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ESMA Guidelines on Outsourcing to Cloud Service Providers

Introduction

With the passing of time various technologies are developed and subsequently used by the industry, amongst which the use of cloud services providers and the outsourcing thereof. Cloud service providers bring about various benefits, however, they also bring challenges and risks, which need to be managed.

With this in mind, ESMA published a Consultation Paper on 3 June 2020 with draft Guidelines which closed in September of the same year. Following this, the Guidelines were finalised and made public.

The aim of these Guidelines is to help firms identify, address, and monitor the risks that might arise out of cloud outsourcing arrangements and support a level playing field across the European Union.

The MFSA has decided to apply the Guidelines to:

1. alternative investment fund managers (AIFMs), alternative investment funds (AIFs) that have not designated a management company, and depositaries of alternative investment funds (AIFs);
2. undertakings for collective investment in transferable securities (UCITS), management companies and depositaries of UCITS, and investment companies that have not designated a management company authorised pursuant to UCITS Directive; and
3. investment firms.

References in MFSA Rulebooks

The [ESMA Guidelines](#) have been integrated into MFSA Rulebooks as follows:

<u>Rulebook Name</u>	<u>Rule Number</u>
Investment Services Rules for Investment Services Providers Part BI: Rules Applicable To Investment Services Licence Holders Which Qualify as MiFID Firms	R3-5.7.1.15
Investment Services Rules for Investment Services Providers Part BI: Standard Licence Conditions Applicable To Investment Services Licence Holders Which Qualify As UCITS Management Companies	4.06
Investment Services Rules for Investment Services Providers Part BIII: Standard Licence Conditions Applicable To Investment Services	4.10

Licence Holders Which Qualify As Alternative Investment Fund Managers	
Investment services rules for Alternative Investment Funds Part B: Standard licence conditions applicable to Alternative Investment Funds	8.24
Investment Services Rules for Retail Collective Investment Schemes Part B: Standard Licence Conditions Appendix VIII Supplementary Licence Conditions Applicable to Self-Managed Schemes	9.02
Investment Services Rules For Investment Services Providers Part BIV: Standard Licence Conditions Applicable To Investment Services Licence Holders Which Qualify As Custodians	1.18

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