
TO : **Regulated Entities:**

i. UCITS Management Companies¹
ii. Alternative Investment Fund Managers (AIFMs)²

FROM : **Cyprus Securities and Exchange Commission**

DATE : **15 December 2020**

CIRCULAR No : **C422**

SUBJECT : **ESMA Guidelines on performance fees in UCITS and certain types of AIFs**

1. The Cyprus Securities and Exchange Commission ('CySEC') wishes, with this circular, to inform the Regulated Entities, that the European Securities and Markets Authority ('ESMA') issued on November 5, 2020, the official translations in all EU official languages (including translation in the Greek language), of its [Guidelines on performance fees in UCITS and certain types of AIFs](#) ('Guidelines') with reference number ESMA34-39-992 EN.
2. The purpose of these Guidelines is to ensure that performance fee models used, comply with the principles of acting honestly and fairly in conducting their business activities and acting with due skill, care and diligence, in the best interest of the fund that the Regulated Entities manage, in such a way as to prevent undue costs being charged to the fund and its investors. Also, they aim at establishing a common standard in relation to the disclosure of performance fees to investors.
3. The Guidelines apply from **5 January 2021**.
4. Regulated Entities of any new funds created after 5 January 2021 with a performance fee, or any funds existing prior to this date that introduce a performance fee for the first time after January 5, 2021, should comply with these Guidelines immediately in respect of those funds.

¹ The term includes Cyprus based Management Companies of Common Funds and/or Variable Capital Investment Companies and internally managed UCITS in accordance with the provisions of [Law 78\(I\)/2012](#), as amended.

² The term includes Cyprus based Alternative Investment Fund Managers that are allowed to market to retail investors in Cyprus or shares of AIFs they manage in accordance with Article 67 of the [Law 56\(I\)/2013](#), as amended, except for: (a) closed-ended AIFs; and (b) open-ended AIFs that are EuVECA (or other types of venture capital AIFs), EuSEFs, private equity AIFs or real estate AIFs.

5. Furthermore, Regulated Entities of funds with a performance fee existing before January 5, 2021 should apply these Guidelines in respect of those funds by the beginning of the financial year following 6 months from the application date of the Guidelines.
6. CySEC adopted the Guidelines by incorporating them into its supervisory practices and therefore urges the Regulated Entities to take the necessary actions in order to ensure their compliance with the Guidelines.

Sincerely,

Demetra Kalogerou
Chairman of Cyprus Securities and Exchange Commission