

22 December 2022

Communication to the Industry on the Applicability of Regulation (EU) No 1286/2014 on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) to Funds and Fund Managers

1. Introduction

The below communication complements Section 5 of the [circular](#) issued by the MFSA on 23 May 2022 in relation to the transposition of Directive (EU) 2021/2261 of the European Parliament and of the Council of 15 December 2021 amending Directive 2009/65/EC as regards the use of key information documents by management companies of undertakings for collective investment in transferable securities.

On 1 January 2018 Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (“the Regulation”) introduced the key information documents for packaged retail and insurance-based investment products (“PRIIPs KID”) for all packaged retail and insurance-based investment products, which are made available to retail investors in the European Economic Area (“EEA”). Regulation (EU) 2017/653 and Regulation (EU) 2021/2268 lay down supplementary requirements for the content of the key information.

The PRIIPs KID is a maximum 3-page pre-sale disclosure document aimed at providing retail investors with the information necessary to make an informed investment decision.

The Regulation requires that the PRIIPs KID should contain specific key information on an investment product in a prescribed way and in a standard format that makes it simple for retail investors to assess and compare products.

The key information to be disclosed in the PRIIPs KID includes, inter alia:

- i. the nature and features of the product, including whether it is possible to lose capital;
- ii. the costs and risk profile of the product; and
- iii. relevant performance information.

2. Application

The Regulation applies to all PRIIPs manufacturers, and/or persons advising on such products, and/or persons selling PRIIPs. They should also be providing an investment opportunity to EEA retail investors where the product's return is subject to the performance of assets which are not directly purchased by the EEA retail investor.

Units in UCITS and AIFs constitute PRIIPs for the purposes of the Regulation. However, UCITS management companies and self-managed UCITS were exempt from the requirements of the PRIIPs Regulation through Directive 2021/2261 as regards the use of key information documents by management companies of undertakings for collective investment in transferable securities (UCITS).

However, following the publication of Commission Delegated Regulation (EU) 2022/975 of 17 March 2022, as of 1 January 2023, the Regulation will also apply to UCITS management companies and self-managed UCITS who also offer PRIIPs to retail investors as outlined above.

For the purposes of this circular, UCITS management companies, self-managed UCITS, AIFMs, and self-managed AIFs shall be referred together as "the Licence Holders".

3. Requirements

Licence Holders shall produce a PRIIPs KID as specified in the Regulation with regards to contents and form. This shall in turn be distributed to the retail investors in good time prior to entering into any contract.

Licence Holders already offering PRIIPs should file the PRIIPs KID within 35 business days of 1 January 2023 on ausecurities@mfsa.mt. The same email address should be used for any future amendments to the PRIIPs KID. Such amendments should be notified and explained to the Authority together with an updated copy of the PRIIPs KID.

On the other hand, PRIIPs KIDs submitted as part of a new application should be submitted through the LH Portal together with all other application documents.

The PRIIPs KID will be submitted for notification purposes only.

At present, the MFSA will not require a specific naming convention for these files.

In the case of passporting in Malta, the Home Member State of the respective fund manager shall provide the MFSA with a copy of the appropriate PRIIPs KID for its funds. The said fund managers shall ensure that they fulfil the applicable legal requirements of the Home Member State, the UCITS Directive, and the AIFMD.

With regards to passporting out of Malta, as the National Competent Authority of the Home Member State, the MFSA shall receive a copy of the PRIIPs KID as provided by the Licence Holders in the manner outlined above. Following such receipt, it shall forward the PRIIPs

KID and all relevant documents, as outlined in the UCITS Directive and the AIFMD, to the Host Member State.

4. Changes to the Rules

The MFSA is analysing the impact such Regulation may have on the Rules and further communication may be issued separately.

5. Conclusion

Should you have any queries on the contents of this circular, please contact the Investment Services Supervision Function on isspolicy@mfsa.mt or ausecurities@mfsa.mt.