



# INFORMATIVE NOTE



## BANKING & FINANCE

# COMPLEX FINANCIAL PRODUCTS

## POSTPONEMENT OF THE APPLICATION OF EUROPEAN UNION LEGISLATION

*As per Regulation no. 1286/2014, the sale of PRIIPs, which encompasses complex financial products under Decree-Law no. 211-A/2008, is subjected to the preparation and provision of a key information document to investors, the contents of which are provided under the same Regulation.*

Regulation (EU) no. 2016/2340 of the European Parliament and of the Council of 14 December 2016 was published on the Official Journal of the European Union on 23 December 2016, by means of which Regulation (UE) no. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (hereinafter “**Regulation no. 1286/2014**”) is amended so that it applies from 1 January 2018.

As per Regulation no. 1286/2014, the sale of PRIIPs, which encompasses complex financial products under Decree-Law no. 211-A/2008, is subjected to the preparation and provision of a key information document to investors, the contents of which are provided under the same Regulation.

It was initially thought that Regulation no. 1286/2014 would apply from 31 December 2016 onwards. However, said date was ultimately found to be unattainable upon the rejection by the European Parliament of the Commission Delegated Regulation proposal implementing Regulation no. 1286/2014, a Commission Delegated Regulation that assumed a substantial role for the purposes of preparing the key information document, especially regarding information to be provided on the product’s performance scenarios.

*Among the main innovations brought forward by Regulation no. 1286/2014 lies the possibility for regulators to suspend or prohibit the sale of PRIIPs.*

By postponing the application of Regulation no. 1286/2014 to 1 January 2018, lawmakers aim to ensure that the entire new regulatory package on PRIIPs becomes applicable on the same date, thus granting marketers of PRIIPs all conditions necessary to comply with Regulation no. 1286/2014.

Among the main innovations brought forward by Regulation no. 1286/2014 lies the possibility for regulators to suspend or prohibit the sale of PRIIPs. The question arises, however, on how these powers will be exercised and it seems more likely that they will be reserved for exceptional circumstances.

For now, marketers of complex financial products shall keep on complying with Decree-Law no. 211-A/2008, CMVM Regulation no. 2/2012, on Disclosure Duties Relating to Complex Financial Products and Marketing of Unit-Linked Insurance Plans, and CMVM Instruction no. 3/2013, on Information to be provided by Issuing Entities, Management Entities and Marketing Entities on the marketing of Complex Financial Products.

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