The report

contains the final set of guidelines on Liquidity Stress Testing in UCITS and AIFS.

The primary purpose is to increase the frequency of liquidity stress testing (LST) and provide convergent supervision of liquidity stress testing by national competent authorities (NCA).

The guidelines apply to managers, depositaries and NCAs.

You can access the final report [here](#).

6.3 ESMA publishes consultation paper on performance fees in UCITS

On 16 July 2019, the European Securities and Markets Authority (“ESMA”) published a consultation paper on guidelines on performance fees in UCITS (the “Guidelines”). The aim of the Guidelines is to ensure supervisory convergence by national competent authorities in relation to the circumstances in which performance fees can be paid and performance fee structures.

The Guidelines are divided into the following sections:

- (i) General principles on performance fee calculation methods;
- (ii) Consistency between the performance fee model and the fund’s investments objectives, strategy and policy;
- (iii) Frequency for the performance fee crystallization and payment;
- (iv) Circumstances where a performance fee should be payable and
- (v) Disclosure of performance fee model.

The guidelines are based on IOSCO’s 2016 report on good practice for fees and

expenses of collective investment schemes.

The consultation paper can be accessed [here](#).

6.4 ESMA consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 (hereinafter “PRIIPs Delegated Regulation”).

On 16 October 2019 the European Supervisory Authorities or “ESAs” (ESMA, EBA, EIOPA) published a joint consultation paper concerning amendments to the PRIIPs KID.

The purpose of this paper is to consult market participants over possible amendments to the Regulatory Technical Standards (RTS) supporting the Commission Delegated Regulation (EU) 2017/653 on “Key information document for packaged retail and insurance-based investment products” (the “PRIIPs Regulation”).

As a reminder the **PRIIPs Regulation** (No 1286/2014) defines the **main rules and principles** for KIDs. It is supplemented by a Delegated Regulation (2017/653) specifying the presentation and contents of the KID, which is based on Regulatory Technical Standards that the ESAs were mandated to develop.

Responses to the consultation were requested by 13 January 2020. ESAs expect to finalize their review by the end of the 1st quarter of 2020, in order to submit their conclusions and

recommendations to the European Commission. Any agreed amendment to the RTS of the PRIIPs Regulation could be applied during 2021.

The consultations main topics are:

- (i) Inclusion of additional illustrative scenarios in the KID of Category 3 PRIIPS;
- (ii) Inclusion of information on past performance in the KID of Category 2 and 4 PRIIPS;
- (iii) Revision of the way cost disclosures are made to investors in the KID;
- (iv) Amendment of the methodology for computing transaction costs;
- (v) Amendment of the methodology applied for future performance scenarios;
- (vi) Amendment on the costs and benefits assessment.

The consultation paper can be accessed [here](#).

6.5 ESMA Questions and answers: application of the AIFMD

ESMA has added a new Q&A clarifying the application of the AIFMD notification requirements with regard to AIFMs managing umbrella AIFs on a cross-border basis.

The purpose of this Q&A document is to promote common supervisory approaches and practices in the application of the AIFMD and its implementing measures.

The Q&A can be accessed [here](#).

6.6 ESMA Annual Statistical report

On 7 March 2019 ESMA issued its first statistical report on EU Alternative Investment Funds. It provides an analysis on structures and trends in the European Alternative Investment Funds sector. The analysis concentrates on hedge funds, private equity funds, real estate funds and funds of funds. ESMA uses statistical methods to provide indicators amongst others the size, exposures, leverage and liquidity of each structure.

The statistical report can be accessed [here](#).

6.7 ESMA 2020 Annual Work Program

ESMA has published its 2020 Work Program (WP), setting out its priorities and areas of focus for the next 12 months in support of its mission to enhance investor protection and promote stable and orderly financial markets.

The annual work program can be accessed [here](#).

7. Packages Retail Insurance-based Investments Products (“PRIIPS”) - European Commission adopts Delegated Regulation to align transitional arrangements

The European Commission Delegated Regulation 2019/1866 adopted on 3 July 2019 (the “Delegated Regulation”) which amends the Commission Delegated Regulation (EU) 2017/653 (the “PRIIPs Delegated Regulation”) entered into force on 28 November 2019. The purpose of the Delegated Regulation is to align the transitional arrangements for PRIIP

manufacturers offering units of UCITS and non-UCITS funds referred to in Regulation (EU) 1286/2014 (the “PRIIPs Regulation”) as underlying investment options with the prolonged exemption period under the PRIIPs Regulation. In effect the Delegated Regulation extends the transitional arrangements by two years until 31 December 2021.

This means that PRIIP manufacturers can continue to use the key investor information document produced in accordance with the UCITS Directive provided that at least one of the underlying investment options is a UCITS or non-UCITS fund referred to in Article 32 of the PRIIPs Regulation.

The Delegated Regulation can be accessed [here](#).

8. Cross Border Distribution Directive

On 20 June 2019 the European Parliament and Council of the EU have adopted a package of measures intended to standardise and improve the cross-border distribution of investment funds in the European Union.

The legislative package comprises a Directive (Directive (EU) 2019/1160) and Regulation (Regulation (EU) 2019/1156) on the cross-border distribution of funds both of which entered into force on 1 August 2019. Most of the requirements are required to be applied from 2 August 2021, and EU member states will, by that date, be required to enact measures to implement the provisions of the Directive.

The main changes to the UCITS directive and AIFMD are the following:

- Removal of the requirement to appoint a local entity fulfilling the paying – and/or information agent function for UCITS and for AIFs distributed to retail investors

- Implementation of uniform rules for the de-notification process, in case UCITS or AIFs shall no longer be marketed in a member state

- The implementation of a new ESMA central database on cross-border marketing of UCITS/AIFs;

- National regulators will be required to publish online, and notify to ESMA, all applicable laws, regulations and administrative provisions regarding marketing requirements for UCITS and AIFs, as well as summaries of them. They will also be required to publish online, and notify to ESMA, information on their fees relating to marketing requirements. ESMA will then, in turn, by 2 February 2022, be required to publish the information notified to it (and/or hyperlinks to that information) on its website.

- Implementation of uniform definition and conditions for AIF ‘pre-marketing’ to professional investors as per below:

- provision of information or communication, direct or indirect, on investment strategies or investment ideas by an EU AIFM or on its behalf
- to potential professional investors domiciled or with a registered office in the EU
- in order to test the investors’ interest in an AIF or a

compartment which is not yet established

- or in order to test their interest in an AIF or a compartment which is established, but not yet notified for marketing, in accordance with Article 31 or 32 of AIFMD, in that member state where the potential investors are domiciled or have their registered office
- and which does not amount to an offer or placement to the potential investor to invest in the units or shares of that AIF or compartment

It will ‘**not** be pre-marketing’ where the information:

- (i) is sufficient to allow investors to commit to the AIF;
- (ii) amounts to subscription documents in draft or final form; or
- (iii) amounts to *final form* constitutional or offering documents of a yet-to-be established AIF.

EU AIFMs engaging in pre-marketing activities, shall, within two weeks of the commencement of such activities, notify their home member state regulator by “informal letter” or electronic means detailing when and where the pre-marketing is taking place, and in respect of which AIFs, stating their investment strategies.

It is important to note that where the pre-marketing rule is used, it will still be necessary for the relevant AIFM to obtain passporting/marketing rights under Article 31 (for AIFM home state marketing) or Article 32 (for marketing in other EU member states) before units or shares in the relevant AIF may be acquired by investors.

The Directive can be accessed [here](#).

The Regulation can be accessed [here](#).

9. Anti-Money Laundering (“AML”)

9.1 Financial Action Task Force (FATF) publishes consolidated assessment rating

On 3 September 2019 the FATF published an updated consolidated table of assessment ratings that reflect the extent to which a country's AML/CFT measures have been implemented and the effectiveness of these measures.

This table provides an up-to-date overview of the ratings that assessed countries obtained for effectiveness and technical compliance (TC) and contains ratings for 81 jurisdictions.

The consolidated rating table can be accessed [here](#).

9.2 Anti- Money Laundering Directive (EU) 2018/843

On June 19th, 2018, the fifth EU Anti-Money Laundering Directive (AMLD 5) was published in the official journal of the European Union. The AMLD5 modifies the fourth Anti-Money Laundering Directive (AMLD4) released in 2015. The AMLD 5 entered into force on July 9th, 2018. Member states are obliged to transpose the modified regulations into national law by latest **20 January 2020**.

The main changes are:

- (i) *UBO*: grants access to the general public to beneficial ownership information of EU based companies;
- (ii) makes it an obligation to consult the beneficial ownership register when performing AML due diligence;

- (iii) obliges member states to create a list of national public offices and functions that qualify as politically exposed (PEP);
- (iv) introduces strict enhanced due diligence measures for financial flows from high-risk third countries;
- (v) ends the anonymity of bank and savings accounts, as well as safe deposit boxes and creates central access mechanisms to bank account and safe deposit boxes holder information throughout the EU;
- (vi) makes information on real estate holders centrally available to public authorities;
- (vii) lowers thresholds for identifying purchasers of prepaid cards and for the use of e-money.
- (viii) *Cryptocurrencies*: virtual currency Exchanges are classified as AMLD 4&5 obligated entities.

The Directive can be accessed [here](#).

9.3 Anti- Money Laundering Directive VI

On 12 November 2018 European Commission published the sixth amendment of the EU Directive against money laundering. Member States are required to transpose the 6AMLD into national law by 3 December 2020.

Key amendments:

- (i) Introduction of additional money laundering offences (aiding and abetting, attempting and inciting);
- (ii) Increase of minimum prison sentence for money laundering offences for individuals from one year to four years;
- (iii) Improved enforcement cooperation in cross-border cases;

- (iv) Extension of criminal liability to legal persons.

The Directive can be accessed [here](#).

9.4 Anti- Money Laundering Directive (EU) 2019/1153

The directive has been published on July 11, 2019, entered into force on July 31, 2019 and has to be implemented in national regulation on August 1, 2021 at the latest. The Directive lays down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences.

The Directive can be accessed [here](#).

10. Pan-European Personal Pension Product ("PEPP")

On 25 July 2019, the Regulation on a pan-European Personal Pension Product (PEPP Regulation) was published in the Official Journal of the European Union and entered into force on 14 August 2019.

PEPP providers, i.e. credit institutions, life insurance undertakings, certain institutions for occupational retirement provision (IORPs), investment firms and UCITS management companies as well as AIFMs, will be able to benefit from a single EU market for personal pensions and a facilitation of cross-border distribution, including an EU passport.

The PEPP Regulation will only become applicable 12 months after the publication of the delegated acts referred to in the regulation. It is expected to see the first PEPP between end of 2021, and mid-2022.

The next step immediate step is to agree on the Level 2 measures. For EFAMA agreement on tax treatment will be "a crucial element for its promotion across member states". The European Commission has already recommended

that member states grant the same tax relief to PEPPS as granted to national pension products.

The Regulation can be accessed [here](#).

11. EFAMA

On 19 December 2019 EFAMA has published its latest International Statistical Release describing the trends in the worldwide investment fund industry in the third quarter ("Q3") of 2019. The report contains data on the largest domiciles of investment funds around the globe and the position of Europe in the worldwide context.

The main developments for Q3 can be summarized as follows:

- Global bond fund sales increased by €35 billion from the second quarter ("Q2") of 2019.
- Increased demand for equity funds.
- Sharp increase in net sales of money market funds.

You can find the EFAMA International Statistical Release (Q3 2019) can be accessed [here](#).

On 17 September 2019 EFAMA published its 11th edition of its Asset Management Report. The report provides detailed data on the assets under management in Europe, the location of the asset management activity, the clients of the industry, the evolution of the asset allocation, and the contribution of the industry in terms of employment.

Highlights of the report include:

- Total Assets under Management (AuM) in Europe is estimated at EUR 23.1 trillion, an increase of 113% since end-2008.

- Since 2011, the share of investment funds in total AuM has risen every year.
- In most European countries, the asset management industry serves predominantly domestic clients. The UK is the main exception with 40% of AuM managed on behalf of foreign clients.

The 11th edition of the EFAMA annual Asset Management Report can be accessed [here](#).

12. Outlook for 2020-2021

- *Beneficial owner transparency* and AMLD 5 bringing this one step further by making the registers accessible to the public.
- Facilitate *cross-border distribution of investment funds* and central database to be developed by ESMA in relation to information to be communicated in connection with cross-border marketing activities by funds.
- Cost and performance of retail investment products to ensure supervisory convergence in relation to the different practices across National Competent Authorities regarding performance fee structures as well as the circumstances in which performance fees can be paid.
- The PEPP as a cross-border personal pension product regime with a number of standardized features
- Upcoming reviews by the Commission of the AIFMD and UCITS Directive.
- Revision of the PRIIPS technical standards after the consultation of the EU commission.

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