

25 June 2020

European Securities and Markets Authority: Guidelines on certain aspects of the MiFID II compliance function requirements

This circular is addressed to:

- i. Investment Services License Holders licensed in terms of the Investment Services Act;*
- ii. Credit institutions when carrying out investment services or investment activities or when selling or advising clients in relation to structured deposits;*
- iii. Undertakings for collective investment in transferable securities (UCITS) management companies when providing the services referred to in Article 6(3) of the UCITS Directive, in accordance with Article 6(4) of that Directive; and*
- iv. Alternative investment fund managers (AIFMs) when providing the services referred to in Article 6(4) of the AIFMD, in accordance with Article 6(6) of that Directive.*

Introduction

The European Securities and Markets Authority (“ESMA”) has published [the final guidelines](#) on the MiFID II compliance function. These guidelines replace the ESMA guidelines on the same topic issued in 2012 and include updates that enhance clarity and foster greater convergence in the implementation, and supervision, of the new MiFID II compliance function requirements.

Objective of the revised ESMA guidelines

While the objectives of the compliance function as well as the key principles underpinning the regulatory requirements have remained unchanged, the obligations have been further strengthened, broadened and detailed under MiFID II.

In this respect, [the final guidelines](#) will enhance the value of existing standards by providing additional clarifications on certain specific topics, such as new responsibilities in relation to MiFID II’s product governance requirements, by notably detailing further the reporting obligations of the compliance function.

Next Steps

These guidelines will apply from two months of the date of publication of the guidelines on ESMA's website in all EU official languages.

It is important to note that in the meantime, the following MFSA Rule Books will be updated in order to factor in [the final guidelines](#):

- i. Part A - The Application Process;
- ii. Part BI: Rules applicable to Investment Services Licence Holders which qualify as MiFID Firms;
- iii. Part BII: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as UCITS Management Companies;
- iv. Part BIII: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as Alternative Investment Fund Managers;
- v. Part BIV: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as Custodians; and
- vi. The Conduct of Business Rulebook.

Furthermore [the final guidelines](#) will be utilized as a benchmark during the Authority's on-site inspections when assessing the effectiveness of the compliance function.

Kindly reach out to offsiteinv@mfsa.mt or investmentfirms@mfsa.mt or ausecurities@mfsa.mt should you require any clarifications.