AUTORITÉ DES MARCHÉS FINANCIERS

Print from the website of the AMF

18 January 2021

The AMF updates its General Regulation and guidelines on anti-money laundering and combating terrorist financing

The AMF has updated Book III of its General Regulation and the four guidelines that make up its policy on anti-money laundering and combating terrorist financing (AML-CFT). This is to take account of the impact of the legislative and regulatory changes made in connection with the transposition of the fifth anti-money-laundering directive and to make a number of adjustments.

Update of the General Regulation

The General Regulation has been updated further to the legislative and regulatory changes made in connection with the transposition of the fifth anti-money-laundering Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 through Ordinance 2020-115 and Decrees 2020-118 and 2020-119.

The scope of application of the AML-CFT obligations provided for in the AMF General Regulation is aligned with that set out in Article L. 561-2 6° of the Financial and Monetary Code. It is therefore extended to include managers of "Other AIFs" referred to in Article L. 214-24 paragraph III point 3° of the Monetary and Financial Code, to European Venture Capital Fund (EuVECA) and European Social Entrepreneurship Fund (EuSEF) managers, as well as to branches established in France by European management companies managing French UCITS or AIFs.

The General Regulation has also been amended to take account of the exemption provided for in Article R. 561-38-4 of the Monetary and Financial Code for financial investment advisers (FIA) and crowdfunding investment advisers (CIA) concerning the submission of a report to the AMF on the organisation of their internal control system.

Update of guidelines

The policy documents impacted are as follows:

- Position-Recommendation DOC-2019-15: Guidance on the risk-based approach to combating money laundering and terrorist financing;
- Position - Recommendation DOC-2019-16: Guidelines on due diligence obligations with respect to clients and their beneficial owners;
- Position DOC-2019-17: Guidelines on the concept of politically exposed persons;
- Position DOC-2019-18: Guidelines on the obligation to report to TRACFIN.

The main points of consideration for this update

In addition to the adjustment of scope, the guidelines take account of the legislative and regulatory changes that have been made, which provide that obliged entities are required to consult the register of beneficial owners of client companies listed on the Trade and Companies Register, except if there is a low risk, and which eliminate the additional customer due diligence measures in the event of remote entry into a business relationship.

The guidelines also take account of the regulatory adjustments made when obliged entities use the services of a third party to implement due diligence obligations before entering into a business relationship or those aimed at reinforcing the additional due diligence measures when the transaction involves a high-risk country.

The AMF also recommends that obliged entities make provision in their internal procedures for a methodology for assessing the level of equivalence of the AML-CFT obligations of third countries. To assess this level of equivalence, the AMF recommends that obliged entities consult, not only the lists drawn up by the FATF, but also the mutual evaluation reports published by the FATF.

Lastly, the AMF has adjusted its position regarding due diligence by collective investment management companies with respect to tenants of buildings acquired by the real estate funds that they manage.

Read more

- Position - Recommendation DOC-2019-15: Guidance on the risk-based approach to combating money laundering and terrorist financing (In french only)
- Position - Recommendation DOC-2019-16: Guidelines on due diligence obligations with respect to clients and their beneficial owners (in french only)
- Position DOC-2019-17: Guidelines on the concept of politically exposed persons (in french only)
- Position DOC-2019-18: Guidelines on the obligation to report to TRACFIN (in french only)

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