

GUIDELINES COMPLIANCE TABLE

Guidelines on outsourcing to cloud service providers (ESMA 50-164-4285)

The following competent authorities comply or intend to comply with ESMA's Guidelines on outsourcing to cloud service providers:

		Competent authority	Complies or intends to comply	Comments
Member States				
AT	Austria	Austrian Financial Market Authority	Yes	https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.fma.gv.at%2Ffeu%2Fesma-leitlinien-und-andere-konvergenzinstrumente%2F&data=04%7C01%7Csara.balitzky%40esma.europa.eu%7Cfd2ee1e06dca43ce4d1308d92a79d508%7Ce406f2684ae74c80899402493da00c03%7C0%7C0%7C637587525038358503%7CUnknown%7CTWFpbGZsb3d8eyJWlIjojMC4wLjAwMDAiLCJQIjoiV2luMzliLjCjBTRi6Ikl1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=UxBG%2Fx2BjTI3KINbZN6q2SVBI9y7AJjdbXBmMZ%2B8%2Fnw%3D&reserved=0
BE	Belgium	FSMA	Yes	Mise en œuvre des orientations de l'ESMA relatives à la sous-traitance à des prestataires de services en nuage (fsma.be)
BG	Bulgaria	Financial Supervision Commission	Yes	
CY	Cyprus	Cyprus Securities & Exchange Commission	Yes	https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=b05d50f4-05ed-42cf-9a23-720a51676d6b

		Competent authority	Complies or intends to comply	Comments
CZ	Czechia	Czech National Bank	Yes	https://www.cnb.cz/en/supervision-financial-market/legislation/investment-firms-and-investment-intermediaries/methodological-and-interpretative-documents/# https://www.cnb.cz/en/supervision-financial-market/legislation/management-companies-and-investment-funds/methodological-and-interpretative-documents/# https://www.cnb.cz/en/supervision-financial-market/legislation/regulated-markets-settlement-and-regulated-market-protection/methodological-and-interpretative-documents/# https://www.cnb.cz/en/supervision-financial-market/legislation/otc-derivatives-and-securitisation/methodological-and-interpretative-documents/#
DE	Germany	BaFIN	Yes	https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2021/meldung_2021_06_29_Anwendung_ESMA_Leitlinien.html
DK	Denmark	Danish Financial Supervisory Authority	Yes	
EE	Estonia	Estonian Financial Supervisory Authority	Yes	https://www.fi.ee/et/juhendid/investeeringe/euroopa-vaartpaberiturujarelevalve-esma-suuniste-tegevuse-edasiandmine-pilveteenuse-osutajatele
ES	Spain	CNMV	Yes	http://www.cnmv.es/DocPortal/Quees/Procedimientos/P01-Supervision-e-inspeccion_en.pdf
FI	Finland	Finanssivalvonta (FIN-FSA)	Yes	Määräykset ja ohjeet 4/2021 ulkoistamisesta pilvipalvelujen tarjoajille - 2021 - www.finanssivalvonta.fi

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FR	France	Autorité des marchés financiers	Yes	https://www.amf-france.org/fr/reglementation/doctrine/doc-2021-05
HR	Croatia	Croatian Financial Services Supervisory Agency (HANFA)	Yes	Obavijest subjektima nadzora- ESMA Smjernice o izdavanju poslova pružateljima usluga računalstva u oblaku (ESMA-50-164-4285 HR)
GR	Greece	Hellenic Capital Market Commission	Yes	http://www.hcmc.gr/el GR/web/portal/elib/news
		Bank of Greece	Intends to comply*	The Bank of Greece intends to comply regarding requirements for credit institutions, by such time as the necessary legislative or regulatory proceedings have been completed.
HU	Hungary	Magyar Memzeti Bank (MNB)	Yes	4-2019-cloud-bg.pdf (mnb.hu)
IE	Ireland	Central Bank of Ireland	Yes	https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp138/draft-cross-industry-guidance-on-outsourcing.pdf
IT	Italy	Consob	Yes	
LT	Lithuania	Bank of Lithuania	Yes	34513_6bf6852a87bd545b6ddbdf70736480ab.pdf (lb.lt)
LU	Luxembourg	Commission de Surveillance du Secteur Financier	Yes	
LV	Latvia	Financial and Capital Market Commission	Yes	https://likumi.lv/ta/id/317384-informacijas-tehnologiju-un-drosibas-risku-parvaldibas-normativie-noteikumi
MT	Malta	Malta Financial	Yes	https://www.mfsa.mt/wp-content/uploads/2021/06/ESMA-

		Competent authority	Complies or intends to comply	Comments
		Services Authority		Guidelines-on-Outsourcing-to-Cloud-Service-Providers.pdf
NL	Netherlands	AFM	Yes	
PL	Poland	KNF	No	On 23 January 2020 the KNF published a “Communication regarding the processing of information in public or hybrid cloud by supervised entities”. It introduces a national approach which takes into account the specifics of the market as well as existing legal and regulatory restrictions. Due to a large number of supervised entities, taking into account the wish to be transparent and clear about the supervisory expectations towards them and also to avoid any possible interpretational confusion or competence disputes in the application of the Statement vis-à-vis the Guidelines, the KNF notifies of its non-compliance with the ESMA Guidelines on Outsourcing to Cloud Service Providers. The statement can be found here : https://www.knf.gov.pl/knf/pl/komponenty/img/Komunikat_UKNF_Chmura_Obliczeniowa_EN_69242.pdf
PT	Portugal	CMVM	Yes	https://www.cmv.m.pt/pt/Cooperacao/esma/DocumentosESMACESR/Documents/esma_cloud_guidelines_pt.pdf
RO	Romania	Financial Supervisory Authority	Yes	The ASF Regulation no. 21/2021 regarding the application of the Guidelines on outsourcing to cloud service providers transposes the provisions of these guidelines. The regulation was published in the Romanian Official Journal, Part I no. 869.
SE	Sweden	Finansinspektionen	Yes	
SL	Slovenia	Securities Market Agency	Yes	Uradni list - Vsebina Uradnega lista (uradni-list.si)
		National Bank of Slovenia	Yes	

		Competent authority	Complies or intends to comply	Comments
SK	Slovakia	National Bank of Slovakia	Yes	
EEA EFTA States **				
IS	Iceland	Central Bank of Iceland	Yes	
LI	Liechtenstein	FMA	Yes	
NO	Norway	Finanstilsynet	Yes	

* Please note that, in the interest of transparency, if a competent authority continues to intend to comply after the application date, it will be considered “non-compliant” unless (A) the guidelines or recommendations relate to a type of institution or instruments which do not currently exist in the jurisdiction concerned; or (B) legislative or regulatory proceedings have been initiated to bring any national measures necessary to comply with the guidelines or recommendations in force in the jurisdiction concerned.

The competent authorities of the EEA States other than the Member States of the European Union are required to notify their compliance with ESMA’s guidelines or recommendations relating to a legal act that has been incorporated in the EEA Agreement. This compliance table reports on guidelines relating to the Articles 15,18, 20 and 21(8) of AIFMD and Articles 13, 22, 38, 39, 40, 44, 45, 57(1)(d), 57(2), 57(3), 58, 75, 76, 77, 79, 81, 82 and 98 of Commission Delegated Regulation (EU) 2013/231; Articles 12(1)(a), 13, 14,(1)(c), 22, 22a, 23(2), 30 and 31 of UCITS, Articles 4(1) to 4(3), 4(5), 5(2), 7, 9, 23(4), 32, 38, 39 and 40 of Commission Directive 2010/43/EU, and Articles 2(2)(j), 3(1), 13(2), 15, 16 and 22 of Commission Delegated Regulation (EU) 2016/438; Articles 25, 26(1), 26(3), 26(6), 34, 35 and 78-81 of EMIR, Articles 3(1)(f), 3(2), (4), 7(2)(d) and (f), 9 and 17 of Commission Delegated Regulation (EU) 153/2013, Articles 16 and 21 of Commission Delegated Regulation 150/2013; Articles 16(2), 16(4), 16(5), 18(1), 19(3)(a), 47(1)(b) and (c), 48(1), 64(4), 65(5) and 66(3)1 of MiFID II, Articles 21(1) to (3), 23, 39(5), 30, 31, 32 of Commission Delegated Regulation (EU) 2017/565, Articles 6, 15 and 16(6) of Commission Delegated Regulation 2017/584, Articles 6, 7, 8 and 9 of Commission Delegated Regulation 2017/571; Articles 22, 26, 30, 42, 44 and 45 of CSDR, and Articles 33, 47, 50(1), 57(2)(i), 66, 68, 75, 76, 78 and 80 of Commission Delegated Regulation (EU) 2017/392; Article 9 and Annex I, Section A points 4 and 8 and Annex II point 17 of CRA Regulation, and Articles 11 and 25 of the Commission Delegated Regulation (EU) No 2012/449; Articles 6(3) and 10 of the Benchmarks Regulation and point 7 of Annex I of Commission Delegated Regulation (EU) 2018/1646 which have been incorporated in the EEA Agreement. This compliance table also reports on guidelines relating to Articles 5 and 12 of SFTR, Articles 16 and 21 of Commission Delegated Regulation 2019/359 and to Article 10(2) of SECR which have not yet been incorporated in the EEA Agreement. This table is to that extent based on information provided from those competent authorities of the EEA States on a voluntary basis.

Notes

Article 16(3) of Regulation (EU) No 1095/2010 (the ESMA Regulation) requires national competent authorities to inform us whether they comply or intend to comply with each set of guidelines or recommendations we issue. If a competent authority does not comply or does not intend to comply it must inform us of the reasons. We decide on a case by case basis whether to publish reasons.

ESMA endeavours to ensure the accuracy of this document, however, the information is provided by the competent authorities and, as such, ESMA cannot accept responsibility for its content or any reliance placed on it.

For further information on the current position of any competent authority, please contact that competent authority. Contact details can be obtained from our website (www.esma.europa.eu).