



Regulatory insights

August 2023





Contents

Cyprus updates

- Cyprus Securities and Exchange Commission 03
-

European updates

- Securities and Markets 07
 - Anti-Money Laundering 07
-

Glossary 08

Contacts 09

Cyprus updates



Cyprus Securities and Exchange Commission

ESMA updates

CySEC informs regulated entities through the below two circulars of the latest ESMA common supervisory actions (CSA) in the investment fund sector.

CySEC Circular	ESMA common supervisory action
C595 dated 31 August 2023	ESMA Final Report on the 2022 CSA on valuation published on 24 May 2023 ESMA34-45-1802. More information can be found in our issue of May 2023 .
C594 dated 23 August 2023	ESMA launched on 6 July 2023 a CSA with national competent authorities on the sustainability-related disclosures and the integration of sustainability risks in the investment fund sector . More information can be found in our issue of July 2023 .

Appointment of an alternate director to attend a meeting of the Board of Directors of a CIF

CySEC with circular [C591](#) issued on 3 August 2023 informs the Cyprus Investment Firms ("CIFs") regarding the circumstances under which, a member of their board of directors (BoD), may appoint an alternate director to attend a BoD meeting in its place, taking into account the provisions of sections 9 and 10 of the Investment Services and Activities and Regulated Markets Law of 2017 (the "Law").

In particular the following cumulative conditions must be met:

- i. The CIF's memorandum and articles of Association expressly provides for the appointment of an alternate director.
- ii. The person appointed as alternate director is a current member of the BoD of the CIF.
- iii. The alternate director is appointed for one specific BoD meeting.
- iv. The CIF notifies CySEC by email of the appointment at least one day prior to the relevant BoD meeting. A sample of the notification is provided as annex to the CySEC circular. No fee is payable for the filling of the said notification.

CySEC draws the attention to the fact that the appointment, repeatedly or on a continuous basis, of an alternate director by the same CIF BoD member does not contribute to ensuring that such CIF BoD member complies with section 9(3) of the Law requiring BoD members to ensure the effective and prudent management of the CIF and to commit sufficient time to the performance of their duties in the CIF.

New reporting standards under Regulation (EU) 648/2012 on OTC Derivatives, Central Counterparties and Trade Repositories, as amended ('EMIR')

On 3 August 2023 CySEC issued circular [C593](#) relating to new reporting requirements under EMIR.

The circular provides and analysis the main changes and the impact of the new rules.

Starting from 29 April 2024, all reports submitted to trade repositories should comply with the new requirements. Outstanding derivatives i.e. derivatives reported before 29 April 2024 and not terminated by the said date will need to be updated to conform with the new reporting requirements no later than 180 calendar days from the reporting start date (with a few exceptions).

Technical clarifications concerning Reporting obligation under articles 4(3)(d) and 31(1), (2) and (4) of the Alternative Investment Fund Managers Law (the 'AIFM Law') as further specified with articles 5(3) and 110 of the Commission Delegated Regulation (EU) No 231/2013 with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision ('the Regulation')

On 3 August 2023 CySEC issued circular [C592](#) to draw the attention of the AIFMs to the AIFMD reporting updated IT technical guidance (2013/1358) (revision 6), which will be **applicable from November 2023** onwards.

The new IT technical guidance revision 6 (2013-1358 AIFMD Reporting IT Technical Guidance - revision 6) introduces new validation rules making more fields mandatory or with stricter rules to improve data quality.

The new changes are specified in the tab '*change history*' of the excel document. Reporting entities should use the version revision 6 to submit reports required under Articles 4(3)(d) and 31(1), (2) and (4) of the AIFM Law by November 2023.



Quarterly Statistic - Management companies & undertakings of collective investment sector

CySEC has published on the 2 August 2023 its quarterly statistics bulletin for the collective investments sector.

For the first quarter of 2023, the total Assets Under Management (AUM) reached €10.7 billion, recording a 12.44% increase since the fourth quarter of 2022, whereas comparing with the same period in 2022, the decrease amounts to 3.7%.

The statistics can be found [here](#)

The Cyprus funds industry

The Cyprus funds industry in numbers (31 March 2023)



European updates

Securities & Markets

Liquidity measurement of investment firms

On 23 August 2023, [Commission Delegated Regulation 2023/1651](#) of 17 May 2023 supplementing the Investment Firms Directive 2019/2034 ("IFD") regarding regulatory technical standards ("RTS") on specific liquidity measurement of investment firms was published in the Official Journal of the European Union.

The EU Commission adopted the EBA draft RTS specifying how liquidity risk and elements of liquidity risk are to be measured appropriate to the size, structure and internal organisation of investment firms and the nature, scope and complexity of their activities on 17 May 2023.

To ensure a harmonised application of the specific liquidity requirements, competent authorities will have to assess:

- ❑ all elements specific to each service provided by the investment firm under Directive 2014/65/EU ("MIFID II"); and
- ❑ other elements that could have a material impact, such as external factors, group structure, operational or reputational risks.

The Delegated Regulation will come into force on 12 September 2023, 20 days after its publication in the Official Journal of the EU.

Anti-Money Laundering

EU Commission publishes amended list of high-risk third countries

On 22 August 2023, the EU Commission adopted a [Delegated Regulation](#) that amends the list of high-risk third countries with strategic anti-money laundering ("AML") and counter-terrorist financing ("CTF") deficiencies under Article 9(2) of the Fourth Money Laundering Directive ("MLD4").

At its plenary meeting on 21-23 June 2023, the Financial Action Task Force ("FATF") added Cameroon, Croatia and Vietnam to its 'Jurisdictions under Increased Monitoring' list ("List"). The EU Commission noted that the changing nature of money laundering and the constant development of technology, requires that the EU Commission acts quickly and efficiently in adapting its legal framework on high-risk third countries. The EU Commission considers that the internal market would be exposed to serious risk, given the integration of financial systems if the EU did not add the countries identified by FATF on its list (Croatia excluded as it is a member of the EU and therefore not a third country) .

The Delegated Regulation comes into force 20 days after its publication in the Official Journal of the EU.

Glossary

- AIF Alternative Investment Fund (EU)
- AIFMD Directive 2011/61/EU on Alternative Investment Fund Managers
- AIFMs Alternative Investment Fund Managers
- AML Anti-Money Laundering
- CSRD Corporate Sustainability Reporting Directive
- CySEC Cyprus Securities and Exchange Commission
- CP Consultation Paper
- EBA European Banking Authority
- EC European Commission
- ESG environmental, social, and governance
- EMIR European Market Infrastructure Regulation
- ESAs European Supervisory Authorities (EBA, EIOPA and ESMA)
- ESMA European Securities and Markets Authority
- EIOPA European Insurance & Occupational Pensions Authority
- EU European Union
- MiFID Markets in Financial Instruments Directive
- NCA National Competent Authority
- RTS Regulatory Technical Standards
- SFDR Sustainable Finance Disclosure Directive
- OECD Organisation for Economic Co-operation and Development
- UCITS Directive directive 2009/65/EC on Undertakings for Collective investments in Transferable Securities
- UCITS Undertakings for Collective investments in Transferable Securities (EU)

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