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**TO** : «Affected Persons», namely:

- i. Alternative investment fund managers (“AIFMs”) and Depositories of alternative investment funds (“AIFs”);
- ii. UCITS management companies and depositaries of UCITS;
- iii. Central counterparties (“CCPs”) and Tier 2 third country CCPs which comply with the relevant EMIR requirements pursuant to Article 25(2b)(a) of EMIR;
- iv. Trade repositories as defined in Article 2(2) of EMIR and in Article 3(1) of SFTR;
- v. Investment firms and credit institutions, which carry out investment services and activities; Data reporting services providers and Market operators of trading venues;
- vi. Central securities depositories (“CSDs”) as defined Article 2(1)(1) of CSDR;
- vii. Credit rating agencies as defined in Article 3(1)(b) of the CRA Regulation;
- viii. Securitisation repositories as defined in Article 2(23) of SECR;
- ix. Administrators of critical benchmarks as defined in Article 3(1)(25) of the Benchmarks Regulation.

**FROM** : Cyprus Securities and Exchange Commission

**DATE** : 9 July 2021

**CIRCULAR NO.** : C457

**SUBJECT** : ESMA Guidelines on Outsourcing to Cloud Services Providers

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The Cyprus Securities and Exchange Commission (“CySEC”) herewith wishes to inform the Affected Persons that it has adopted the [Guidelines](#) of the European Securities and Markets Authority (“ESMA”) on Outsourcing to Cloud Services Providers (“CSPs”)<sup>1</sup> (the “Guidelines”).

The Guidelines are issued pursuant to Article 16(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (the «ESMA Regulation») and

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<sup>1</sup> A third-party delivering cloud services under a cloud outsourcing arrangement; whereas cloud means a paradigm for enabling network access to a scalable and elastic pool of shareable physical or virtual resources (for example servers, operating systems, networks, software, applications, and storage equipment) with self-service provisioning and administration on demand;

aim at establishing consistent, efficient and effective supervisory practices within the European System of Financial Supervision (“ESFS”) and to ensure the common, uniform and consistent practices where firms outsource to CSPs.

The guidelines are 9 in total and aim to help firms and competent authorities identify, address and monitor the risks and challenges arising from cloud outsourcing arrangements, from making the decision to outsource, selecting a cloud service provider, monitoring outsourced activities to providing for exit strategies and for the content of the relevant contractual arrangements. The requirements under the Guidelines are proportionate and more stringent where the outsourcing concerns critical or important functions.

It is noted that ESMA will also take these guidelines into account when assessing the extent to which compliance with the relevant EMIR requirements by a Tier 2 third-country CCP is satisfied by its compliance with comparable requirements in the third country pursuant to Article 25(2b)(a) of EMIR.

Credit Institutions based in Cyprus, are advised to liaise with the Central Bank of Cyprus in relation to this topic, in view of the fact that CySEC has no supervisory authority over the provision of investment services by Credit Institutions.

**The Guidelines apply from 31 July 2021 to all cloud outsourcing arrangements entered into, renewed or amended on or after this date.**

**Firms should review and amend accordingly existing cloud outsourcing arrangements with a view to ensuring that they take into account these guidelines by 31 December 2022. Where the review of cloud outsourcing arrangements of critical or important functions is not finalised by 31 December 2022, firms should inform their Competent Authority of this fact, including the measures planned to complete the review or the possible exit strategy.**

Best Regards,

Demetra Kalogerou  
Chairwoman of the Cyprus Securities and Exchange Commission

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