

Book V - Market infrastructures

Title VI - Central depositories of financial instruments

Chapter unique - Central depositories and payment and settlement systems for financial instruments

Section 5 - Anti-money laundering measures

General regulation of the AMF

Article 560-10 into force since 23 April 2021

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Article 560-10

The person responsible for implementing the anti-money laundering and terrorist financing system designated in Article 560-4 shall be a member of the management, who may delegate some or all of the implementation to one of the depository's employees under the following conditions:

- a) The empowered person must have the necessary authority, resources and skills, and access to all relevant information;
- b) The empowered person must not be involved in the execution of the services and activities under supervision.

The manager shall remain responsible for the delegated activities.

Where appropriate, such a person shall also be appointed at the level of the group defined in Article L. 561-33 of the Monetary and Financial Code.

The central depositories shall:

- 1 • Ensure that the reporting party and correspondent referred to in Articles R. 561-23 and R. 561-24 of the Monetary and Financial Code have access to all the information they need to perform their duties. They shall provide them with the appropriate tools and resources to comply with their obligations relating to the prevention of money laundering and terrorist financing.

The above-mentioned reporting party and correspondent shall also be informed of:

- a) Incidents relating to the prevention of money laundering and terrorist financing that are brought to light by internal control systems;
- b) Shortcomings found by domestic or foreign supervisory authorities in the implementation of provisions relating to the prevention of money laundering and terrorist financing;

- 2 • Define and implement systems for identifying and assessing money laundering and terrorism-financing risks to which they are exposed as well as an appropriate policy for dealing with those risks. In order to establish these risk identification and assessment systems, the central depositories shall compile, document and periodically update a classification of the money laundering and terrorist financing risks to which they are exposed in the course of their business.

For this purpose, they shall consider in particular, the information published by the international body for cooperation and coordination in the prevention of money laundering, the recommendations of the European Commission, the risk factors mentioned in annexes II and III of the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015; the national risk analysis performed and the orders issued by the Minister for the Economy;

Prior to the launch of new services or sales practices, including the use of new or developing technologies, in relation to new or existing products and services, the central depositories shall also identify and assess the related money laundering and terrorist financing risks. They shall take appropriate measures to manage and mitigate these risks.

- 3 • Where necessary, determine a profile of usual transactions in financial securities on a member's account(s) that can be used to detect unusual transactions specific to such accounts with regard to the risks of money laundering and terrorist financing;
- 4 • Draft and implement written procedures to ensure compliance with the provisions relating to the prevention of money laundering and terrorist financing. These procedures shall focus on risk supervision, implementation of vigilance measures relating to the persons to which the central depository is offering services and to participants in the settlement-delivery system, keeping of records and the results of all analyses performed in accordance with Articles R. 561-12, R. 561-14 and R. 561-22 of the Monetary and Financial Code, the detection of unusual or suspicious transactions and compliance with the reporting obligation vis-à-vis the national financial intelligence unit. They shall update the procedures periodically. Due diligence measures relating to persons to whom the central securities depository offers services and participants in the settlement-delivery system shall enable the central securities depository to understand the nature of their business as well as their ownership and control structure. The documents and results of the above-mentioned analysis results are kept under conditions that enable the requests for information mentioned in Article L. 561-25 of the Monetary and Financial Code to be met;
- 5 • Implement supervisory procedures for due diligence relating to the risk of money laundering and terrorist financing;
- 6 • If the central depositories of financial securities belong to a financial group, a mixed group or a financial conglomerate, they shall implement a system for identifying and assessing the risks at group level as well as an appropriate policy. They shall also establish procedures for circulating the information needed to organise the prevention of money laundering and terrorist financing within the group as stipulated in Article L. 561-32 of the Monetary and Financial Code, while ensuring that this information is not used for any other purpose than the prevention of money laundering and terrorist financing;
- 7 • Consider the risks relating to the prevention of money laundering and terrorist financing, when recruiting employees, in accordance with employees' level of responsibility.

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- At the time of hiring, and periodically thereafter, provide their staff with information on and training in the applicable regulations and amendments, current money-laundering techniques, prevention and detection measures, and the procedures established. They shall be adapted to the functions performed, members, locations and risk classification.

Central securities depositaries shall take the necessary measures to ensure that recruitment within their subsidiaries takes into account, according to the level of responsibilities exercised, the risks relating to the fight against money laundering and terrorist financing, and that the above-mentioned information and training is provided to staff when they are recruited and on a regular basis thereafter.

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