

**Regulation no. 12/2018**  
**for the implementation of certain provisions of**  
**Regulation (EU) No. 1.286 / 2014 on key information documents for the Packaged retail**  
**investment and insurance-based products**  
**(PRIIPs)**

*In force as of October 31<sup>st</sup>, 2018*

*Published in the Official Journal, Part I no. 919 of 31 October 2018.*  
*Form applicable on 06 November 2018.*

*Under the provisions of Art. 1 par. (2), art. 2 par. (1) let. a) and d), art. 3 par. (1) lit. b), art. 6 par. (1) and (2), as well as of art. 14 of the Government Emergency Ordinance no. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved with amendments and completions by Law no. 113/2013, as amended and supplemented, in compliance with Art. 234 let. c) of Law no. 126/2018 on the financial instruments markets, pursuant to Art. 5 par. (2), art. 7 and art. 28 par. (1) and (4) of the Regulation (EU) no. 1.286 / 2014 of the European Parliament and of the Council of 26 November 2014 on key documents concerning Packaged retail investment and insurance-based products (PRIIP), following the deliberations of the Board of the Financial Supervisory Authority meeting of 24 October 2018,*

The Financial Supervisory Authority shall issue the hereby Regulation.

**Art. 1.** - This Regulation establishes measures for the implementation of the provisions of art. 5 par. (2), art. 7 and art. 28 par. (1) and (4) of the Regulation (EU) no. 1.286 / 2014 of the European Parliament and of the Council of 26 November 2014 on key information documents concerning Packaged retail investment and insurance-based products (PRIIP), hereinafter referred to as "Regulation (EU) 1286/2014".

**Art. 2.** - The terms and expressions used in this Regulation have the meaning provided for in Regulation (EU) No. 1286/2014.

**Art. 3.** - This regulation applies to the creators of the Packaged retail investment and insurance-based products, hereinafter referred to as PRIIP, and to persons providing consultancy on a PRIIP or who sell a PRIIP to retail investors on the territory of Romania.

**Art. 4. - (1)** In applying the provisions of art. 5 par. (2) of Regulation (EU) No. 1.286 / 2014, the PRIIP creator or the person selling the PRIIP shall send to the Financial Supervisory Authority, hereinafter referred to as ASF, the key information document, 5 days before making it available to the retail investors on the territory of Romania.

(2) By way of exception from the provisions of paragraph (1), creators and sellers of PRIIPs notified by the competent national authorities of their home Member States shall comply with the insurance specific provisions, in which case the agreement concluded between the competent national authorities of the Member States shall also apply.

(3) The exemption mentioned in paragraph (2) applies only to the initial notification of the activity on the territory of Romania. For the PRIIPs subsequently launched, the obligation set out in paragraph (1) shall apply.

(4) According to art. 10 of the Regulation (EU) no. 1.286 / 2014 in conjunction with Art. 16 of the Delegated Regulation (EU) no. 653/2017 of the Commission of 8 March 2017 supplementing the Regulation (EU) no. 1.286 / 2014 of the European Parliament and of the Council on the documents containing key information concerning the Packaged retail investment and insurance-based products (PRIIP), by setting regulatory technical standards on the presentation, content, revision and amendment of the key information documents, as well as the

conditions for fulfilling the requirement to provide such documents, the PRIIP creator or the person selling the PRIIP transmits to ASF, two days before making available to the retail investor, the modified version of the key information document, too.

**Art. 5. - (1)** In applying the provisions of art. 7 of Regulation (EU) no. 1.286 / 2014, the document containing key information about PRIIPs in Romania or other EU Member States that are distributed in Romania is written in Romanian and, optionally, in English, too.

**(2)** The provisions of paragraph (1) also apply to marketing documents promoting the PRIIPs that are distributed in Romania.

**Art. 6. - (1)** In applying art. 13 par. (1) of the Regulation (EU) no. 1.286 / 2014, a person who advises on a PRIIP or sells it to retail investors can fulfil their obligation of providing the document with key information by making available the hyperlink to the site of the PRIIP creator, if all the conditions provided in art. 14 par. (5) of the aforementioned Regulation are met and if the Key Information Document is elaborated in Romanian.

**(2)** In the application of art. 14 par. (5) let. (c) of the Regulation (EU) no. 1.286 / 2014, the person who advises or sells a PRIIP is deemed to have fulfilled their obligations to electronically notify the website address and the site where the key information document can be consulted if they have published this information in the online account of the retail investor established under the contract with them and if all the conditions of art. 14 par. (5) of the Regulation (EU) no. 1286/2014 have also been met.

**Art. 7. - (1)** In application of the provisions of art. 28 par. (1) of the Regulation (EU) no. 1.286 / 2014, employees of creators and persons selling PRIIP are provided the communication channels made available by A.S.F., which are safe and confidential, to receive reports of actual or potential violations of the provisions of the Regulation (EU) no. 1.286 / 2014 and for the activities carried out, including the measures adopted as a result of such infringements, hereinafter referred to as secure communication channels.

**(2)** Reporting actual or potential violations of the provisions of the Regulation (EU) no. 1.286 / 2014 can be achieved at least in the following ways:

- a)** by a written report of violations in electronic or paper format;
- b)** oral reporting of violations by telephone, whether registered or not;
- c)** meeting with specialized employees of ASF, if applicable.

**(3)** The management process by A.S.F. of reports sent by persons claiming violations of the provisions of the Regulation (EU) no. 1.286 / 2014 shall be carried out ensuring that:

**a)** an adequate level of protection for those employees of the PRIIP creators as well as the staff of the persons providing consultancy on a PRIIP or who sell a PRIIP reporting violations committed within those entities, at least in respect of acts of retaliation, discrimination and other forms of unfair treatment;

**b)** the protection of the identity of both the person reporting the breaches of the Regulation (EU) no. 1.286 / 2014, as well as with regard to the natural person presumed to be responsible for an infringement, at all stages of the procedure, in accordance with the provisions of the Regulation (EU) no. 679/2016 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Directive), unless national law requires disclosure of their identity in the context of further investigations or subsequent judicial proceedings.

**(4)** In applying the provisions of art. 28 par. (4) of the Regulation (EU) no. 1.286 / 2014, the PRIIP creators, as well as those who provide consultancy on PRIIPs or sell PRIIPs, set up internal rules and procedures to allow internal reporting by their employees of actual or potential breaches of the provisions of the Regulation (EU) no. 1.286 / 2014, through a specific, independent and autonomous channel.

**(5)** For the purpose of the provisions of par. (4), it is considered that in order to the requirement to establish a specific, independent and autonomous channel, the PRIIP creators, as well as those who provide consultancy on PRIIPs or who sell PRIIPs, set up and manage an e-mail address to which all their employees have access and through which they can internally report violations of the provisions of the Regulation (EU) no. 1.286/2014.

**Art. 8. -** Non-observance of the provisions of this Regulation shall be sanctioned according to art. 267 of Law no. 126/2018 on financial instrument markets.

**Art. 9. - (1)** This Regulation shall be published in the Official Journal of Romania, Part I and in the Bulletin of the Financial Supervisory Authority and shall enter into force on the date of the publication thereof in the Official Journal of Romania, Part I.

**(2)** On the date of entry into force of this Regulation, par. (4) of art. II of the Regulation of the Financial Supervisory Authority no. 2/2018 for the modification and completion of some normative acts, published in the Official Journal of Romania, Part I, no. 347 of 20 April 2018, shall be repealed.

The Chairman of the Financial Supervisory Authority,  
Leonardo Badea

Bucharest, 25 October 2018.

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