Circular CSSF 21/779

Adoption of the Guidelines of the European Securities and Market Authority (“ESMA”) on certain aspects of the MiFID II compliance function requirements (ESMA35-36-1952)
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Re: Adoption of the Guidelines of the European Securities and Market Authority ("ESMA") on certain aspects of the MiFID II compliance function requirements (ESMA35-36-1952)

Luxembourg, 30 July 2021

Ladies and Gentlemen,

The purpose of this Circular is to inform the public that the CSSF, in its capacity as competent authority as defined under Article 1(2) of the Law of 5 April 1993 on the financial sector, as amended, applies the Guidelines of ESMA on certain aspects of the MiFID II compliance function requirements (Ref. ESMA35-36-1952) (the "Guidelines"). Consequently, the CSSF has integrated the Guidelines into its administrative practices and regulatory approach with a view to promote supervisory convergence in this field at European level.

All investment firms, credit institutions when carrying out investment services or investment activities or when selling or advising clients in relation to structured deposits; undertakings for collective investment in transferable securities (UCITS) management companies when providing the services referred to in Article 101(3) of the UCITS Law, in accordance with Article 101(4) of that Law; and alternative investment fund managers (AIFMs) when providing the services referred to in Article 5(4) of the AIFM Law, in accordance with Article 5(6) of that Law.

1. The Guidelines

The Guidelines are issued by ESMA in accordance with Article 16 of the ESMA Regulation.\(^1\)

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The Guidelines apply in relation to the application of organisational requirements in accordance with Article 16(2) of MiFID II and Article 22 of the MiFID II Delegated Regulation.

The Guidelines aim to enhance clarity and foster convergence in the implementation of certain aspects of the new MiFID II compliance function requirements, repealing the existing ESMA guidelines issued on the same topic in 2012 (ESMA/2012/388) (the "2012 guidelines").

The 2012 guidelines have been substantially confirmed by the Guidelines, albeit clarified, refined and supplemented where necessary. In addition, the Guidelines take into account new requirements under MiFID II and the results of supervisory activities conducted by national competent authorities on the application of the compliance function requirements.


This Circular complements Circulars CSSF 12/552, 18/698 and 20/758 (as applicable).

2. **Entry into force**

This Circular shall apply with immediate effect.

Your faithfully,

Claude WAMPACH  
Director  

Marco ZWICK  
Director  

Jean-Pierre FABER  
Director  

Françoise KAUTHEN  
Director  

Claude MARX  
Director General

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