

TO : **AIFMs who do not exceed the threshold of section 4(2) of the Alternative Investment Fund Managers Law of 2013**

FROM : **Securities and Exchange Commission**

DATE : **26 July 2013**

No CIRCULAR : **CI56-2013-01**

No FOLDER : **6.1.14**

SUBJECT : **Arrangements for the registration of AIFMs who do not exceed the threshold of section 4(2) of the Alternative Investment Fund managers Law of 2013 (L. 56(I)/2013)**

This Circular is enacted pursuant to section 4(3) of the Alternative Investment Fund Managers Law of 2013 and articles 2 – 5 of Regulation No.231/2013 of the Council of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

The purpose of this Circular is the enactment of national rules applied to AIFMs who do not exceed the threshold of section 4(2) of the Alternative Investment Fund Managers Law of 2013, with regard to their registration in the Register kept by the Securities and Exchange Commission, in order to benefit from the exemption provided in section 4(2) of the Alternative Investment Fund managers Law of 2013.

AIFMs that do not exceed the threshold of section 4(2) of the Alternative Investment Fund Managers Law of 2013 and are obliged to enter the Register, include, but not limited to the following persons:

- IFs of the Investment Services and Activities and Regulated Markets Law or credit institutions who manage international collective investment schemes licensed under the International Collective Investment Schemes Law of 1999 or other AIFs,
- Self-managed international collective investment schemes licensed under the International Collective Investment Schemes Law of 1999 and
- Approved investment companies of the Cyprus Securities and Stock Exchange Law in case they are self-managed, or their manager in case they are externally managed.

The Form attached in this Circular as Annex I is also available on the Commission's website at <http://www.cysec.gov.cy/Downloads/Variou/AIFM/AIFM%20Forms.zip>

Sincerely,

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission



ΕΠΙΤΡΟΠΗ
ΚΕΦΑΛΑΙΑΓΟΡΑΣ
ΚΥΠΡΟΥ

CYPRUS SECURITIES AND EXCHANGE COMMISSION

Annex I

National rules regarding the procedure for the registration of AIFMs who do not exceed the threshold of section 4(2) of the Alternative Investment Fund Managers Law of 2013

1. Definitions for the application of this Circular:

For the application of this Circular, the following definitions apply:

«**AIFM below the threshold**»: means the AIF managers, including self managed AIFs, established in the Republic, who manage AIFs, the total assets of which do not exceed the threshold provided in section 4(2) of the Law and is subject to registration with the Securities and Exchange Commission pursuant to section 4(3) of the Law.

«**Form**»: means Form F56/2013/01 attached as Annex in this Circular, which is completed for the registration of AIF managers or self-managed AIFs, accordingly, with the Securities and Exchange Commission.

«**Regulation**»: means Regulation No.231/2013 of the Council of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

«**Non temporary breach of the threshold**»: means the case where the total value of assets under management have exceeded the threshold of section 4(2) of the Law, and this breach is likely to continue for a period of more than three months.

«**Register**»: means the register created and maintained by the Securities and Exchange Commission for the registration of AIFMs subject to registration pursuant to section 4(3) of the Law.

«**Law**»: means the Alternative Investment Fund Managers Law of 2013.

«**Circular**»: means this Circular.

«**Temporary breach**»: means the breach of the threshold of section 4(2) of the Law which does not fall within the meaning of non temporary breach of the threshold.

Terms used in this Circular and are not defined otherwise; have the meaning ascribed to them by the Law.

2. Registration as AIFM below the threshold

- (1) For the registration of an AIFM who does not exceed the threshold of section 4(2) of the Law in the Register kept by the Securities and Exchange Commission, a Form according to the example attached as Annex (Form F56/2013/01) is submitted to the Securities and Exchange Commission by the AIF manager or the self-managed AIF, accordingly. The Form is accompanied by all the documents and information set in the abovementioned Annex. The Form, as well as the documents, is submitted in an official language of the Republic or in English.
- (2) The persons signing the Form, decide to empower, a specific person or persons in order to represent them at the Securities and Exchange Commission in every promotional action undertaken for the Form and to communicate with the Commission during the Form's evaluation.
- (3) The documents and information attached to the Form, will be originals, or, where this is impossible, true copies of the originals. The true copy must be certified as such by a person independent from the AIF manager or the self managed AIF, accordingly. In case these documents and information have been drafted in a language other than an official language of the Republic or English, official translations are submitted to the Securities and Exchange Commission.
- (4) In case the information of points (1) and (3) is modified, the AIF manager or the self managed AIF, accordingly, notifies the new information to the Securities and Exchange Commission immediately.

3. Requirements for the registration to the Register:

- (1) In order to register an AIF manager or a self managed AIF in the Register, the Securities and Exchange Commission examines whether the assets under management of the AIFs, do not exceed the threshold of section 4(2) of the Law. The calculation of the total value of assets under management is conducted according to the provisions of the Regulation.
- (2) Provided that the total value of assets under management does not exceed the threshold of section 4(2) of the Law, the Securities and Exchange Commission registers the AIF manager or the self managed AIF in the Register.

- (3) In case the Securities and Exchange Commission ascertains that the requirements for the registration of an AIF manager or a self managed AIF, accordingly, in the Register are not met, the AIF manager or the self managed AIF, accordingly, is notified. In such a case, the AIF manager or the self managed AIF, accordingly, is obliged to apply, within thirty (30) calendar days, for an AIFM license according to section 7 of the Law, provided the requirements for its application apply.

4. Provision of additional information and elements:

During the evaluation of the Form and the information of chapter 2 of this Circular, the Securities and Exchange Commission may request, on a case by case basis, from the AIF manager or the self managed AIF, clarifications and additional information, which according to the Securities and Exchange Commission's opinion are necessary for the complete evaluation of the Form.

5. Carrying out of inspections by the Securities and Exchange Commission:

During the evaluation of the Form, the Securities and Exchange Commission may carry out inspections and investigations, as well to cooperate with other government authorities of the Republic and competent authorities or organizations abroad, as set in the Cyprus Securities and Exchange Commission Law of 2009, as applicable.

6. Continuous obligations of AIFM under the threshold:

- (1) AIFMs under the threshold apply procedures which allow them to calculate on a continuous basis the threshold of the total value of assets under management according to the Regulation.
- (2) The AIF manager or the self managed AIF provide the Securities and Exchange Commission on at least an annual basis, up to date information according to paragraphs 2 and 3 of the Annex – Form F56/2013/01.

7. Breach of the threshold:

- (1) The AIF manager or the self managed AIF notifies immediately the Securities and

Exchange Commission in case the total value of assets under management exceeds the threshold of section 4(2) of the Alternative Investment Fund Managers Law of 2013 at any time, irrespective of whether this breach of the threshold is temporary or non temporary.

- (2) When the AIF manager or the self managed AIF decides that this is a temporary breach of the threshold, it notifies the Securities and Exchange Commission without delay stating that this is such a breach. The notification includes information which supports this evaluation of the AIF manager or the self managed AIF on the temporary nature of the breach, including a description of the situation and an explanation of the reasons why it is considered a temporary breach of the threshold.
- (3) Three months following the date on which the total value of assets under management exceeded the relevant threshold, the AIF manager or the self managed AIF calculates again the total value of assets under management and
 - (a) either submits to the Securities and Exchange Commission information which proves that this value is less than the relevant threshold and that the circumstances that led to the breach of the threshold of the total value of assets under management are no longer applicable,
 - (b) or requests immediately an AIFM license according to section 7 of the Law.
- (4) When the AIF manager or the self managed AIF decides that this is a non temporary breach of the threshold, it notifies the Securities and Exchange Commission, without delay, stating that this case is considered a non temporary breach and requests an AIFM license within thirty (3) calendar days according to sections 4(5) and 7 of the Law.

ANNEX

FORM F56/2013/01

FOR THE REGISTRATION IN THE REGISTER

**Name of AIF manager or
self managed AIF:**

Purpose of this form

This form should be completed by the AIF manager or the self managed AIF, accordingly, provided it is established in the Republic.

CONTENT

Classification of paragraphs

Introduction	Clarifications regarding the filling of the Form
Paragraph 1	Contact details
Paragraph 2	Table for the calculation of the total value of assets under management of AIFs
Paragraph 3	Accompanying documents of the Form (checklist)

INTRODUCTION

1. This Form should be completed in electronic form. The Form is available in electronic form on the Securities and Exchange Commission (the Commission) website at http://www.cysec.gov.cy/Downloads/AIFM/AIFM_EN.xls and http://www.cysec.gov.cy/Downloads/AIFM/AIF_EN.xls under the heading «**AIFMs of section 4(2) of the Law**».
2. The tables of Paragraphs (1) and (2) should be completed in electronic form and should be submitted to the Commission through email at AIFM.notifications@cysec.gov.cy.
3. The information or/and documents required pursuant to Paragraph (3) should be submitted to the Commission in hard copies. The said information or/and forms should be attached in their original form or in true copies in an official language of the Republic or in English.
4. In case there are no competent authorities to issue certificates, other equivalent documents should be attached from an independent and reliable source.
5. During the filling of the Form, it should not be considered that public information or information that has been previously revealed to the Commission or to another competent authority is known to the Commission.

We, the members of the managing body of the manager named «.....» and the legal form of the company or the members of the Board of Directors of the self managed AIF named «.....», respectively, submit the Form for the registration, of the AIF manager or self managed AIF, accordingly, to the Register, according to Circular No. **CI56-2013-01** of the Securities and Exchange Commission. The Form is accompanied by all the necessary information and forms.

1. Contact details

The Table is available in electronic form at:

http://www.cysec.gov.cy/Downloads/AIFM/AIFM_EN.xls

2. Table for the calculation of the total value of assets under management of AIFs

The Table is available in electronic form at:

http://www.cysec.gov.cy/Downloads/AIFM/AIF_EN.xls

3. Accompanying documents of the application (checklist)

ACCOMPANYING DOCUMENTS OF THE APPLICATION (CHECKLIST)		
Information/ forms	Submitted (✓) / Not applicable (N/A)	For official use only
License for every AIF
Incorporation documents or Regulation or other equivalent document containing the terms of operation of every AIF
Prospectus/ offering document for every AIF ¹

¹ The prospectus/ offering document for every AIF should include the information referred to in section 5(2) of the Commission Delegated Regulation (EU) No.231/2013 of 19th December 2012.

We responsibly declare, having full knowledge of the consequences of the Law, that:

- We have applied all required diligence to ensure that all information contained in this Form, as well as the details and forms that accompany it are correct, complete and accurate.
- The calculation of the total value of assets under management has been done according the provisions of the Commission's delegated Regulation (EU) No 231/2013 of 19th December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council, with regards to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.
- We have taken all necessary measures so that the AIF manager or the self managed AIF, accordingly, can fulfill all conditions for being registered as AIFM below the threshold, as such conditions are laid down in the applicable legislation and in the Directives issued by the Commission.
- We will notify the Commission, immediately, in writing, of any change that takes place following the submission of this Form to the Commission as to the information submitted. If this change concerns the total value of assets under management of the AIFs, the change is notified according to Circular **CI56-2013-01** of the Commission.

We confirm that we are ready and willing to comply with the requirements and/or obligations arising from the applicable legislation.

We acknowledge and accept that the Commission may reveal information in the discharge of its duties, as these duties are defined in the applicable Law.

We acknowledge that the provision of false or misleading information or of documents or forms or the withholding of material information from the current application constitutes, apart from

being a breach subject to administration fine of up to 350.000 EUR, which may rise up to 700.000 EUR in case of repeated or continuous breach, a criminal offence being punishable with imprisonment up to five (5) years or with a monetary fine of up to 2350.000 EUR.

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Full name and capacity

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Signature

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Full name and capacity

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Signature

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Full name and capacity

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Signature

Date