



Commission de Surveillance
du Secteur Financier

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)

Circular CSSF 21/779

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

**To 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.**

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 Law¹ 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 Law² in accordance with Article 5(6) of that Law, shall duly comply with the Guidelines.

1. The Guidelines

The Guidelines are issued by ESMA in accordance with Article 16 of the ESMA Regulation³.

¹ Law of 17 December 2010 relating to undertakings for collective investment (accessible on the following link: https://www.cssf.lu/wp-content/uploads/L_171210_UCI.pdf)

² Law of 12 July 2013 on alternative investment fund managers (accessible on the following link: https://www.cssf.lu/wp-content/uploads/L_120713_AIFM_eng.pdf)

³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC

The Guidelines apply in relation to the application of organisational requirements in accordance with Article 16(2) of MiFID II⁴ and Article 22 of the MiFID II Delegated Regulation⁵.

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.

The Guidelines are available on ESMA's website:
https://www.esma.europa.eu/sites/default/files/library/guidelines_on_certain_aspects_of_mifid_ii_compliance_function_requirements.pdf

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

⁴ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

⁵ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive



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