

A photograph of a modern glass building with a curved facade. In the foreground, two European Union flags are flying on tall, dark blue poles. The sky is a clear, bright blue. A semi-transparent orange banner is overlaid on the left side of the image, containing the text 'KARATZAS & PARTNERS' and 'Capital Markets Law Alert'.

KARATZAS & PARTNERS

Capital Markets Law Alert

New rules on the cross-border distribution of funds in Greece

Applicable Rules

Recently, Directive EU 2019/1160 on the cross-border distribution of funds (the **CBDF Directive**) was transposed into Greek law by Greek law 4920/2022 which accordingly amended Greek law 4099/2012 on undertakings for collective investment in transferable securities (the **UCITS law**) and Greek law 4209/2013 on alternative investment fund managers (the **AIFM law**).

The CBDF Directive together with Regulation (EU) 2019/1156 on facilitating cross-border distribution of collective investment undertakings directly effective and applicable from 2 August 2021 constitute the CBDF package and aim to harmonise and facilitate the cross-border marketing and distribution of UCITS and AIFs within the EU by reducing the remaining regulatory barriers, improving thereby cost efficiency, whilst continuing to ensure investor protection.

Recent Key Changes

➤ *Pre-marketing of AIFs to professional investors*

For the first time, an EU harmonised concept of "pre-marketing" is introduced allowing EU fund managers to test investment strategies or ideas with potential professional investors and explore their interest in an AIF. The scope of permitted pre-marketing in Greece applies to AIFs or a compartments/sub-funds which are not yet established as well as AIFs which are established but not yet registered for marketing passport purposes.

Pre-marketing is permitted as above only if the information provided to professional investors does not allow the latter to make an investment decision in relation to the marketed AIF. Fund managers are required to notify their home member-state regulator indicating inter alia the targeted EU member states and the type of information to be provided thereunder.

It is also noted that any subscription by professional investors to units or shares of an AIF referred to in the information provided in the pre-marketing communication, within 18 months from the beginning of pre-marketing will be considered as the result of marketing, thus, triggering, the ordinary notification process provided under the AIFM law.

The new pre-marketing regime does not apply to non-EU AIFMs / AIFs marketed in Greece.

Recent Key Changes

➤ *Marketing communications and material*

Greek law 4920/2022 introduces the application of the same common requirements in relation to marketing communications as provided by Regulation (EU) 2019/1156 and further clarified by relevant ESMA guidelines to both AIFMs and UCITS marketed to investors in Greece. Greece has opted out of the prior-notification requirement, although marketing material will still need to be notified to the HCMC

➤ *Local facilities for AIFs and UCITS being marketed to retail investors*

Same facilities requirement (inter alia, subscription processing, payment, repurchase and redemption orders) applicable to UCITS marketed and distributed to retail investors in Greece apply to the managers marketing AIFs to retail investors in Greece

No local presence is required by AIFMs or UCITS managers that market to retail investors hence, local investor facilities, as specifically provided for by the UCITS law and the AIFM law can be made available on a remote basis by electronic means.

Recent Key Changes

➤ *Discontinuation of marketing*

A new process is set by the Greek law 4920/2022 in case of managers intending to cease marketing of UCITS or AIFs (excluding close-ended AIFs) in Greece. The latter entails, inter alia, the issuance of a 30-day standing blanket offer to repurchase, free of charge, all shares or units held by investors in Greece along with a public announcement and the termination of any intermediary arrangements to ensure no further marketing occurs following the notification of discontinuation. Notification of compliance with the above requirements should be submitted to the competent authority of the UCITS/AIFM's home state.

In particular with respect to AIFs, for a period of 36 months following a notification to cease marketing of an AIF in Greece, an AIFM is prohibited from engaging in any pre-marketing of the same AIF or in relation to similar investment strategies or ideas to investors in Greece

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