



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 European Banking Authority guidelines on risk factors (EBA/GL/2021/02), 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 identified AML/CFT risk.

Guidelines 1 to 7 set out general considerations and apply to all firms subject to AML/CFT obligations (hereinafter referred to as the “Obligated Entities”).

These 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.

The Guidelines listed below set out sector-specific guidelines. The following concern Obligated Entities placed under the AMF’s supervision:

- Guidelines 12 and 15, which apply 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;
- Guideline 16, 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, persons authorised under Article L. 621-18-5, financial investment advisors and crowdfunding investment advisors.

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

- In French: Orientations, 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 abrogeant et remplaçant les orientations JC/2017/37.

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2021/Guidelines%20on%20ML-TF%20risk%20factors%20%28revised%29%202021-02/Translations/1016918/Guidelines%20ML%20TF%20Risk%20Factors_FR.pdf

- In English: Guidelines on 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 ("the ML/TF Risk factors Guidelines") under Articles 17 and 18(4) of Directive (EU) 2015/849.

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2021/963637/Final%20Report%20on%20Guidelines%20on%20revised%20ML%20TF%20Risk%20Factors.pdf