
TO : **Cyprus Investment Firms**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **19 May 2022**

CIRCULAR No : **C513**

SUBJECT : **CIF's on-going monitoring of their prudential requirements**

The Cyprus Securities and Exchange Commission ('CySEC') wishes herein to remind all Cyprus Investment Firms (the 'CIFs') of the necessary steps they must take when they no longer meet their own funds requirements and/or concentration limits, as well as their obligation to have sound administrative and accounting procedures and robust internal control mechanisms. In particular:

1. Class 2 and class 3 CIFs should notify CySEC **as soon as they become aware** that their own funds fall below their own funds requirement, pursuant to Article 11(4) of the [Regulation \(EU\) 2019/2033](#) ('IFR') which states that '*Investment firms shall notify the competent authority as soon as they become aware that they no longer satisfy or will no longer satisfy the requirements of this Article*' (i.e. whether the IF has own funds which amount to at least D, where D is defined in Art. 11 (1) of IFR).
2. Class 2 CIFs should notify CySEC **without delay** when they exceed the concentration limits of Article 37 of IFR, as required by article 38 of IFR which states that '*Where the limits referred to in Article 37 are exceeded, an investment firm shall notify the competent authorities of the amount of the excess, the name of the individual client concerned and, where applicable, the name of the group of connected clients concerned, without delay*'.
3. All CIFs should have **sound administrative and accounting procedures** to enable them to monitor their own funds, own funds requirements, concentration risk and all other obligations from IFR. Specifically,
 - i. Section 20(1)(c) of the [Prudential Supervision of Investment Firms Law of 2021](#) (the 'L.165(I)/2021') states that '*CIFs shall have robust governance*

arrangements, including adequate internal control mechanisms and sound administration and accounting procedures;

- ii. Article 35(1) of IFR states that *'Investment firms shall monitor and control their concentration risk in accordance with this Part by means of sound administrative and accounting procedures and robust internal control mechanisms'*.

4. Title V, section 14, point 133 of the [Final Report on Guidelines on Internal Governance under Directive \(EU\) 2019/2034](#) (the 'Internal Governance Guidelines', which CySEC adopted them through Circular [C508](#) with regards to Class 2 CIFs, states that:

"The internal control framework of an investment firm should ensure:

- a. effective and efficient operations;*
- b. adequate identification, measurement and mitigation of risks;*
- c. the reliability of financial and non-financial information reported both internally and externally;*
- d. sound administrative and accounting procedures; and*
- e. compliance with laws, regulations, supervisory requirements and the investment firm's internal policies, processes, rules and decisions.***

Internal control frameworks include compliance, risk management and internal audit functions, where established (per point 134 of the Internal Governance Guidelines).

5. A number of CIFs that have not met the requirements of Article 11 and Article 37 of IFR, have **notified** CySEC through the normal submission of the Prudential Forms 165-01 or 165-02, which takes place 40 days following the reporting reference date. This is not acceptable, as CIFs in this case either do not monitor their prudential requirements on an on-going basis or willingly fail to inform CySEC regarding their non-compliance with their prudential requirements.

6. Therefore, CySEC expects from all CIFs to:

- i. **Implement sound administration and accounting procedures and adequate internal control mechanisms, appropriate and proportionate to the nature, scale and complexity of the risks inherent in the business model and the activities of the CIF, which will enable them to monitor on an on-going basis all their prudential requirements accordingly.**
- ii. **Notify CySEC without undue delay, and in any case prior to the normal submission of the Prudential Forms 165-01/165-02, when they no longer meet the requirements of Articles 11 and 37 of IFR.**

This notification to CySEC must be done through the submission of the Prudential Forms 165-01 or 165-02 (depending on CIF's categorisation), via TRS, under exceptional reporting. For more details in regards to the

submission of the exceptional reporting please refer to Section C of the [Practical Guide for the submission of the Prudential forms under IFR/IFD](#).

- iii. Verify that their internal control framework (i.e. compliance, risk management and internal audit functions, where established) ensures compliance with laws, regulations and supervisory requirements at all times.

Sincerely,



Dr. George Theodorides
Chairman
Cyprus Securities and Exchange Commission