



Regulatory insights

June 2023





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Cyprus updates

Cyprus Securities and Exchange Commission

Annual Report of the Unit for Combating Money Laundering (MOKAS) for 2022

CySEC has issued on 23 June 2023 [Circular 582](#) to inform the regulated entities that the Unit for Combating Money Laundering ('MOKAS') has published its [Annual Report](#) for 2022 ('Annual Report').

The Annual Report for the year 2022 includes among other operational, strategic, and statistical analysis of the Suspicious Activity Reports (SARs) and Suspicious Transaction Reports (STRs). It also analyses the most selected indicators of suspicion that triggered the submission of Reports to MOKAS for 2022, with reference to useful real life case examples.

CySEC encourages the regulated entities to study the Annual Report and make use of the information provided.

CySEC informative circulars on EU authorities publications

The following Circulars have been published:

- ❑ [Circular C577](#) issued on 6 June 2023 relating to the [EBA public consultation paper](#) on amendments to EBA's guidelines on money laundering and terrorist financing risk factors, to include crypto-asset service providers.

Please refer to our comments on the subject matter on page 7 of this issue.

- ❑ [Circular C578](#) issued on 6 June 2023 relating to ESMA 35-43-3565 - [Guidelines on certain aspects of the MIFID II remuneration requirements](#)
- ❑ [Circular C579](#) issued on 6 June 2023 relating ESMA35-43-3172 - [Guidelines on certain aspects of the MiFID II suitability requirements](#)
- ❑ Please refer to our comments on the subject matter in our [April 2023 issue](#).

European updates



Asset Management

EFAMA market insights - SFDR

EFAMA has released on 30 June 2023 a [new issue of its Market Insights series](#) titled “The SFDR fund market – State of play, latest market developments and outstanding regulatory issues”.

This Market Insights presents the latest trends in the Sustainable Finance Disclosure Regulation (SFDR) Article 8 and Article 9 fund markets.

The main SFDR market developments are:

- ❑ Net assets of SFDR Article 8 funds rose to 45% of the total UCITS and AIF market at end 2022 (EUR 6.4 trillion) – Net assets grew by 17% during the second half of 2022, which was mainly a result of reclassifications, in contrast to the decline in total UCITS and AIF net assets of -1.7% over the same period.
- ❑ The main domiciles of SFDR Article 8 funds at end 2022 were Luxembourg (34%), Ireland (16%), France (14%), the Netherlands (10%), and Sweden (7%) –
- ❑ The market share of Article 8 funds grew in sixteen countries between Q2 2022 and Q4 2022, whereas it decreased in four.
- ❑ Article 9 fund net assets amounted to 2.4% of the European fund market at end 2022 (EUR 341 billion) – Net assets were 19% lower than at the end of Q2 2022 as a result of significant reclassifications of Article 9 to Article 8 funds in the second half of 2022. These occurred due to the fund industry’s conservative interpretation of ESMA guidance issued in June 2022, stating that portfolios of Article 9 funds should exclusively consist of sustainable investments.
- ❑ The three core domiciles of SFDR Article 9 funds at end 2022 were Luxembourg (51%), France (18%), and Ireland (7%) – The Article 9 reclassifications in the second half of 2022 were mainly concentrated in those three large Article 9 domiciles, in smaller domiciles the evolution was more diverse.

ESG & Sustainable Finance

EU Commission Sustainable Financial Package

The EU Commission published on 13 June 2023, a [Sustainable Finance Package](#) with a number of additional ESG measures including:

- ❑ A new Environmental Delegated Act including the technical screening criteria for the remaining four environmental objectives under the EU Taxonomy Regulation;
- ❑ Amendments to the EU Taxonomy Climate Delegated Act introducing technical screening criteria covering additional economic activities for the climate change mitigation and adaptation objectives under the EU Taxonomy Regulation;
- ❑ Proposal for a Regulation on ESG rating activities (see details further below); and
- ❑ EU Commission Notice with guidance on the EU Taxonomy Regulation.

ESMA Call for Evidence on sustainability in suitability and product governance

ESMA launched on 16 June 2023 a [Call for Evidence](#) (CfE) on integrating sustainability preferences into suitability assessment and product governance arrangements under the Markets in Financial Instruments Directive (MiFID) II.

The objective of this CfE is to gather industry feedback that will help better understand the evolution of the market and provide answers as to how firms apply the new MiFID rules on sustainability.

In particular, the CfE aims to help ESMA:

- ❑ develop a better understanding of how MiFID II requirements are being implemented and applied by firms across the European Union and the challenges firms face in their application;

- ❑ gain a better understanding of investor experience and reactions to the inclusion of sustainability factors in investment advice and portfolio management services; and
- ❑ collect information, views and data on main trends on aspects related to the provision of sustainable investment products and services to retail clients.
- ❑ ESMA has previously updated its guidelines on suitability and product governance requirements following the inclusion of sustainability related requirements for investment firms into MiFID II.

ESMA, together with the National Competent Authorities (NCAs), will assess the responses to this CfE and continue monitoring the application by firms of the MiFID II requirements on suitability and product governance, including the related ESMA Guidelines.

ESG rating activities – EU Commission publishes proposed Regulation

The EU Commission has published a [legislative proposal](#) that it has adopted as a Regulation on the transparency and integrity of ESG rating activities. The EU Commission is expected to launch a consultation inviting public feed-back on the proposal.

The activity of providing ESG ratings or similar products (such as data or research) is, as it stands, unregulated at an EU level and so carrying on this activity does not trigger any requirements for authorisation or supervision. The proposed Regulation would require ESG rating providers based in the EU to be authorised and supervised by ESMA.



The Regulation would also impose a number of requirements on EU ESG rating providers including in relation to their internal organisation, disclosures around their use of methodologies and the management of conflicts of interest.

The Council of the EU and the European Parliament will now consider the legislative proposal.

European Commission publishes first set of draft European Sustainability Reporting Standards

The EU Commission has [published](#) for consultation a [draft Delegated Regulation](#) setting out the first set of European Sustainability Reporting Standards (ESRS) specifying the information that undertakings are required to report in accordance with the Accounting Directive (2013/34/EU) as amended by the Corporate Sustainability Directive 2022/2464/EU (“CSRD”).

The ESRS are the reporting standards according to which covered undertakings under the CSRD are to report information related to sustainability matters. The CSRD requires all large EU undertakings and parent undertakings of large groups, EU listed undertakings (including SMEs), as well as non-EU undertakings with significant activity in the European Union to disclose certain non-financial information on sustainability matters (i.e., environmental, social and human rights, governance matters) in their management reports. The CSRD provides for high-level rules on reporting requirements, but the precise reporting standards are to be adopted in delegated acts.

Anti-Money Laundering

MLD4 - EBA publishes Consultation Paper - 31 May 2023

The EBA has published a [Consultation Paper](#) on amendments to its guidelines on money laundering and terrorist financing (ML/TF) risk factors under Articles 17 and 18(4) of the Fourth Money Laundering Directive (EU 2015/849). The proposed changes extend the scope of these guidelines to crypto asset service providers (CASPs).

The amendments introduce new sector-specific guidance for CASPs, which highlights factors that may indicate a CASP's exposure to higher or lower ML/TF risk. The EBA notes that CASPs should consider these factors when carrying out ML/TF risk assessments of their business and customers at the onboarding stage and during the business relationship. The guidelines also explain that CASPs should adjust their customer due diligence in line with those risks.

In addition, the proposed amendments include guidance for other credit and financial institutions on risks to consider when engaging in a business relationship with a CASP or when they are otherwise exposed to crypto assets.

The consultation closes on **31 August 2023**.

EBA reports on ML/TF risks in payment institutions sector

The EBA has published its [report](#) on money laundering and terrorist financing (ML/TF) risks associated with EU payment institutions. In 2022, the EBA assessed the scale and nature of ML/TF risk in the payment institutions sector. It considered how payment institutions identify and manage ML/TF risks and what supervisors do to mitigate those risks when considering an application for the authorisation of a payment institution and during the life of a payment institution.

The EBA's findings suggest that:

- internal controls in payment institutions are often insufficient to prevent ML/TF; and
- not all competent authorities are currently doing enough to supervise the sector effectively, which results in payment institutions with weak AML/CFT controls operating in the EU.

Several of these findings relate to issues addressed in the EBA guidelines. The EBA believes that a more robust implementation by supervisors and institutions of provisions in the guidelines would mitigate the sector's exposure to ML/TF risks.

The findings of the risk assessment will be included into the EBA's bi-annual ML/TF risk assessment exercise under Article 6(5) of the Fourth Anti-Money Laundering Directive (EU 2015/849).



Digital Finance

ESAs consult on the first set of DORA policy products

The ESAs launched on 19 June 2023 a [public consultation](#) on the first set of policy products under the Digital Operational Resilience Act (DORA). This includes four draft regulatory technical standards (RTS) and one set of draft implementing technical standards (ITS). These technical standards aim to ensure a consistent and harmonised legal framework in the areas of ICT risk management, major ICT-related incident reporting and ICT third-party risk management.

DORA which entered into force on 16 January 2023 and will apply from 17 January 2025, aims to enhance the digital operational resilience of entities across the EU financial sector and to further harmonise key digital operational resilience requirements for all EU financial entities. This regulatory framework covers key areas such as ICT risk management, ICT-related incident management and reporting, digital operational resilience testing and the management of ICT third-party risk. DORA has mandated the ESAs to jointly develop 13 policy instruments in two sets.

The first set of technical standards, on which the ESAs launched the public consultation and which are to be submitted by 17 January 2024, are the following:

- ❑ [RTS on ICT risk management framework and RTS on simplified ICT risk management framework](#);
- ❑ [RTS on criteria for the classification of ICT-related incidents](#);
- ❑ [ITS to establish the templates for the register of information](#);
- ❑ [RTS to specify the policy on ICT services performed by ICT third-party providers](#).

The deadline for the submission of comments is **11 September 2023**.

The OECD's Crypto-Asset Reporting Framework

The OECD has developed a cross-border reporting framework to provide for standardised exchange of information on transactions in crypto-assets.

The Crypto-Asset Reporting Framework (CARF) was developed in the light of the rapid growth of the crypto-asset market and provides for the reporting of information on transactions in crypto-assets in a standardised manner, with a view to automatically exchanging such information with the jurisdictions of residence of taxpayers on an annual basis.

The final version of the OECD CARF and 2023 update to the Common Reporting Standard can be found [here](#).



Payment Services

EU Commission legislative proposal on reform of payment services

On 28 June 2023, the EU Commission published a number of legislative proposals relating to reforms to the treatment of payment services in the European Union and the implementation of a framework for financial data access.

The proposals include the following:

- ❑ a Directive on payment services and electronic money services in the internal market which will repeal the revised Payment Services Directive ("PSD2") and the second Electronic Money Directive and amend the Settlement Finality Directive (commonly referred to as the [proposed PSD3](#));
- ❑ a Regulation on payment services in the internal market (commonly referred to as the [proposed Payment Services Regulation](#) ("PSR")); and
- ❑ a Regulation on a framework for financial data access amending a number of existing regulations including DORA ("[FIDA](#)").

The EU Commission also published a package of supporting documents including a number of impact assessments, reports on reviews of the legislation which are proposed to be amended as well as a [Factsheet](#) and [Q&As document](#).



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
CASP	Crypto Asset Service Providers
CySEC	Cyprus Securities and Exchange Commission
CP	Consultation Paper
DLT	Distributed Ledger Technology
DORA	Digital Operational Resilience Act
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
ICT	Information and Communications Technology
KID	Key information Document (under UCITS Directive)
KIID	Key Investor Information Document (under PRIIPS)
MiCA	Markets In Crypto-Assets regulation
MiFID	Markets in Financial Instruments Directive
NCA	National Competent Authority
PRIIPs	Package Retail and Insurance-based products
RTS	Regulatory Technical Standards
SME	Small & Medium sized enterprises
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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