The present English text is for information purposes only and is not legally binding.
The legally binding document is in the Greek language.

LAW TO PROVIDE FOR THE PRUDENTIAL SUPERVISION OF INVESTMENT FIRMS

ORDER OF SECTIONS

Law no. 165(I)/2021

LAW TO PROVIDE FOR THE PRUDENTIAL SUPERVISION OF INVESTMENT FIRMS

Preamble. For purposes of -

Official Journal of the EU: L314, 5.12.2019, p.64; L 405, 2.12.2020, p.84.

(a) harmonization with titles I, II, III, IV, V and VIII of the act of the European Union entitled "Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU" as corrected, and

Official Journal of the EU: L314, 5.12.2019, p.1; L 020, 24.01.2020, p.26.

(b) effective application of the act of the European Union entitled "Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirement of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014" as corrected,

The House of Representatives enacts as follows:

TITLE I
PRELIMINARY PROVISIONS

Short title. **1.** This Law shall be cited as the Prudential Supervision of Investment Firms Law of 2021.

Interpretation. **2.**-(1) In this Law, unless the context otherwise requires -

87(I) of 2017
44(I) of 2020
78(I) of 2021
91(I) of 2021.

"authorization" means the authorization of a CIF pursuant to the provisions of Section 5 of the Investment Services and Activities and Regulated Markets Law or pursuant to a legislation of another Member State, which incorporates Article 5 of Directive 2014/65/EU;

"senior management" means senior management pursuant to the provisions of Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"competent authority" means, as the case may be -

73(I) of 2009
5(I) of 2012
65(I) of 2014
135(I) of 2015
109(I) of 2016
137(I) of 2018

(a) the Cyprus Securities and Exchange Commission which is governed by the Cyprus Securities and Exchange Commission Law and supervises CIFs in accordance with this Law, as part of the supervisory system in operation in the Republic, or

56(I) of 2019
152(I) of 2020.

(b) the public authority or body of another Member State that is officially recognised and empowered by national law of this Member State to supervise investment firms in accordance with the legislation of this Member State which incorporates Directive (EU) 2019/2034, as part of the supervisory system in operation in that Member State;

"group supervisor" means a competent authority responsible for the supervision of compliance with the group capital test of European Union parent investment firms and investment firms controlled by European Union parent investment holding companies or European Union parent mixed financial holding companies;

"initial capital" means the capital which is required for the purposes of authorisation as an investment firm, the amount and type of which are specified in Sections 9 and 11;

"commodity and emission allowance dealer" means a commodity and emission allowance dealer as defined in point (150) of Article 4(1) of Regulation (EU) No 575/2013;

"board of directors" means a board of directors pursuant to the provisions of Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"board of directors in its supervisory function" means a board of directors acting in its role of overseeing and monitoring management decision-making;

"ESMA" means the European Securities and Markets Authority established pursuant to Regulation (EU) No 1095/2010;

"EBA" means the European Banks Authority established pursuant to Regulation (EU) No 1093/2010;

"control" means the relationship between a parent undertaking and a subsidiary, pursuant to the provisions of Section 152A of the Companies Law or in the accounting standards to which an investment firm is subject under Regulation (EC) No 1606/2002, or a similar relationship between any natural or legal person and an undertaking;

Cap.113.
9 of 1968
76 of 1977
17 of 1979
108 of 1985
198 of 1986
19 of 1990
46(I) of 1992
96(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997
82(I) of 1999
149(I) of 1999
2(I) of 2000

135(I) of 2000
151(I) of 2000
76(I) of 2001
70(I) of 2003
167(I) of 2003
92(I) of 2004
24(I) of 2005
129(I) of 2005
130(I) of 2005
98(I) of 2006
124(I) of 2006
70(I) of 2007
71(I) of 2007
131(I) of 2007
186(I) of 2007
87(I) of 2008
41(I) of 2009
49(I) of 2009
99(I) of 2009
42(I) of 2010
60(I) of 2010
88(I) of 2010
53(I) of 2011
117(I) of 2011
145(I) of 2011
157(I) of 2011
198(I) of 2011
64(I) of 2012
98(I) of 2012
190(I) of 2012
203(I) of 2012
6(I) of 2013
90(I) of 2013
74(I) of 2014
75(I) of 2014
18(I) of 2015
62(I) of 2015
63(I) of 2015
89(I) of 2015
120(I) of 2015
40(I) of 2016
90(I) of 2016
97(I) of 2016
17(I) of 2017
33(I) of 2017
51(I) of 2017
37(I) of 2018
83(I) of 2018
149(I) of 2018
163(I) of 2019
38(I) of 2020
43(I) of 2020
191(I) of 2020

192(I) of 2020
43(I) of 2021
117(I) of 2021.

the terms "investment services", "investment activities" and "investment services and activities" have the meaning ascribed to them by Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"investment holding company" means an investment holding company as defined in Article 4(1)(23) of Regulation (EU) 2019/2033;

"Commission" means the Cyprus Securities and Exchange Commission;

"investment firm" or "IF" means an investment firm pursuant to the provisions of Section 2(1) of the Investment Services and Activities and Regulated Markets Law and includes a CIF;

"ancillary services undertaking" means an undertaking, the principal activity of which consists of owning or managing property, managing data-processing services, or a similar activity which is ancillary to the principal activity of one or more investment firms;

"ESCB" means the European System of Central Banks established pursuant to Article 282 of the Treaty on the Functioning of the European Union;

"ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010;

"European Commission" means the European Commission of the European Union;

"subsidiary" means a subsidiary pursuant to the provisions of Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

Official Journal of the EU: L119, 4.5.2016, p.1; L127, 23.5.2018, p.2.

"Regulation (EU) No 2016/679" means the act of the European Union entitled "Regulation (EU) 2016/979 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)", as corrected;

Official Journal of the EU: L314, 5.12.2019, p.1; L20, 24.1.2020, p.26.

"Regulation (EU) No 2019/2033" means the act of the European Union entitled "Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014", as corrected;

Official Journal of the EU: L331, 15.12.2010 p.1; L334, 27.12.2019, p.146.

"Regulation (EU) No 1092/2010" means the act of the European Union entitled "Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board", as amended by Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L331, 15.12.2010 p.12; L334, 27.12.2019, p.1.

"Regulation (EU) No 1093/2010" means the act of the European Union entitled "Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC" as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L331, 15.12.2010 p.84; L334, 27.12.2019, p.1.

"Regulation (EU) No 1095/2010" means the act of the European Union entitled "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" as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L243, 11.9.2002 p.1; L97, 9.4.2008, p.62.

"Regulation (EU) No 1606/2002" means the act of the European Union entitled "Regulation (EU) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards" as amended by Regulation (EU) No 297/2008 of the European Parliament and of the Council of 11 March 2008;

Official Journal of the EU: L176, 27.6.2013 p.3; L204, 26.6.2020, p.4.

"Regulation (EU) No 575/2013 means the act of the European Union entitled "Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012" as amended by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020;

Official Journal of the EU: L173, 12.06.2014 p.84; L334, 27.12.2019,

"Regulation (EU) No 600/2014" means the act of the European Union entitled "Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012" as amended last by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019;

p.1.

Official Journal of the EU: L201, 27.7.2012, p.1; L322, 12.12.2019, p.1.

"Regulation (EU) No 648/2012" means the act of the European Union entitled "Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories" as amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019;

"consolidated situation" means a consolidated situation as defined in point (11) of Article 4(1) of Regulation (EU) 2019/2033;

138(I) of 2002
166(I) of 2003
34(I) of 2007
86(I) of 2013
103(I) of 2013
66(I) of 2014
139(I) of 2014
144(I) of 2014
107(I) of 2016
170(I) of 2017.

"Central Bank" means the Central Bank of Cyprus governed by the Central Bank of Cyprus Law;

the term "CIF" has the meaning ascribed to this term by Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"Member State" means a Members State of the European Union;

"home Member State' means a home Member State as defined in paragraph (a) of the definition of the term "home Member State" in Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"host Member State" means a host Member State as defined in Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"European Union parent investment holding company' means a European Union parent investment holding company as defined in Article 4(1)(57) of Regulation (EU) 2019/2033;

"parent undertaking" means a parent undertaking as defined in Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"European Union parent investment firm" means a European Union parent investment firm as defined in Article 4(1)(56) of Regulation (EU) 2019/2033;

"European Union parent mixed financial holding company" means a European Union parent mixed financial holding company as defined in Article 4(1)(58) of Regulation (EU) 2019/2033;

"mixed-activity holding company" means a parent undertaking other than a financial holding company, an investment holding company, a credit institution, an investment firm, or a mixed financial holding company within the meaning of paragraph 2(1) of Directive DI 144-2007-16 of 2015, the subsidiaries of which include at least one investment firm;

"mixed financial holding company" means a mixed financial holding company as defined in paragraph 2(1) of Directive DI 144-2007-16 of 2015;

Official Journal of the EU: L176, 27.06.2013 p.338; L203, 26.06.2020, p.95.

"Directive 2013/36/EU" means the act of the European Union entitled "Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC" as corrected;

Official Journal of the EU: L173, 12.06.2014 p.349; L320, 11.12.2019, p.1.

"Directive 2014/65/EU" means the act of the European Union entitled "Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU" as amended by Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019;

Official Journal of the EU: L314, 5.12.2019 p.64; L405, 2.12.2020, p.84.

"Directive (EU) 2019/2034" means the act of the European Union entitled "Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU", as corrected;

Official Gazette: Third (I) Annex: 25.09.2015.

"Directive DI 144-2007-16 of 2015" means the Directive on the Supplementary Supervision of Ivvestment Firms, Asset Management Companies or Alternative Investment Fund Managers in a Financial Conglomerate;

Official Gazette: Third (II) Annex: 27.11.2015.

"Directive DI 144-2007-16(A) of 2015" means Directive DI 144-2007-16(A) on the Supplementary Supervision of Investment Firms, Asset Management Companies or Alternative Investment Fund Managers in a Financial Conglomerate amending Directive 144-2007-16 of 2015;

Official Gazette: Third (I) Annex: 5.1.2018.

"Directive DI 87-01" means the Directive for the Safeguarding of Client Assets, Product Governance Obligations and Inducements".

"group" means a group as defined in Section 2(1) of the Companies Law;

"investment firm group" means an investment firm group as defined in Article 4(1)(25) of Regulation (EU) 2019/2033;

"derivatives" means derivatives as defined in Article 2(1)(29) of Regulation (EU) No 600/2014;

"credit institution" means a credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013;

97(I) of 2021
164(I) of 2021.

the term "gender neutral" has the meaning ascribed to this term by Section 2(1) of the Capital Adequacy of Investment Firms Law;

"close links" means close links as defined in Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"compliance with the group capital test" means compliance by a parent undertaking in an investment firm group with the requirements of Article 8 of Regulation (EU) 2019/2033;

"systemic risk" means systemic risk as defined in Section 2(1) of the Capital Adequacy of Investment Firms Law;

"branch" means branch as defined in Section 2(1) of the Investment Services and Activities and Regulated Markets Law;

"financial institution" means a financial institution as defined in Article 4(1)(14) of Regulation (EU) 2019/2033;

(2)(a) In this Law, any reference to a legislative act of the European Union such as Directive, Regulation or Decision, means the said act as corrected, amended or replaced from time to time, unless in this Law the context otherwise requires.

(b) In this Law, any reference to a law or regulatory administrative act of the Republic, means the said law or regulatory administrative act as corrected, amended or replaced from time to time, unless in this Law the context otherwise requires.

(3) Terms used in this Law and not otherwise construed shall have the meaning ascribed to them in Regulation (EU) 2019/2033.

Subject matter and scope of application.

3.-(1) This Law lays down rules concerning:

(a) the initial capital of investment firms;

(b) supervisory powers and tools for the prudential supervision of investment firms by competent authorities;

(c) the prudential supervision of investment firms by the Commission in a manner that is consistent with the rules set out in Regulation (EU) 2019/2033; and

(d) publication requirements for the Commission in the field of prudential regulation and supervision of investment firms.

(2) This Law shall apply to:

(a) CIFs authorized and supervised under the Investment Services and Activities and Regulated Markets Law, and

(b) investment firms authorized in another Member State, supervised herein under national legislation of this Member State incorporating Directive 2014/65/EU and carrying out activities in the Republic.

(3) Irrespective of the provisions of subsection (1), Titles IV and V of this Law shall not apply to investment firms referred to in Article 1(2) and (5) of Regulation (EU) 2019/2033, which shall be supervised for compliance with prudential requirements under Parts IV and V of the Capital Adequacy of Investment Firms Law, or in accordance with the legislation of another Member State, which incorporates Titles VII and VIII of Directive 2013/36/EU and in accordance with the second subsection of Article 1(2), and third subsection of Article 1(5) of Regulation (EU) 2019/2033.

TITLE II
COMPETENT AUTHORITY

Designation and powers of the competent authority.

4.-(1)(a) The Commission shall be designated as the competent authority of the Republic to carry out the functions and duties provided for in this Law, in the directives issued thereunder and in Regulation (EU) 2019/2033.

(b) The Minister of Finance shall procure to inform the European Commission, EBA and ESMA of the designation of the Commission.

(2) Subject to Section 12(2) of this Law, the Commission shall supervise the activities of investment firms and, where applicable, of investment holding companies and mixed financial holding companies, to assess compliance with the requirements of this Law, of the directives issued thereunder and of Regulation (EU) 2019/2033.

(3) The Commission shall have all necessary powers, including the power to conduct on-the-spot checks in accordance with Section 14, to obtain the information needed to assess the compliance of investment firms and, where applicable, of investment holding companies and mixed financial holding companies, with the requirements of this Law, of the directives issued thereunder and of Regulation (EU) 2019/2033, and to investigate possible breaches of those requirements.

(4) The Commission shall have the expertise, resources, operational capacity, powers and independence necessary to carry out the functions relating to the prudential supervision, investigations and sanctions set out in this Law.

(5) Investment firms shall provide the Commission with all the information necessary

for the assessment of the compliance of investment firms with the provisions of this Law, of the directives issued thereunder and of Regulation (EU) 2019/2033.

(6) Internal control mechanisms and administrative and accounting procedures of investment firms shall enable the Commission to check their compliance with the provisions of this Law, of the regulations issued thereunder and of Regulation (EU) 2019/2033 at all times.

(7) Investment firms shall record all their transactions and document the systems and processes which are governed by this Law, by the directives issued thereunder and by Regulation (EU) 2019/2033 in such a manner that the Commission is able to assess compliance with this Law, with the directives issued thereunder and with Regulation (EU) 2019/2033 at all times.

Certain CIFs to be subject to the requirements of Regulation (EU) 575/2013.

5.-(1) The Commission, after requesting and obtaining the views of the Central Bank, may decide to apply the requirements of Regulation (EU) No 575/2013 pursuant to point (c) of the first subsectionof Article 1(2) of Regulation (EU) 2019/2033 to a CIF that carries out any of the activities listed in points (3) and (6) of Section I of Annex 1 to the Investment Services and Activities and Regulated Markets Law, where the total value of the consolidated assets of the investment firm is equal to or exceeds five (5) billion Euro, calculated as an average of the previous twelve (12) months, and one or more of the following criteria apply:

(a) the CIF carries out those activities on such a scale that the failure or the distress of the investment firm could lead to systemic risk;

(b) the CIF is a clearing member as defined in Article 4(1)(3) of Regulation (EU) 2019/2033; and

(c) the Commission considers it to be justified in light of the size, nature, scale and complexity of the activities of the CIF concerned, taking into account the principle of proportionality and having regard to one or more of the following factors:

(i) the importance of the CIF for the economy of the Union or of the Republic;

(ii) the significance of the CIF's cross-border activities; and

(iii) the interconnectedness of the CIF with the financial system.

(2) The provisions of subsection (1) shall not apply to commodity and emission allowance dealers, collective investment undertakings or insurance undertakings.

(3) Where the Commission decides to apply the requirements of Regulation (EU) No 575/2013 to a CIF in accordance with subsection (1), that CIF shall be supervised for compliance with prudential requirements under Parts IV and V of the Capital Adequacy of Investment Firms Law.

(4) The Commission may, after requesting and obtaining the views of the Central Bank, revoke a decision taken in accordance with subsection (1) and shall inform the CIF without delay.

(5) The Commission shall cease to apply any decision taken under subsection (1) where the interested CIF no longer meets the threshold referred to in that subsection, calculated over a period of twelve (12) consecutive months.

(6) The Commission shall inform EBA without delay of any decision taken pursuant to subsections (1), (3), (4) and (5).

Cooperation within the Republic.

6.-(1) The Commission shall cooperate closely with the Central Bank which is the competent authority for credit institutions and financial institutions.

(2)(a) The Commission and the Central Bank shall exchange, without delay, any information which is essential or relevant to the exercise of their functions and duties.

(b) The Commission shall establish a mechanism for cooperation with the Central Bank and for the exchange of all information that is relevant for the exercise of their respective functions and duties.

Cooperation within the European System of Financial Supervision.

7.-(1) In the exercise of its duties, the Commission shall take into account the convergence of supervisory tools and supervisory practices in the application of this Law, of the directives issued thereunder and of the legal provisions adopted pursuant to Directive (EU) 2019/2034 and/or to Regulation (EU) 2019/2033.

(2)(a) The Commission, as a party to the European System of Financial Supervision, shall cooperate with trust and full mutual respect, in particular when ensuring the exchange of appropriate, reliable and exhaustive information between the Commission and other parties to the European System of Financial Supervision.

(b) The Commission shall participate in the activities of EBA, and, as appropriate, in the colleges of supervisors referred to in Section 41 of this Law and in Section 76 of the Capital Adequacy of Investment Firms Law.

(c) The Commission shall make every effort to ensure compliance with the guidelines and recommendations issued by EBA pursuant to Article 16 of Regulation (EU) No 1093/2010 and to respond to the warnings and recommendations issued by the European Systemic Risk Board (ESRB) pursuant to Article 16 of Regulation (EU) No 1092/2010.

(d) The Commission shall cooperate closely with the ESRB.

(e) Tasks and powers conferred on the Commission shall not inhibit the performance of its duties as member of EBA or of the ESRB, or under this Law, under the directives issued thereunder and under Regulation (EU) 2019/2033.

Union dimension of supervision.

8. The Commission shall, in the exercise of its general duties, duly consider the potential impact of its decisions on the stability of the financial system in other Member States concerned as well as in the European Union as a whole and, in particular, in emergency situations, based on the information available at the relevant time.

TITLE III
INITIAL CAPITAL

Initial Capital.

9.-(1) The initial capital of a CIF required pursuant to Section 16 of the Investment Services and Activities and Regulated Markets Law for the authorisation to provide any of the investment services or perform any of the investment activities listed in points (3) and (6) of Part I of Annex I to the Investment Services and Activities and Regulated Markets Law, shall be seven hundred fifty thousand Euro (€750 000).

(2) The initial capital of a CIF required pursuant to Section 16 of the Investment Services and Activities and Regulated Markets Law for the authorisation to provide any of the investment services or perform any of the investment activities listed in points (1), (2), (4), (5) and (7) of Part I of Annex I to the Investment Services and Activities and Regulated Markets Law, and which is not permitted to hold client money or securities belonging to its clients shall be seventy-five thousand Euro (€75 000).

(3) The initial capital of a CIF required pursuant to Section 16 of the Investment Services and Activities and Regulated Markets Law for CIFs other than those referred to in subsections (1), (2) and (4) of this Section shall be one hundred fifty thousand Euro (€150 000).

(4) The initial capital of a CIF authorised to provide the investment services or perform the investment activity listed in point (9) of Part I of Annex I of the Investment Services and Activities and Regulated Markets Law, where that CIF engages in dealing on own account or is permitted to do so, shall be seven hundred fifty thousand Euro (€750 000).

References to initial capital in the Capital Adequacy of Investment Firms Law.

10. References to the levels of initial capital set by Section 9 shall, from the entry into force of this Law, be construed as replacing references to the levels of initial capital set by the Capital Adequacy of Investment Firms Law, as follows:

(a) references to initial capital of CIFs referred to in Section 7 of the Capital Adequacy of Investment Firms Law shall be construed as references to Section 9(1);

(b) references to initial capital of CIFs in Sections 8 and 9 of the Capital Adequacy of Investment Firms Law shall be construed as references to Section 9(2), (3) or (4), depending on the types of investment services and activities of the CIF; and

(c) references to initial capital in Section 8(5) of the Capital Adequacy of Investment Firms Law shall be construed as references to Section 9(1) of this Law.

Composition of initial capital.

11. The initial capital of a CIF shall be constituted in accordance with Article 9 of Regulation (EU) 2019/2033.

TITLE IV
PRUDENTIAL SUPERVISION
Chapter 1: Principles of prudential supervision
Part A: Competences and duties of the Commission as home or host Member State

Competences of the competent authority of the home Member State and of the competent authority of the host Member State.

12.-(1) The prudential supervision of CIFs shall be the responsibility of the Commission as the competent authority of the home Member State, without prejudice to the provisions of this Law and/or of Directive (EU) 2019/2034 which confer responsibility on the competent authority of another Member State as the host Member State.

(2) The prudential supervision of investment firms of another Member State shall be the responsibility of the competent authority of the other Member State, without prejudice to the provisions of this Law and/or of Directive (EU) 2019/2034 which confer responsibility on the Commission as the competent authority of the Republic as the host Member State.

Cooperation between the Commission and the competent authorities of other Member States.

13.-(1). The Commission shall cooperate closely with the competent authorities of other Member States for the purposes of their duties pursuant to this Law and to Regulation (EU) 2019/2033, in particular by exchanging information about investment firms without delay, including the following:

(a) information about the management and ownership structure of the investment firm;

(b) information about compliance with own funds requirements by the investment firm;

(c) information about compliance with the concentration risk requirements and liquidity requirements of the investment firm;

(d) information about the administrative and accounting procedures and internal control mechanisms of the investment firm; and

(e) any other relevant factors that may influence the risk posed by the investment

firm.

(2) The Commission, as competent authority of the Republic as home Member State, shall immediately provide the competent authority of the host Member State with any information and findings about any potential problems and risks posed by a CIF to the protection of clients or the stability of the financial system in the host Member State which they have identified when supervising the activities of a CIF.

(3) The Commission, as competent authority of the Republic as home Member State:

(a) shall act upon information provided by the competent authority of the host Member State by taking all measures necessary to avert or remedy potential problems and risks as referred to in subsection (2); and

(b) upon request, shall explain in detail to the competent authority of the host Member State how they have taken into account the information and findings provided by the competent authority of the host Member State.

(4) Where, following the communication of the information and findings referred to in subsection(2), the Commission, as competent authority of the Republic as host Member State, considers that the competent authorities of the home Member State have not taken the necessary measures referred to in subsection (3), it may, after having informed the competent authorities of the home Member State, EBA and ESMA, take appropriate measures to protect clients to whom services are provided or to protect the stability of the financial system.

(5) The Commission may refer to EBA cases in which a request for collaboration, in particular a request to exchange information to the competent authorities of another Member State, has been rejected or has not been acted upon within a reasonable time.

(6) In case the Commission, as competent authority of the Republic as home Member State, disagrees with the measures of the competent authority of the host Member State, it may refer the matter to EBA, which shall act in accordance with the procedure laid down in Article 19 of Regulation (EU) No 1093/2010.

(7) For the purpose of assessing the condition in point (c) of the first subparagraph of Article 23(1) of Regulation (EU) 2019/2033, the Commission, as competent authority of the Republic as a CIF's home Member State, may request the competent authority of a clearing member's home Member State to provide information relating to the margin model and parameters used for the calculation of the margin requirement of the relevant CIF.

On-the-spot checking and inspection of branches established in the Republic.

14.-(1) Where an investment firm authorised in another Member State carries out its activities in the Republic through a branch, the competent authority of the home Member State may, after having informed the Commission, carry out, itself or through intermediaries that it appoints for that purpose, on-the-spot checks of the information referred to in Section 13(1) of this Law and inspect such branches.

(2) The Commission, as competent authority of the Republic as host Member State shall, for supervisory purposes and where it considers it to be relevant for reasons of stability of the financial system in the Republic, have the power to carry out, on a case-by-case basis, on-the-spot checks and inspections of the activities carried out by branches of investment firms in the Republic and require information from a branch about its activities.

(3) Before carrying out the checks and inspections referred to in subsection(2), the Commission shall, without delay, consult the competent authority of the home Member State.

(4) As soon as possible following the completion of the checks and inspections referred to in subsection (2), the Commission shall communicate to the competent authority of the home Member State the information obtained and findings that are relevant for the risk assessment of the investment firm concerned.

Part B: Professional secrecy and duty to report

Professional secrecy and exchange of confidential information.

15.-(1) The Commission and all persons who work or who have worked for the Commission, including the persons referred to in Section 77(1) of the Investment Services and Activities and Regulated Markets Law, shall be bound by the obligation of professional secrecy for the purposes of this Law, of the directives issued thereunder and of Regulation (EU) 2019/2033.

(2) Confidential information which the Commission and persons receive in the course of their duties may be disclosed only in summary or aggregate form, provided that individual investment firms or persons cannot be identified, without prejudice to cases covered by Cyprus criminal law.

(3) Where the investment firm has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties may be disclosed in civil or commercial proceedings, where such disclosure is necessary for carrying out those proceedings.

(4) The Commission shall use the confidential information collected, exchanged or transmitted pursuant to this Law and to Regulation (EU) 2019/2033 only for the purpose of carrying out its duties, and in particular for the following purposes:

(a) to monitor the prudential rules set out in this Law and in Regulation (EU) 2019/2033;

(b) to impose sanctions;

(c) in administrative and non-judicial appeals against decisions of the Commission;

(d) in court proceedings initiated under Section 55.

(5) Natural and legal persons and other bodies, other than the Commission, that receive confidential information pursuant to this Law and to Regulation (EU) 2019/2033 shall use that information only for the purposes for which the Commission expressly provides or in accordance with Regulation (EU) 2016/679 and with the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data Law.

125(I) of 2018.

(6) The Commission may exchange with other competent authorities confidential information for the purposes of subsection (4), may expressly state how that information is to be treated and may expressly restrict any further transmission of that information.

(7) The obligation referred to in subsection (1) shall not prevent the Commission from transmitting confidential information to the European Commission when that information is necessary for the exercise of the powers of the European Commission.

(8) The Commission may provide EBA, ESMA, the ESRB, the Central Bank, the central banks of the Member States, the European System of Central Banks (ESCB) and the European Central Bank in their capacity as monetary authorities, and, where appropriate, public authorities responsible for overseeing payment and settlement systems, with confidential information where that information is necessary for the performance of their tasks.

Cooperation arrangements with third countries for the exchange of information.

16. For the purpose of performing its supervisory tasks pursuant to this Law or to Regulation (EU) 2019/2033, and for the purpose of exchanging information, the Commission, the other competent authorities, EBA and ESMA in accordance with Article 33 of Regulation (EU) No 1093/2010 or Article 33 of Regulation (EU) No 1095/2010, as applicable, may conclude cooperation arrangements with third-country supervisory authorities as well as with third-country authorities or bodies responsible for the following tasks, provided that the information disclosed is subject to guarantees of professional secrecy that are at least equivalent to those laid down in Section15:

(a) the supervision of financial institutions and financial markets, including the supervision of financial entities licensed to operate as central counterparties, where central counterparties have been recognised under Article 25 of Regulation (EU) No 648/2012);

(b) the liquidation and bankruptcy of investment firms and similar procedures;

(c) oversight of the bodies involved in the liquidation and bankruptcy of investment firms and similar procedures;

(d) the carrying out of statutory audits of financial institutions or institutions which administer compensation schemes;

(e) oversight of persons charged with carrying out statutory audits of the accounts of financial institutions;

(f) oversight of persons active on emission allowance markets for the purpose of ensuring a consolidated overview of financial and spot markets; and

(g) oversight of persons active on agricultural commodity derivatives markets for the purpose of ensuring a consolidated overview of financial and spot markets.

Duties of persons responsible for the control of annual and consolidated accounts.

53(I) of 2017
171(I) of 2017
7(I) of 2018
69(I) of 2019
12(I) of 2020.
78(I) of 2012
88(I) of 2015
52(I) of 2016
134(I) of 2019.

17. Any person who is authorised in accordance with the Auditors Law and who performs in a CIF the tasks described in Section 58(I) of the Open-Ended Undertakings for Collective Investment Law or in Section 152A of the Companies Law or any other statutory task, shall have a duty to report promptly to the Commission any fact or decision concerning that CIF, or concerning an undertaking that has close links with that CIF which:

(a) constitutes a material breach of this Law and/or of the directives issued thereunder;

(b) may affect the continuous functioning of the CIF; or

(c) may lead to a refusal to certify the accounts or can lead to the expression of reservations.

Chapter 2: Review process
Part A: Internal capital adequacy assessment process and internal risk-assessment process

Internal capital and liquid assets.

18.-(1). CIFs which do not meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033 shall have in place sound, effective and comprehensive arrangements, strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital and liquid assets that they consider adequate to cover the nature and level of risks which they may pose to others and to which the CIFs themselves are or might be exposed.

(2) The arrangements, strategies and processes referred to in subsection(1) shall be appropriate and proportionate to the nature, scale and complexity of the activities of the CIF concerned and they shall be subject to regular internal review.

(3) The Commission may request CIFs which meet the conditions for qualifying as

small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033 to apply the requirements provided for in this Section to the extent that the Commission deems it to be appropriate.

Part B: Internal governance, transparency, treatment of risks and remuneration

Scope of application of the provisions of this Part.

19.-(1) The provisions of this Part shall not apply where, on the basis of Article 12(1) of Regulation (EU) 2019/2033, a CIF determines that it meets all of the conditions for qualifying as a small and non-interconnected CIF set out therein.

(2) Where a CIF which has not met all of the conditions set out in Article 12(1) of Regulation (EU) 2019/2033 subsequently meets those conditions, the provisions of this Part shall cease to apply after a period of six (6) months from the date on which those conditions are met.

(3) The provisions of this Part shall cease to apply to a CIF after the period referred to in subsection (2) only where the CIF continued to meet the conditions set out in Article 12(1) of Regulation (EU) 2019/2033 without interruption during the period referred to in subsection (2) and where it notified the Commission accordingly.

(4) Where a CIF determines that it no longer meets all of the conditions set out in Article 12(1) of Regulation (EU) 2019/2033, it shall notify the Commission and comply with the provisions of this Part within twelve (12) months of the date on which that assessment took place.

(5) CIFs shall apply the provisions laid down in Section 26 of this Law to remuneration awarded for services provided or performance in the financial year following the financial year in which the assessment referred to in subsection (4) took place.

(6) Where the provisions of this Part apply and Article 8 of Regulation (EU) 2019/2033 is applied, the provisions of this Part shall be applied to CIFs on an individual basis.

(7) Where the provisions of this Part apply and prudential consolidation as referred to in Article 7 of Regulation (EU) 2019/2033 is applied, the provisions of this Part shall be applied to CIFs on an individual and consolidated basis.

(8) Irrespective of subsection (7), the provisions of this Part shall not apply to subsidiary undertakings included in a consolidated situation that are established in third countries, where the parent undertaking in the European Union can demonstrate to the Commission that the application of this Part is unlawful under the laws of the third country where those subsidiary undertakings are established.

Internal governance.

20.-(1) CIFs shall have robust governance arrangements, including all of the following:

(a) a clear organisational structure with well-defined, transparent and consistent lines of responsibility;

(b) effective processes to identify, manage, monitor and report the risks that CIFs are or might be exposed to, or the risks that they pose or might pose to others;

(c) adequate internal control mechanisms, including sound administration and accounting procedures;

(d) gender-neutral remuneration policies and practices that are consistent with and promote sound and effective risk management.

(2) When establishing the arrangements referred to in subsection (1), the criteria set out in Sections 22 to 27 shall be taken into account.

(3) The arrangements referred to in subsection (1) shall be appropriate and proportionate to the nature, scale and complexity of the risks inherent in the business model and the activities of the CIF.

Country-by-country reporting.

21.-(1) CIFs that have a branch or subsidiary that is a financial institution as defined in Article 4(1)(26) of Regulation (EU) No 575/2013 in a Member State or in a third country other than the Republic shall disclose the following information by Member State and third country on an annual basis:

(a) the name, nature of activities and location of any subsidiaries and branches;

(b) turnover;

(c) the number of employees on a full time equivalent basis;

(d) profit or loss before tax;

(e) tax on profit or loss; and

(f) the public subsidies received.

(2) The information referred to in subsection (1) shall be audited in accordance with the Auditors Law and, where possible, shall be annexed to the annual financial statements or, where applicable, to the consolidated financial statements of that CIF.

Role of the board of directors in risk management.

22.-(1) The board of directors of the CIF shall approve and periodically review the strategies and policies on the risk appetite of the CIF, and on managing, monitoring and mitigating the risks the CIF is or may be exposed to, taking into account the macroeconomic environment and the business cycle of the CIF.

(2) The board of directors shall devote sufficient time to ensure proper consideration of the matters referred to in subsection(1) and allocate adequate resources to the management of all material risks to which the CIF is exposed.

(3) CIFs shall establish reporting lines to the board of directors for all material risks

and for all risk management policies and any changes thereto.

(4) All CIFs that do not meet the criteria set out in Section 26(8)(a) shall establish a risk committee composed of members of the board of directors who do not perform any executive function in the CIF concerned.

(5) Members of the risk committee referred to in subsection(4) shall have appropriate knowledge, skills and expertise to fully understand, manage and monitor the risk strategy and the risk appetite of the CIF and ensure that the risk committee advises the board of directors on the CIF's overall current and future risk appetite and strategy and assist the board of directors in overseeing the implementation of that strategy by senior management.

(6) The board of directors shall retain overall responsibility for the CIF's risk strategies and policies.

(7) The board of directors in its supervisory function and the risk committee of that board of directors, where a risk committee has been established, shall have access to information on the risks to which the CIF is or may be exposed.

Treatment of risks.

23.-(1). CIFs shall have robust strategies, policies, processes and systems for the identification, measurement, management and monitoring of the following:

(a) material sources and effects of risk to clients and any material impact on own funds;

(b) material sources and effects of risk to market and any material impact on own funds;

(c) material sources and effects of risk to the CIF, in particular those which can deplete the level of own funds available; and

(d) liquidity risk over an appropriate set of time horizons, including intra-day, so as to ensure that the CIF maintains adequate levels of liquid resources, including in respect of addressing material sources of risks under paragraphs (a), (b) and (c).

(2) The strategies, policies, processes and systems shall be proportionate to the complexity, risk profile, and scope of operation of the CIF and risk tolerance set by the board of directors, and shall reflect the CIF's importance in each Member State in which it carries out business.

(3) For the purposes of paragraph (a) of subsection (1) and subsection (2), the Commission shall consider Directive DI 87-01.

(4) For the purposes of paragraph (a) of subsection (1), CIFs shall consider holding professional indemnity insurance as an effective tool in the management of risks.

(5) For the purposes of paragraph (c) of subsection (1), material sources of risk to the CIF itself shall include, if relevant, material changes in the book value of assets, including any claims on tied agents, the failure of clients or counterparties, positions in financial instruments, foreign currencies and commodities, and obligations to defined benefit pension schemes.

(6) CIFs shall give due consideration to any material impact on own funds where such risks are not appropriately captured by the own funds requirements calculated under Article 11 of Regulation (EU) 2019/2033.

(7) Where CIFs need to wind down or cease their activities, the Commission shall require that CIFs, by taking into account the viability and sustainability of their business models and strategies, give due consideration to requirements and necessary resources which are realistic, in terms of timescale and maintenance of own funds and liquid resources, throughout the process of exiting the market.

(8) Irrespective of Section 19, paragraphs (a), (c) and (d) of subsection (1) shall apply to CIFs that meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033.

Remuneration policies.

24.-(1) Each CIF, when establishing and applying its remuneration policies for categories of staff, including senior management, risk takers, staff engaged in control functions and any employees receiving overall remuneration equal to at least the lowest remuneration received by senior management or risk takers, whose professional activities have a material impact on the risk profile of the CIF or of the assets that it manages, shall comply with the following principles:

(a) the remuneration policy is clearly documented and proportionate to the size, internal organisation and nature, as well as to the scope and complexity of the activities of the CIF;

(b) the remuneration policy is gender-neutral;

(c) the remuneration policy is consistent with and promotes sound and effective risk management;

(d) the remuneration policy is in line with the business strategy and objectives of the CIF, and also takes into account long term effects of the investment decisions taken;

(e) the remuneration policy contains measures to avoid conflicts of interest, encourages responsible business conduct and promotes risk awareness and prudent risk taking;

(f) the CIF's board of directors in its supervisory function adopts and periodically reviews the remuneration policy and has overall responsibility for overseeing its implementation;

(g) the implementation of the remuneration policy is subject to a central and independent internal review by control functions at least annually;

(h) staff engaged in control functions are independent from the business units they oversee, have appropriate authority, and are remunerated in accordance with the achievement of the objectives linked to their functions, regardless of the performance of the business areas they control;

(i) the remuneration of senior officers in the risk management and compliance functions is directly overseen by the remuneration committee referred to in Section 27 or, where such a committee has not been established, by the board of directors in its supervisory function;

(j) the remuneration policy, taking into account the rules in force in the Republic on wage setting, makes a clear distinction between the criteria applied to determine the following:

(i) basic fixed remuneration, which primarily reflects relevant professional experience and organisational responsibility as set out in an employee's job description as part of his or her terms of employment;

(ii) variable remuneration, which reflects a sustainable and risk adjusted performance of the employee, as well as performance in excess of the employee's job description;

(k) the fixed component represents a sufficiently high proportion of the total remuneration so as to enable the operation of a fully flexible policy on variable remuneration components, including the possibility of paying no variable remuneration component.

(2) For the purposes of paragraph (k) of subsection (1), CIFs shall set the appropriate ratios between the variable and the fixed component of the total remuneration in their remuneration policies, taking into account the business activities of the CIF and associated risks, as well as the impact that different categories of staff referred to in subsection(1) have on the risk profile of the CIF.

(3) CIFs shall establish and apply the principles referred to in subsection (1) in a manner that is appropriate to their size and internal organisation and to the nature, scope and complexity of their activities.

CIFs that benefit from extraordinary public financial support.

22(I) of 2016
96(I) of 2021
158(I) of 2021.

25. Where a CIF benefits from extraordinary public financial support as defined in Section 2(1) of the Resolution of Credit Institutions and Investment Firms Law:-

(a) that CIF does not pay any variable remuneration to members of its board of directors;

(b) where variable remuneration paid to staff other than members of the board of directors would be inconsistent with the maintenance of a sound capital base of a CIF and its timely exit from extraordinary public financial support, variable remuneration shall be limited to a portion of net revenue.

Variable remuneration.

26.-(1) Any variable remuneration awarded and paid by a CIF to categories of staff referred to in Section 24(1) of this Law complies with all of the following requirements under the same conditions as those set out in Section 24(3):

(a) where variable remuneration is performance related, the total amount of variable remuneration is based on a combination of the assessment of the performance of the individual, of the business unit concerned and of the overall results of the CIF;

(b) when assessing the performance of the individual, both financial and non-financial criteria are taken into account;

(c) the assessment of the performance referred to in paragraph (a) is based on a multi-year period, taking into account the business cycle of the CIF and its business risks;

(d) the variable remuneration does not affect the CIF's ability to ensure a sound capital base;

(e) there is no guaranteed variable remuneration other than for new staff only for the first year of employment of new staff and where the CIF has a strong capital base;

(f) payments relating to the early termination of an employment contract reflect performance achieved over time by the individual and shall not reward failure or misconduct;

(g) remuneration packages relating to compensation or buy out from contracts in previous employment are aligned with the long-term interests of the CIF;

(h) the measurement of performance used as a basis to calculate pools of variable remuneration takes into account all types of current and future risks and the cost of the capital and liquidity required in accordance with Regulation (EU) 2019/2033;

(i) the allocation of the variable remuneration components within the CIF takes into account all types of current and future risks;

(j) at least 50% of the variable remuneration consists of any of the following

instruments:

(i) shares or equivalent ownership interests, subject to the legal structure of the CIF concerned;

(ii) share-linked instruments or equivalent non-cash instruments, subject to the legal structure of the CIF concerned;

(iii) Additional Tier 1 instruments or Tier 2 instruments or other instruments which can be fully converted to Common Equity Tier 1 instruments or written down and that adequately reflect the credit quality of the CIF as a going concern; and

(iv) non-cash instruments which reflect the instruments of the portfolios managed;

(k) Irrespective of paragraph (j), where a CIF does not issue any of the instruments referred to in that paragraph, the Commission may approve the use of alternative arrangements fulfilling the same objectives;

(l) at least 40 % of the variable remuneration is deferred over a three- to five-year period as appropriate, depending on the business cycle of the CIF, the nature of its business, its risks and the activities of the individual in question, except in the case of variable remuneration of a particularly high amount where the proportion of the variable remuneration deferred is at least 60 %;

(m) up to 100 % of the variable remuneration is contracted where the financial performance of the CIF is subdued or negative, including through malus or clawback arrangements subject to criteria set by CIFs which in particular cover situations where the individual in question:

(i) participated in or was responsible for conduct which resulted in significant losses for the CIF; and

(ii) is no longer considered fit and proper;

(n) discretionary pension benefits are in line with the business strategy, objectives, values and long-term interests of the CIF.

(2) For the purposes of subsection (1)-

(a) individuals referred to in Section 24(1) do not use personal hedging strategies or remuneration and liability-related insurances to undermine the principles referred to in subsection (1); and

(b) variable remuneration is not paid through financial vehicles or methods that facilitate non-compliance with this Law or with Regulation (EU) 2019/2033.

(3) For the purposes of paragraph (j) of subsection 1, the instruments referred to therein shall be subject to an appropriate retention policy designed to align the incentives of the individual with the longer-term interests of the CIF, its creditors and clients.

(4) The Commission may place restrictions on the types and designs of the instruments referred to in subsection (3) or prohibit the use of certain instruments for variable remuneration.

(5) For the purposes of paragraph (l) of subsection (1), the deferral of the variable remuneration shall vest no faster than on a pro-rata basis.

(6) For the purposes of paragraph (n) of subsection (1), where an employee leaves the CIF before retirement age, discretionary pension benefits shall be held by the CIF for a period of five (5) years in the form of instruments referred to in point (j) of paragraph 1.

(7) Where an employee reaches retirement age and retires, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in paragraph (j) of subsection (1), subject to a five-year retention period.

(8) Paragraphs (j) and (l) of subsection (1) and subsections (6) and (7) shall not apply to:

(a) a CIF, where the value of its on and off-balance sheet assets is on average equal to or less than 100 million Euro over the four-year period immediately preceding the given financial year; and

(b) an individual whose annual variable remuneration does not exceed 50 000 Euro and does not represent more than one fourth of that individual's total annual remuneration.

(9) Irrespective of paragraph (a) of subsection (8), the Commission may, upon issuing directives, increase the threshold referred to in that paragraph, provided that the CIF meets the following criteria:

(a) the CIF is not, in the Member State in which it is established, one of the three largest investment firms in terms of total value of assets;

(b) the CIF is not subject to obligations or is subject to simplified obligations in relation to recovery and resolution planning in accordance with Article 12 of the Resolution of Credit Institutions and Investment Companies Law;

(c) the size of the CIF's on and off-balance sheet trading-book business is equal to or less than 150 million Euro;

(d) the size of the CIF's on and off-balance sheet derivative business is equal to or

less than 100 million Euro;

(e) the threshold does not exceed 300 million Euro; and

(f) it is appropriate to increase the threshold, taking into account the nature and scope of the CIF's activities, its internal organisation, and, where applicable, the characteristics of the group to which it belongs.

(10) Irrespective of paragraph (a) of subsection (8), the Commission may, upon issuing directives, lower the threshold referred to in that paragraph, provided that it is appropriate to do so, taking into account the nature and scope of the CIF's activities, its internal organisation, and, where applicable, the characteristics of the group to which it belongs.

(11) By way of derogation from paragraph (b) of subsection (8), staff members who are entitled to annual variable remuneration below the threshold and share referred to in that paragraph shall not be subject to the exemption set out therein because of Cyprus market specificities in terms of remuneration practices or because of the nature of the responsibilities and job profile of those staff members.

Remuneration committee.

27.-(1) CIFs which do not meet the criteria set out in Section 26(8)(a) shall establish a remuneration committee.

(2) That remuneration committee shall be gender balanced and shall exercise competent and independent judgment on remuneration policies and practices and the incentives created for managing risk, capital and liquidity.

(3) The remuneration committee may be established at group level.

(4) The remuneration committee shall be responsible for the preparation of decisions regarding remuneration, including decisions which have implications for the risk and risk management of the CIF concerned and which are to be taken by the board of directors.

(5) The chair and the members of the remuneration committee shall be members of the board of directors who do not perform any executive function in the CIF concerned.

(6) Where employee representation in the board of directors is provided for by Cyprus law, the remuneration committee shall include one or more employee representatives.

(7) When preparing the decisions referred to in subsection (4), the remuneration committee shall take into account the public interest and the long-term interests of shareholders, investors and other stakeholders in the CIF.

Oversight of remuneration policies.

28.-(1) The Commission shall collect the information disclosed in accordance with points (c) and (d) of the first paragraph of Article 51 of Regulation (EU) 2019/2033 as well as the information provided by CIFs on the gender pay gap and use that

information to benchmark remuneration trends and practices.

(2) The Commission shall provide the information referred to in subsection (1) to EBA.

(3) CIFs shall provide the Commission with information on the number of natural persons per CIF that are remunerated 1 million Euro or more per financial year, in pay brackets of 1 million Euro, including information on their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution.

(4) CIFs shall provide the Commission, upon demand, the total remuneration figures for each member of the board of directors or senior management.

(5) The Commission shall communicate to the EBA all information referred to in subsections (3) and (4).

Part C: Supervisory review and evaluation process

Supervisory review and evaluation.

29.-(1) The Commission shall review, to the extent relevant and necessary, taking into account the CIF's size, risk profile and business model, the arrangements, strategies, processes and mechanisms implemented by CIFs to comply with this Law, with the directives issued thereunder and with Regulation (EU) 2019/2033 and evaluate the following as appropriate and relevant, so as to ensure a sound management and coverage of their risks:

(a) the risks referred to in Section 23;

(b) the geographical location of a CIF's exposures;

(c) the business model of the CIF;

(d) the assessment of systemic risk, taking into account the identification and measurement of systemic risk under Article 23 of Regulation (EU) No 1093/2010 or recommendations of the ESRB;

(e) the risks posed to the security of CIF's network and information systems to ensure confidentiality, integrity and availability of their processes, data and assets;

(f) the exposure of CIFs to the interest rate risk arising from non-trading book activities;

(g) governance arrangements of CIFs and the ability of members of the board of directors to perform their duties.

(2) For the purposes of subsection (1), the Commission shall duly take into account whether CIFs hold a professional indemnity insurance.

(3) The Commission shall establish the frequency and intensity of the review and evaluation referred to in subsection (1), having regard to the size, nature, scale and complexity of the activities of the CIFs concerned and, where relevant, their systemic importance, and taking into account the principle of proportionality.

(4) The Commission shall decide on a case-by-case basis whether and in which form the review and evaluation is to be carried out with regard to CIFs that meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033, only where they deem it to be necessary due to the size, nature, scale and complexity of the activities of those CIFs.

(5) For the purposes of subsection (3), Directive DI 87-01 shall be considered.

(6) When conducting the review and evaluation referred to in paragraph (g) of subsection (1), the Commission shall have access to agendas, minutes and supporting documents for meetings of the board of directors and its committees, and the results of the internal or external evaluation of the performance of the board of directors.

Ongoing review of the permission to use internal models.

30.-(1) The Commission shall review on a regular basis, and at least every three (3) years, CIF's compliance with the requirements for the permission to use internal models as referred to in Article 22 of Regulation (EU) 2019/2033.

(2) The Commission shall in particular have regard to changes in a CIF's business and to the implementation of those internal models to new products, and review and assess whether the CIF uses well-developed and up-to-date techniques and practices for those internal models.

(3) The Commission shall ensure that material deficiencies identified in the coverage of risk by a CIF's internal models are rectified, or take steps to mitigate their consequences, including by imposing capital add-ons or higher multiplication factors.

(4) Where, for internal risk-to-market models, numerous overshootings as referred to in Article 366 of Regulation (EU) No 575/2013 indicate that the internal models are not or are no longer accurate, the Commission shall revoke the permission to use the internal models or impose appropriate measures to ensure that the internal models are improved promptly within a set timeframe.

(5) Where a CIF that has been granted permission to use internal models no longer meets the requirements for applying those internal models, the Commission shall require the CIF either to demonstrate that the effect of non-compliance is immaterial or to present a plan and a deadline to comply with those requirements.

(6) The Commission shall require improvements to the presented plan where the plan referred to in subsection (5) is unlikely to result in full compliance or where the deadline is inappropriate.

(7) Where it is unlikely that the CIF shall comply by the prescribed deadline or has not satisfactorily demonstrated that the effect of non-compliance is immaterial, the Commission shall revoke the permission to use internal models or limit it to compliant areas or to those areas where compliance can be achieved by an appropriate deadline.

(8) For the review referred to in subsection (1), the Commission shall be encouraged to take into account the analysis conducted by EBA and the guidelines drafted by EBA under Article 38(4) of Directive (EU) 2019/2034.

Part D: Supervisory measures and powers

Supervisory measures.

31. The Commission shall require CIFs to take, at an early stage, the measures necessary to address the following problems:

(a) a CIF does not meet the requirements of this Law, of the directives issued thereunder or of Regulation (EU) 2019/2033; and

(b) the Commission shall have evidence that a CIF is likely to breach the provisions of this Law, of the directives issued thereunder or of Regulation (EU) 2019/2033 within the next twelve (12) months.

Supervisory powers.

32.-(1). The Commission shall have the necessary supervisory powers to intervene in the exercise of their functions into the activity of CIFs in an effective and proportionate way.

(2) For the purposes of Section 29, Section 30(5), (6) and (7) and Section 31 and of the application of Regulation (EU) 2019/2033, the Commission shall have the following powers:

(a) to require CIFs to have own funds in excess of the requirements set out in Article 11 of Regulation (EU) 2019/2033, under the conditions laid down in Section 33 of this Law, or to adjust the own funds and liquid assets required in case of material changes in the business of those CIFs;

(b) to require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in accordance with Sections 18 and 20;

(c) to require CIFs to present, within one year, a plan to restore compliance with supervisory requirements pursuant to this Law, to the directives issued thereunder and to Regulation (EU) 2019/2033, to set a deadline for the implementation of that plan and require improvements to that plan regarding scope and deadline;

(d) to require CIFs to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(e) to restrict or limit the business, operations or network of CIFs or to request the divestment of activities that pose excessive risks to the financial soundness of

a CIF;

(f) to require the reduction of the risk inherent in the activities, products and systems of CIFs, including outsourced activities;

(g) to require CIFs to limit variable remuneration as a percentage of net revenues where that remuneration is inconsistent with the maintenance of a sound capital base;

(h) to require CIFs to use net profits to strengthen own funds;

(i) to restrict or prohibit distributions or interest payments by a CIF to shareholders, members or holders of Additional Tier 1 instruments where that restriction or prohibition does not constitute an event of default of the CIF;

(j) to impose additional or more frequent reporting requirements to those set out in this Law and Regulation (EU) 2019/2033, including reporting on capital and liquidity positions;

(k) to impose specific liquidity requirements in accordance with Section 35 of this Law;

(l) to require additional disclosures; and

(m) to require CIFs to reduce the risks posed to the security of CIF's network and information systems to ensure confidentiality, integrity and availability of their processes, data and assets.

(3) For the purposes of paragraph (j) of subsection (2), the Commission may only impose additional or more frequent reporting requirements on CIFs where the information to be reported is not duplicative and one of the following conditions is met:

(a) one of the cases referred to in Section 31(a) and (b) applies;

(b) the Commission considers it to be necessary to gather the evidence referred to in Section 31(b); and

(c) the additional information is required for the purpose of the supervisory review and evaluation process referred to in Section 29.

(4) Information shall be deemed to be duplicative where the Commission already has the same or substantially the same information, where that information is capable of being produced by the Commission or of being obtained by the Commission itself through other means than a requirement on the CIF to report it.

(5) The Commission shall not require additional information where the information is available to the Commission in a different format or level of granularity than the

additional information to be reported and that different format or granularity does not prevent it from producing substantially similar information.

Additional own funds requirement.

33.-(1) The Commission shall impose the additional own funds requirement referred to in Section 32(2)(a) only where, on the basis of the reviews carried out in accordance with Sections 29 and 30, they ascertain any of the following situations for a CIF:

(a) the CIF is exposed to risks or elements of risks, or poses risks to others that are material and are not covered or not sufficiently covered by the own funds requirement, and especially K-factor requirements, set out in Part Three or Four of Regulation (EU) 2019/2033;

(b) the CIF does not meet the requirements set out in Sections 18 and 20 and other supervisory measures are unlikely to sufficiently improve the arrangements, processes, mechanisms and strategies within an appropriate timeframe;

(c) the adjustments in relation to the prudent valuation of the trading book are insufficient to enable the CIF to sell or hedge out its positions within a short period without incurring material losses under normal market conditions;

(d) the review carried out in accordance with Section 30 shows that non-compliance with the requirements for the application of the permitted internal models will likely lead to inadequate levels of capital; and

(e) the CIF repeatedly fails to establish or maintain an adequate level of additional own funds as set out in Section 34.

(2) For the purposes of paragraph (a) of subsection (1), risks or elements of risks shall be considered not to be covered or to be insufficiently covered by the own funds requirements set out in Parts Three and Four of Regulation (EU) 2019/2033 only where the amounts, types and distribution of capital considered adequate by the Commission following the supervisory review of the assessment carried out by CIFs in accordance with Section 18(1) are higher than the CIF's own funds requirement set out in Part Three or Four of Regulation (EU) 2019/2033.

(3) For the purposes of subsection (2), the capital considered to be adequate may include risks or elements of risks that are explicitly excluded from the own funds requirement set out in Part Three or Four of Regulation (EU) 2019/2033.

(4) The Commission shall determine the level of the additional own funds required pursuant to Section 32(2)(a) of this Law as the difference between the capital considered adequate pursuant to subsections (2) and (3) and the own funds requirement set out in Part Three or Four of Regulation (EU) 2019/2033.

(5) The Commission shall require CIFs to meet the additional own funds requirement referred to in Section 32(2)(a) with own funds subject to the following conditions:

(a) at least three quarters of the additional own funds requirement is met with Tier 1 capital;

(b) at least three quarters of the Tier 1 capital is composed of Common Equity Tier 1 capital; and

(c) those own funds are not used to meet any of the own funds requirements set out in Article 11(1)(a), (b) and (c) of Regulation (EU) 2019/2033.

(6) The Commission shall substantiate in writing its decision to impose an additional own funds requirement as referred to in Section 32(2)(a) by giving a clear account of the full assessment of the elements referred to in subsections (1) to (5).

(7) In the case set out in paragraph (d) of subsection (1), the Commission shall draft a specific statement of why the level of capital established in accordance with Section 34(1) is no longer considered sufficient.

(8) The Commission may impose an additional own funds requirement in accordance with this Section on CIFs that meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033 on the basis of a case-by-case assessment and where the Commission deems it to be justified.

Guidance on additional own funds.

34.-(1) Taking into account the principle of proportionality and commensurate with the size, systemic importance, nature, scale and complexity of activities of CIFs that do not meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033, the Commission may require such CIFs to have levels of own funds which, based on Section 18, are sufficiently above the requirements set out in Part Three of Regulation (EU) 2019/2033 and in this Law, including the additional own funds requirements referred to in Section 32(2)(a), to ensure that cyclical economic fluctuations do not lead to a breach of those requirements or threaten the ability of the CIF to wind down and cease activities in an orderly manner;

(2) The Commission shall, where appropriate, review the level of own funds that has been set by each CIF that does not meet the conditions for qualifying as a small and non-interconnected CIF set out in Article 12(1) of Regulation (EU) 2019/2033, in accordance with subsection (1) and, where relevant, shall communicate the conclusions of that review to the CIF concerned, including any expectation for adjustments to the level of own funds established in accordance with subsection (1).

(3) The communication of subsection (2) shall include the date by which the Commission requires the adjustment to be completed.

Specific liquidity requirements.

35.-(1) The Commission shall impose the specific liquidity requirements referred to in Section 32(2)(a) only where, on the basis of the reviews carried out in accordance with Sections 29 and 30, they conclude that a CIF that does not meet the conditions for qualifying as a small and non-interconnected CIF set out in Article 12(1) of Regulation (EU) 2019/2033 or that meets the conditions set out in Article 12(1) of Regulation (EU)

2019/2033 but has not been exempted from liquidity requirement in accordance with Article 43(1) of Regulation (EU) 2019/2033 is in one of the following situations:

(a) the CIF is exposed to liquidity risk or elements of liquidity risk that are material and are not covered or not sufficiently covered by the liquidity requirement set out in Part Five of Regulation (EU) 2019/2033;

(b) the CIF does not meet the requirements set out in Sections 18 and 20 and other administrative measures are unlikely to sufficiently improve the arrangements, processes, mechanisms and strategies within an appropriate timeframe.

(2) For the purposes of paragraph (a) of subsection (1), liquidity risk or elements of liquidity risk shall be considered not to be covered or to be insufficiently covered by the liquidity requirement set out in Part Five of Regulation (EU) 2019/2033 only where the amounts and types of liquidity considered adequate by the Commission following the supervisory review of the assessment carried out by CIFs in accordance with Section 18(1) are higher than the CIF's liquidity requirement set out in Part Five of Regulation (EU) 2019/2033.

(3) The Commission shall determine the level of the specific liquidity required pursuant to Section 32(2)(k) of this Law as the difference between the liquidity considered adequate pursuant to subsection (2) and the liquidity requirement set out in Part Five of Regulation (EU) 2019/2033.

(4) The Commission shall require CIFs to meet the specific liquidity requirements referred to in Section 32(2)(k) with liquid assets as set out in Article 43 of Regulation (EU) 2019/2033.

(5) The Commission shall substantiate in writing their decision to impose a specific liquidity requirement as referred to in Section 32(2)(k) by giving a clear account of the full assessment of the elements referred to in subsections (1) to (3).

Cooperation with resolution authorities.

36. The Commission shall notify the resolution authority of any additional own funds requirement imposed pursuant to Section 32(2)(a) of this Law for a CIF that falls under the scope of the Resolution of Credit Institutions and Investment Companies Law and about any expectation for adjustments as referred to in Section 34(2) in respect to such CIF.

Publication requirements.

37. The Commission shall have the power to:

(a) require CIFs that do not meet the conditions for qualifying as small and non-interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033 and CIFs referred to in Article 46(2) of Regulation (EU) 2019/2033 to publish the information referred to in Article 46 of that Regulation more than once a year and to set deadlines for that publication;

(b) require CIFs that do not meet the conditions for qualifying as small and non-

interconnected CIFs set out in Article 12(1) of Regulation (EU) 2019/2033 and CIFs referred to in Article 46(2) of Regulation (EU) 2019/2033 to use specific media and locations, in particular the CIFs' websites, for publications other than the financial statements;

(c) require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the CIF group in accordance with Section 20(1) and with Section 11 of the Investment Services and Activities and Regulated Markets Law.

Obligation to inform EBA.

38. The Commission shall inform EBA of:

(a) their review and evaluation process referred to in Section 29 of this Law;

(b) the methodology used for decisions referred to in Sections 32, 33 and 34; and

(c) the level of administrative sanctions in accordance with Section 50.

Chapter 3: Supervision of investment firm groups
Part A: Supervision of investment firm groups on a consolidated basis and supervision of compliance with the group capital test

Determination of the group supervisor.

39.-(1) Where an investment firm group is headed by a European Union parent investment firm, supervision on a consolidated basis or supervision of compliance with the group capital test shall be exercised by the Commission if this is the competent authority of that European Union parent investment firm.

(2) Where the parent undertaking of a CIF is a European Union parent investment holding company or a European Union parent mixed financial holding company, supervision on a consolidated basis or supervision of compliance with the group capital test shall be exercised by the Commission.

(3) Where two or more investment firms authorised in two or more Member States have the same European Union parent investment holding company or the same European Union parent mixed financial holding company, supervision on a consolidated basis or supervision of compliance with the group capital test shall be exercised by the Commission of the investment firm authorised in the Republic in which the investment holding company or mixed financial holding company is established in the Republic.

(4) Where the parent undertakings of two or more investment firms authorised in the Republic and in at least one other Member State comprise more than one investment holding company or mixed financial holding company with head offices in different Member States and where there is an investment firm both in the Republic and in each of those Member States, supervision on a consolidated basis or supervision of compliance with the group capital test shall be exercised by the Commission, if this is the competent authority of the investment firm with the largest balance sheet total.

(5) Where two or more investment firms authorized in the European Union have as their parent the same European Union investment holding company or European Union mixed financial holding company and none of those investment firms has been authorized in the Member State in which the investment holding company or mixed financial holding company was set up, supervision on a consolidated basis or supervision of compliance with the group capital test shall be exercised by the Commission if it is the competent authority of the investment firm with the largest balance sheet total.

(6) The Commission may, by common agreement with the other competent authorities, waive the criteria referred to in Article 46(3), (4) and (5) of Directive (EU) 2019/2034 where their application would not be appropriate for the effective supervision on a consolidated basis or supervision of compliance with the group capital test, taking into account the investment firms concerned and the importance of their activities in the Republic and the other relevant Member States, and designate a different competent authority to exercise supervision on a consolidated basis or supervision of compliance with the group capital test.

(7) In the cases of subsection (6), the Commission and the other competent authorities shall, before adopting any such decision, give the European Union parent investment holding company or European Union parent mixed financial holding company or investment firm with the largest balance sheet total, as appropriate, an opportunity to state its opinion on that intended decision.

(8) The Commission and the other competent authorities shall notify the European Commission and EBA of any decision referred to in subsection (6).

Information requirements in emergency situations.

40. Where an emergency situation arises, including a situation as described in Article 18 of Regulation (EU) No 1093/2010 or a situation of adverse developments in markets, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member States where entities of an investment firm group have been authorised, the Commission, when it is the group supervisor pursuant to the provisions of Section 39 shall, subject to Section 15, alert, as soon as practicable, EBA, ESRB and any relevant competent authority and shall communicate all information essential for the performance of their tasks.

Colleges of supervisors.

41.-(1) When the Commission is the group supervisor pursuant to Section 39 may, if appropriate, establish colleges of supervisors to facilitate the exercise of the tasks referred to in this Section and to ensure coordination and cooperation with relevant third-country supervisory authorities in particular where this is needed for the purpose of applying point © of the first subparagraph of Article 23(1) and Article 23(2) of Regulation (EU) 2019/2033 to exchange and update relevant information on the margin model with the supervisory authorities of the qualifying central counterparties (QCCPs).

(2) Colleges of supervisors shall provide a framework for the Commission, when it is the group supervisor, EBA and the other competent authorities to carry out the

following tasks:

(a) the tasks referred to in Section 40;

(b) the coordination of information requests where this is necessary for facilitating supervision on a consolidated basis, in accordance with Article 7 of Regulation (EU) 2019/2033;

(c) the coordination of information requests, in cases where the Commission and several other competent authorities of investment firms that are part of the same group need to request either from the competent authority of a clearing member's home Member State or from the competent authority of the QCCP information relating to the margin model and parameters used for the calculation of the margin requirement of the relevant investment firms;

(d) the exchange of information between the Commission and all competent authorities and with EBA in accordance with Article 21 of Regulation (EU) No 1093/2010 and with ESMA in accordance with Article 21 of Regulation (EU) No 1095/2010;

(e) reaching an agreement on the voluntary delegation between the Commission and the other competent authorities of tasks and responsibilities, where appropriate; and

(f) increasing the efficiency of supervision by seeking to avoid the unnecessary duplication of supervisory requirements.

(3) Where appropriate, the Commission, as the group supervisor in accordance with Section 39, may also establish colleges of supervisors where subsidiaries of an investment firm group headed by a European Union investment firm, European Union parent investment holding company or European Union parent mixed financial holding company are located in a third country.

(4) The following authorities shall be member in the colleges of supervisors:

(a) the competent authorities responsible for the supervision of subsidiaries of an investment firm group headed by a European Union investment firm, European Union parent investment holding company or European Union parent mixed financial holding company; and

(b) where appropriate, third-country supervisory authorities, subject to confidentiality requirements that are equivalent in the opinion of all competent authorities to the requirements laid down in Part B of Chapter 1 of Title IV of this Law.

(5) The Commission, as competent group supervisor determined pursuant to Section 39 shall chair the meetings of the college of supervisors and adopt decisions.

(6) The Commission, as competent group supervisor, shall keep all members of the college of supervisors fully informed in advance of the organisation of those meetings, of the main issues to be discussed and of the activities to be considered. The group supervisor shall also keep all the members of the college of supervisors fully informed, in a timely manner, of the decisions adopted in those meetings or the measures carried out.

(7) The Commission, as group supervisor, shall take account of the relevance of the supervisory activity to be planned or coordinated by the authorities referred to in subsection (4) when adopting decisions.

(8) The establishment and functioning of the colleges of supervisors shall be formalised by means of written arrangements.

(9) In the event of disagreement with a decision adopted by the group supervisor on the functioning of colleges of supervisors, any of the competent authorities concerned may refer the matter to EBA and request EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

Cooperation requirements.

42.-(1) The Commission, as group supervisor, and the competent authorities referred to in Section 41(4) shall provide each other with all relevant information as required, including the following:

(a) identification of the investment firm group's legal and governance structure, including its organisational structure, covering all regulated and non-regulated entities, non-regulated subsidiaries and the parent undertakings, and of the competent authorities of the regulated entities in the investment firm group;

(b) procedures for the collection of information from the investment firms in an investment firm group, and the procedures for the verification of that information;

(c) any adverse developments in investment firms or in other entities of an investment firm group, which could seriously affect those investment firms;

(d) any significant sanctions and exceptional measures taken by competent authorities in accordance with the legislations of Member States, which incorporate Directive (EU) 2019/2134, including this Law; and

(e) the imposition of a specific own funds requirement under Article 39 of this Directive (EU) 2019/2034;

(2) The Commission, as group supervisor and the other competent authorities may refer to EBA, in accordance with Article 19(1) of Regulation (EU) No 1093/2010, where relevant information has not been communicated pursuant to subsection (1) without undue delay or where a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable period of time.

(3) The Commission, before adopting a decision that may be important for other competent authorities' supervisory tasks, shall consult each other on the following:

(a) changes in the shareholder, organisational or management structure of investment firms in the investment firm group, which require the approval or authorisation of competent authorities;

(b) significant sanctions imposed on investment firms by competent authorities or any other exceptional measures taken by those authorities; and

(c) specific own funds requirements imposed in accordance with Article 39 of Directive (EU) 2019/2034.

(4) The Commission shall consult the group supervisor where significant sanctions are to be imposed or any other exceptional measures are to be taken in accordance with paragraph (b) of subsection (3).

(5) Irrespective of subsection (3), the Commission shall not be obliged to consult other competent authorities in cases of urgency or where such consultation could jeopardise the effectiveness of its decision, in which case the Commission shall inform the other competent authorities concerned of that decision not to consult without delay.

Verification of information concerning entities located in Member States.

43.-(1) Where the Commission needs to verify information about investment firms, investment holding companies, mixed financial holding companies, financial institutions, ancillary services undertakings, mixed-activity holding companies or subsidiaries that are located in another Member State, including subsidiaries which are insurance companies, and makes a request to that effect, the relevant competent authority of that other Member State shall carry out that verification in accordance with of Article 50(2)(a), (b) and (c) of Directive (EU) 2019/2034.

(2) For the purposes of Article 50(2)(a) and (c) of Directive (EU) 2019/2034, the Commission that made the request shall be allowed to participate in the verification.

(3) Where the competent authority of another Member State needs to verify information about CIFs, investment holding companies, mixed financial holding companies, financial institutions, ancillary services undertakings, mixed-activity holding companies or subsidiaries that are located in the Republic, including subsidiaries which are insurance companies, and makes a request to that effect, the Commission shall carry out that verification in accordance with subsection (4).

(4) Where the Commission receives a request pursuant to subsection (3), it shall do any of the following:

(a) carry out the verification itself within the framework of its competence;

(b) allow the competent authority who made that request to carry out the

verification;

(c) request an auditor or expert to carry out the verification impartially and to report the results promptly.

(5) The competent authority that made the request in accordance with subsection (3) shall be allowed to participate in the verification.

Part B: Investment holding companies, mixed financial holding companies and mixed-activity holding companies

Inclusion of holding companies in supervision of compliance with the group capital test.

44. Investment holding companies and mixed financial holding companies shall be included in the supervision of compliance with the group capital test.

Qualifications of directors.

45. The members of the board of directors of an investment holding company or mixed financial holding company shall be of sufficiently good repute and possess sufficient knowledge, skills and experience to effectively perform their duties, taking into account the specific role of an investment holding company or mixed financial holding company.

Mixed-activity holding companies.

46.-(1) Where the parent undertaking of a CIF is a mixed-activity holding company, the Commission, as responsible for the supervision of the CIF, may:

(a) require that the mixed-activity holding company supply it with any information that may be relevant for the supervision of that CIF;

(b) supervise transactions between the CIF and the mixed-activity holding company and the subsidiaries of the latter, and require the CIF to have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures to identify, measure, monitor and control those transactions;

(2) The Commission may carry out, or have carried out by external inspectors, on-the-spot inspections to verify the information received from mixed-activity holding companies and their subsidiaries.

Title VI of this Law shall apply by analogy to investment holding companies, mixed financial holding companies, mixed financial holding companies and/or mixed-activity holding companies and/or on effective managers of these entities.

Sanctions.

47. Title VI of this Law shall apply by analogy to investment holding companies, mixed financial holding companies and/or mixed-activity holding companies and/or on the

effective managers of these entities. In accordance with Sections 50 to 55, the Commission shall ensure that administrative sanctions or other administrative measures aiming to end or mitigate breaches of the provisions of Sections 39 to 48 or to address the causes of such breaches may be imposed on investment holding companies, mixed financial holding companies and/or mixed-activity holding companies and/or their effective managers.

Assessment of third-country supervision and other supervisory techniques.

48.-(1) Where two or more CIFs that are subsidiaries of the same parent undertaking, the head office of which is in a third country, is not subject to effective supervision at group level, the Commission shall assess whether the CIFs are subject to supervision by the third-country supervisory authority which is equivalent to the supervision set out in this Law and in Part One of Regulation (EU) 2019/2033.

(2) Where the assessment referred to in subsection (1) concludes that no such equivalent supervision applies, the Commission shall allow for appropriate supervisory techniques which achieve the objectives of supervision in accordance with Article 7 or 8 of Regulation (EU) 2019/2033.

(3) The supervisory techniques of subsection (2) shall be decided by the Commission, as group supervisor, had the parent undertaking been established in the European Union, after consulting the other competent authorities involved.

(4) Any measures taken by the Commission pursuant to subsections (2) and (3) shall be notified to the other competent authorities involved, to EBA and to the European Commission.

(5) The Commission, as group supervisor had the parent undertaking been established in the European Union may, in particular, require the establishment of an investment holding company or mixed financial holding company in the European Union and apply Article 7 or 8 of Regulation (EU) 2019/2033 to that investment holding company or mixed financial holding company.

TITLE V
PUBLICATION BY THE COMMISSION

Publication requirements.

49.-(1) The Commission shall make public all of the following information:

(a) the text of this Law, the directives issued thereunder and texts of general guidance;

(b) the manner of exercise of the options and discretions available pursuant to this Law and to Regulation (EU) 2019/2033;

(c) the general criteria and methodologies it uses in the supervisory review and evaluation referred to in Section 29 of this Law; and

(d) aggregate statistical data on key aspects of the implementation of this Law and of Regulation (EU) 2019/2033 in the Republic, including the number and nature of supervisory measures taken in accordance with point (a) of Section 32(2) and of administrative sanctions imposed in accordance with Section 50.

(2) The information published in accordance with subsection (1) shall be sufficiently comprehensive and accurate to enable a meaningful comparison of the application of Article 57(1)(b), (c) and (d) of Directive (EU) 2019/2034 by the competent authorities of the different Member States.

(3) The publication of the information of subsection (1) shall follow a common format and it shall be accessible at a single electronic location.

(4) The information of subsection (1) shall be updated regularly.

TITLE VI
SANCTIONS, INVESTIGATORY POWERS AND RIGHT OF APPEAL

Administrative sanctions and administrative measures.

50.-(1) Without prejudice to the penal law provisions and the supervisory powers referred to in Part D of Chapter 2 of Title IV of this Law, including investigatory powers and powers of the Commission to impose remedies, the Commission shall have the power to impose administrative sanctions and administrative measures in respect of breaches of this Law, of the directives issued thereunder and of Regulation (EU) 2019/2033, including where a CIF:

(a) fails to have in place internal governance arrangements as set out in Section 20 of this Law;

(b) fails to report information or provides incomplete or inaccurate information on compliance with the obligation to meet own funds requirements set out in Article 11 of Regulation (EU) 2019/2033 to the Commission, in breach of Article 54(1)(b) of that Regulation;

(c) fails to report to the Commission, in breach of Article 54(1)(e) of Regulation (EU) 2019/2033, information about concentration risk or provides incomplete or inaccurate information;

(d) incurs a concentration risk in excess of the limits set out in Article 37 of Regulation (EU) 2019/2033, without prejudice to Articles 38 and 39 of that Regulation;

(e) repeatedly or persistently fails to hold liquid assets in breach of Article 43 of Regulation (EU) 2019/2033, without prejudice to Article 44 of that Regulation;

(f) fails to disclose information, or provides incomplete or inaccurate information, in breach of the provisions set out in Part Six of Regulation (EU) 2019/2033;

(g) makes payments to holders of instruments included in the own funds of the

CIF where Article 28, 52 or 63 of Regulation (EU) No 575/2013 prohibits such payments to holders of instruments included in own funds;

188(I) of 2007
58(I) of 2010
80(I) of 2012
192(I) of 2012
101(I) of 2013
188(I) of 2014
18(I) of 2016
13(I) of 2018
158(I) of 2018
81(I) of 2019
13(I) of 2021
22(I) of 2021
61(I) of 2021.

(h) is found liable for serious breaches of the Prevention and Suppression of Money Laundering Activities and Financing of Terrorism Law; and

(i) allows one or more persons that do not comply with Section 9 of the Investment Services and Activities and Regulated Markets Law to become or remain a member of the board of directors.

(2) The administrative sanctions and other administrative measures shall be effective, proportionate and dissuasive.

(3) The administrative sanctions and other administrative measures referred to in subsection (1) shall include the following:

(a) a public statement which identifies the natural or legal person, CIF, investment holding company or mixed financial holding company responsible and the nature of the breach;

(b) an order requiring the natural or legal person responsible to cease the conduct and to desist from repeating that conduct in the future;

(c) a temporary ban for members of the CIF's board of directors or any other natural persons who are held responsible on exercising functions in CIFs;

(d) in case of a legal person, administrative pecuniary sanctions of up to 10% of the total annual net turnover, including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees of the CIF in the preceding financial year;

(e) in the case of a legal person, administrative pecuniary sanctions of up to twice the amount of the profits gained or losses avoided due to the breach where those profits or losses can be determined; And

(f) in the case of a natural person, administrative pecuniary sanctions of up to 5 000 000 Euro.

(4) Where a CIF referred to in paragraph (d) of subsection (3) is a subsidiary, the relevant gross income shall be the gross income resulting from the consolidated

account of the ultimate parent undertaking in the preceding financial year.

(5) Where a CIF is in breach of the provisions of this Law or of the directives issued thereunder or of the provisions of Regulation (EU) 2019/2033, administrative sanctions may be applied by the Commission to the members of the board of directors and to other natural persons who are responsible for the breach.

(6) When determining the type of administrative sanctions or other administrative measures referred to in subsection (1) and the level of administrative pecuniary sanctions, the Commission shall take into account all relevant circumstances, including, where appropriate:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the natural or legal persons responsible for the breach;

(c) the financial strength of the natural or legal persons responsible for the breach, including the total turnover of legal persons or the annual income of natural persons;

(d) the importance of profits gained or losses avoided by the legal persons responsible for the breach;

(e) any losses incurred by third parties as a result of the breach;

(f) the level of cooperation with the Commission;

(g) previous breaches by the natural or legal persons responsible for the breach; and

(h) any potential systemic consequences of the breach.

(7) The Commission may impose any of the administrative sanctions referred to in paragraphs (d) to (f) of subsection (3), to a person refusing or failing to comply with an order or temporary ban referred in paragraph (b) or (c) respectively of subsection (3).

Investigatory powers.

51. The Commission shall have all information-gathering and investigatory powers that are necessary for the exercise of their functions, including:

(a) the power to require information from the following natural or legal persons:

(i) investment firms established in the Republic;

(ii) investment holding companies established in the Republic;

(iii) mixed financial holding companies established in the Republic;

(iv) mixed-activity holding companies established in the Republic;

(v) persons belonging to the entities referred to in subparagraphs (i) to (iv); and

(vi) third parties to whom the entities referred to in subparagraphs (i) to (iv) have outsourced operational functions or activities;

(b) the power to conduct all necessary investigations of any person referred to in paragraph (a) that is established or located in the Republic, including the right:

(i) to require the submission of documents by the persons referred to in paragraph (a);

(ii) to examine the books and/or records of the persons referred to in paragraph (a) and/or to make copies and/or extracts from those books and records;

(iii) to obtain written and/or oral explanations from the persons referred to in paragraph (a) and/or from their representatives or staff; and

(iv) to interview any other relevant person for the purpose of collecting information on the subject matter of an investigation;

(c) the power to conduct all necessary inspections at the business premises of the legal persons referred to in paragraph (a) and any other undertakings included in the supervision of compliance with the group capital test, where the Commission is the group supervisor, subject to the prior notification of other competent authorities concerned.

Publication of administrative sanctions and administrative measures.

52.-(1) The Commission shall publish on its official website without undue delay any administrative sanctions and other administrative measures imposed in accordance with Article 50 of this Law and which have not been appealed or can no longer be appealed under Article 146 of the Constitution.

(2) The publication referred to in subsection (1) shall include information on the type and nature of the breach and the identity of the natural or legal person on whom the sanction is imposed or against whom the measure is taken.

(3) The Commission shall publish the information referred to in subsection (2) only after the natural or legal person on whom the sanction is imposed or against whom the measure is taken has been informed of those sanctions or measures and to the extent that the publication is necessary and proportionate.

(4) The Commission shall also publish on its official website information on the appeal status under Article 146 of the Constitution and on the outcome of the appeal.

(5) The Commission shall publish the administrative sanctions or other

administrative measures imposed in accordance with Section 50 on an anonymous basis in any of the following circumstances:

(a) the sanction or measure has been imposed by the Commission on a natural person and publication of that person's personal data is found to be disproportionate;

(b) the publication would jeopardise an ongoing criminal investigation or the stability of financial markets; and

(c) the publication would cause disproportionate damage to the CIFs or natural persons involved.

(6) The Commission shall ensure that information published pursuant to this Section shall remain on its official website for at least five (5) years.

125(I) of 2018.

(7) Subject to Regulation (EU) 2016/679 and to the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data Law, the Commission may only retain personal data on its official website.

Reporting sanctions to EBA.

53. The Commission shall inform EBA of administrative sanctions and other administrative measures imposed pursuant to Section 50, and of any appeal against those sanctions and/or other administrative measures and of the outcome thereof.

Reporting of breaches.

54.-(1) The Commission shall, upon issuing directives, establish effective and reliable mechanisms to enable prompt reporting of potential or actual breaches of this Law and of Regulation (EU) 2019/2033 to the Commission.

(2) The mechanisms referred to in subsection (1) shall include the following:

(a) specific procedures for the reception, treatment and following up of such reports, including the establishment of secure communication channels;

(b) appropriate protection against retaliation, discrimination or other types of unfair treatment by the investment firm for employees of investment firms who report breaches committed within the investment firm;

(c) protection of personal data concerning both the person who reports the breach and the natural person who is allegedly responsible for that breach, in accordance with Regulation (EU) 2016/679; and

(d) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the investment firm, unless disclosure is required by national law in the context of further investigations or subsequent administrative or judicial proceedings.

(3) Investment firms shall have in place appropriate procedures for their employees to report breaches internally through a specific independent channel.

(4) The procedures referred to in subsection (3) may be provided for by the social partners provided that those procedures offer the same protection as the protection referred to in paragraphs (b), (c) and (d) of subsection 2.

Right of appeal.

55. Decisions taken by the Commission pursuant to the provisions of Regulation (EU) 2019/2033 and/or to this Law shall be duly justified and subject to a right of appeal under Article 146 of the Constitution.

TITLE VII
FINAL PROVISIONS

Issue and implementation of directives.

56.-(1) The Commission may issue directives for the regulation of any other matter which requires or may be subject to determination in accordance with the provisions of this Law and of Regulation (EU) 2019/2033.

(2) The implementation of directives issued under this Law and under Regulation (EU) 2019/2033 shall be obligatory for person to whom they are addressed.

References to Directive 2013/66/EU in other legal acts.

57.-(1) For purposes of prudential supervision and resolution of investment firms, reference or referral of a law or a regulatory administrative act:

(a) to Directive 2013/36/EU shall be construed as reference or referral to Directive (EU) 2019/2034; and

(b) to provisions of the Cyprus law incorporating Directive 2013/36/EU shall be construed as reference or referral to corresponding provisions of the Cyprus law incorporating Directive (EU) 2019/2034.

Entry into force of this Law.

58. This Law shall enter into force as of its date of publication in the Official Gazette of the Republic.