
TO : **Regulated Entities**

- i. Cyprus Investment Firms ('CIFs')**
- ii. Administrative Service Providers ('ASPs')**
- iii. UCITS Management Companies ('UCITS MC')**
- iv. Self-Managed UCITS ('SM UCITS')**
- v. Alternative Investment Fund Managers ('AIFMs')**
- vi. Self-Managed Alternative Investment Funds ('SM AIFs')**
- vii. Self-Managed Alternative Investment Funds with Limited Number of Persons ('SM AIFLNP')**
- viii. Companies with sole purpose the management of AIFLNPs**
- ix. Small Alternative Investment Fund Managers ('Small AIFMs')**
- x. Crypto Asset Service Providers**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **29 November 2022**

CIRCULAR NO. : **C535**

SUBJECT : **EBA Guidelines on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer under Article 8 and Chapter VI of Directive (EU) 2015/849**

The Cyprus Securities and Exchange Commission ('CySEC') wishes with this Circular to inform the Regulated Entities of the following:

The European Banking Authority (the 'EBA') published, on the 14th of June 2022, Guidelines ([EBA/GL/2022/05](#)) on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer under Article 8 and Chapter VI of Directive (EU) 2015/849 (the 'Guidelines'). The Guidelines will apply as of 1st of December 2022.

The Guidelines complement and interplay with, but do not replace, very relevant guidelines issued by the European Supervisory Authorities on wider governance arrangements and suitability checks, as specified below:

- EBA guidelines on internal governance under Directive 2013/36/EU ([EBA/GL/2021/05](#)),
- Joint EBA and ESMA guidelines on the assessment of the suitability of members of the management body and key function holders ([ESMA35-36-2319](#), [EBA/GL/2021/06](#)),

- ESMA guidelines on certain aspects of the MiFID II compliance function requirements ([ESMA35-36-1946](#)),
- EIOPA guidelines on system of governance ([EIOPA-BoS-14/253 EN](#)),
- EBA guidelines on outsourcing arrangements ([EBA/GL/2019/02](#)),
- EIOPA guidelines on outsourcing to cloud service providers ([EIOPA-BoS-20-002](#)),
- ESMA guidelines on outsourcing to cloud service providers ([ESMA50-157-2403](#)),
- EBA guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units under Directive 2013/36/EU ([EBA/GL/2021/15](#)).

The Guidelines set clear expectations of the role, tasks and responsibilities of the AML/CFT compliance officer and the management body. They specify that credit or financial institutions should appoint one member of their management body who will ultimately be responsible for the implementation of the AML/CFT obligations, and clarify the tasks and functions of that person. They also describe the roles and responsibilities of the AML/CFT compliance officer, when this person is appointed by the management body pursuant to the proportionality criteria. When the credit or financial institution is part of a group, the guidelines prescribe that a group AML/CFT compliance officer should be appointed and clarify this person's tasks and responsibilities.

The Guidelines refer to articles 8, 45 – 62 of [Directive \(EU\) 2015/849](#). For convenience purposes, CySEC notes the corresponding sections of the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 (188(I)/2007) (the 'AML/CFT Law'):

Directive (EU) 2015/849	AML/CFT Law
Article 8(1)	Section 58A(1)
Article 8(2)	Section 58A(2)
Article 8(3)	Section 58
Article 8(4)(a)	Section 58(α)(β)(γ)(δ) Section 58(θ)(ι)(ια) Section 69(1)(α)
Article 8(4)(b)	Section 58B
Article 8(5)	Section 58Γ
Article 45(1)	Section 68A (1) & (2)
Article 45(2)	Section 68A(3)
Article 45(3)	Section 68A(4)
Article 45(5)	Section 59(10) Section 68A(5)
Article 45(8)	Section 49(1)
Article 45(9)	Section 70A
Article 46(1) (1 st paragraph)	Section 58(σ)

	Section 58(στ)(v)
Article 46(1) (2 nd paragraph)	Section 58(η)
Article 46(1) (3 rd paragraph)	Section 58
Article 46(3)	Section 55(1)(στ)
Article 46(4)	Section 58Δ
Article 48(1)	Section 59(5)
Article 48(2)	Section 59(6Γ)
Article 48(6)	Section 59(5)
Article 48(7)	Section 59(5)
Article 48(8)	Section 59(5)
Article 49	Section 56
Articles 51, 52, 53, 54, 55, 56, 57	Sections 54 & 55
Articles 58 (1) & (2)	Section 59(6)(α)
Article 58(3)	Section 59(6)(α)(v)
Article 58(5)	Section 59(6)(α4)
Article 59(1)	Section 59(6)(α)
Article 59(2)(α)	Section 59(6)(α)
Article 59(2)(β)	Section 59(6)(α)(i)
Article 59(2)(γ)	Section 59(6)(α)(iii)
Article 59(2)(δ)	Section 59(6)(α)(iv)
Article 59(2)(ε)	Section 59(6)(α)(ii)
Article 59(3)	Section 59(6)(α1)
Articles 60(1-3)	Section 59(6A)
Article 60(4)	Section 59(6)(α3)
Article 60(5)	Section 59(6)(α2)
Article 60(6)	Section 59(6)(α2)
Articles 61(1-3)	Section 59(6B)

The Guidelines are addressed to competent authorities as defined in Article 4(2)(iii) of Regulation (EU) No 1093/2010. They are also addressed to credit or financial institutions as defined in Article 3(1) and 3(2) of Directive (EU) 2015/849, which are financial sector operators referred to in Article 4(1a) of Regulation (EU) No 1093/2010.

Having in mind that the AML/CFT Law and more specifically the relevant sections of it mentioned in the above table are applicable to all the obliged entities, CySEC, within the context of its common supervisory approach for all the Regulated Entities in relation to the prevention and suppression of money laundering and terrorist financing, calls upon the Regulated Entities to comply with the Guidelines and be able to establish sound policies, controls and procedures.

Sincerely,

Dr. George Theocharides
Chairman, Cyprus Securities and Exchange Commission