



GUIDELINES ON RISK FACTORS

Background regulations: Articles L. 561-4-1, L. 561-9 and L. 561-10-1 of the French Monetary and Financial Code, Articles 320-19, 321-146 and 550-9 of the AMF General Regulation

This position incorporates the joint guidelines of the European Supervisory Authorities on risk factors (JC 2017 37), hereinafter referred to as the “Guidelines”.

Presentation of the Guidelines

These guidelines set out¹ factors that firms² should consider when assessing the money laundering and terrorist financing (AML/CFT) risks associated with a business relationship or occasional transaction. They also set out how firms can adjust the extent of their customer due diligence measures in a way that is proportionate to the AML/CFT risk they have identified.

Title II of the Guidelines sets out general considerations and applies to all firms subject to AML/CFT obligations (hereinafter referred to as the “Obligated Entities”).

The general considerations provide elements of methodology:

- For identifying money laundering and terrorist financing risks, in particular by drawing up a non-exhaustive list of the risk factors that should be taken into account by Obligated Entities or which could be relevant, and;
- For assessing and categorising the AML/CFT risk associated with a business relationship or occasional transaction, based on the weighting of risk factors.

They then present the simplified and enhanced customer due diligence measures based on the level of risk identified.

Title III of the Guidelines sets out the sector-specific guidelines. The chapters of Title III that concern Obligated Entities placed under the AMF’s supervision are:

- Chapter 8, which applies i) to asset management companies in connection with their discretionary portfolio management activity and investment advisory services, and ii) to financial investment advisors in connection with their investment advisory services activity;
- Chapter 9, which applies to portfolio asset management companies in connection with their collective investment management activity

Scope of application of the position

¹ Pursuant to Article 8 of Directive (EU) 2015/849

² These are credit and financial institutions as defined in Article 3, paragraphs 1 and 2 of Directive (EU) 2015/849

The provisions of this position apply to asset management companies, central securities depositories and managers of financial instrument settlement and delivery systems, persons authorised under Article L. 621-18-5, financial investment advisors and crowdfunding investment advisors.

Additional information provided by the AMF on Chapter 9 “Sectoral guidelines for providers of investment fund services”

Chapter 9 of the Guidelines sets out the risk factors that may contribute to increasing or decreasing the risk of money laundering and terrorism financing and describes the simplified and enhanced customer due diligence that a portfolio asset management company should conduct. According to paragraph 219 of the Guidelines, the customer of the portfolio asset manager is defined according to the method of subscription of units or shares of the collective investment undertakings managed by the portfolio asset management company.

When the portfolio asset management company does not directly sell collective investment undertaking units or shares but uses one or more investment services providers, financial investment advisors or foreign distributors, the AMF considers that the customer is determined according to the capacity of the person registered in the unit or share register :

- When the name of the end investor appears on the register as the owner of the securities, the customer in respect of whom the portfolio asset management company should apply the due diligence measures is the end investor (the shareholder or holder of the collective investment units), pursuant to d) of paragraph 219 of the Guidelines;
- When the registered owner is a financial intermediary (for example a custodian account-keeper or a Euroclear participant) acting in its name and on its behalf of the end investor, the customer in respect of which the portfolio asset management company should apply the due diligence measures is this financial intermediary, pursuant to section c) of paragraph 219 of the Guidelines.

These Guidelines are available in the section "Appendices & Links" and at the following URLs:

- In French: Orientations communes, au titre des articles 17 et 18, paragraphe 4, de la directive (UE) 2015/849, sur les mesures de vigilance simplifiées et renforcées à l’égard de la clientèle et sur les facteurs que les établissements de crédit et les établissements financiers devraient prendre en considération lorsqu’ils évaluent les risques de blanchiment de capitaux et de financement du terrorisme associés aux relations d’affaires individuelles et aux transactions conclues à titre occasionnel.

https://esas-joint-committee.europa.eu/Publications/Guidelines/Guidelines%20on%20Risk%20Factors_FR_04-01-2018.pdf

- In English: Joint Guidelines under Articles 17 and 18(4) of Directive (EU) 2015/849 on simplified and enhanced customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions

[https://esas-joint-committee.europa.eu/Publications/Guidelines/Final%20Guidelines%20on%20Risk%20Factors%20\(JC%202017%2037\).pdf](https://esas-joint-committee.europa.eu/Publications/Guidelines/Final%20Guidelines%20on%20Risk%20Factors%20(JC%202017%2037).pdf)