

**TO** : Cyprus Investments Firms  
**FROM** : Cyprus Securities and Exchange Commission  
**DATE** : July 28, 2015  
**CIRCULAR No** : C081  
**SUBJECT** : Definition of 'significant CIF'

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The Cyprus Securities and Exchange Commission ('CySEC') wishes to inform the Cyprus Investment Firms ('the CIFs') about the following:

#### **A. Legal Framework - Background**

1. Through the Investment Services and Activities and Regulated Markets Law, as in force ('the Law') and the Directive DI144-2014-14 for the Prudential Supervision of Investment Firms (the 'Directive') there are various requirements which have restricted application based on a CIF's size, internal organization and the nature, scale and complexity of its activities. These requirements are provided in:
  - i. Article 12(5) of the Law on the limitations on the number of directorships an individual may hold.
  - ii. Article 18A(2)(a) of the Law on the establishment of a nomination committee.
  - iii. Paragraph 6 of the Directive on the establishment of an independent risk committee.
  - iv. Paragraph 22 of the Directive on the establishment of an independent remuneration committee.
2. CySEC's policy is to apply an objective definition with pre-defined thresholds to determine which CIFs are considered significant for the purposes of the above requirements. To clarify which CIFs these requirements apply to, this circular defines the criteria and thresholds that firms can use to determine whether these policies apply to them.

#### **B. Definition of 'significant CIF'**

3. A CIF is a 'significant CIF' if it meets, **at any time, one or more**, of the following criteria:

Criteria	Thresholds (€)
Total assets <sup>1</sup>	> 43m
Annual fees /commission income/ turnover <sup>2</sup>	> 50m
Clients' money <sup>3</sup>	> 60m
Clients' assets <sup>4</sup>	> 2b

4. A CIF must, on a regularly basis, assess whether it, at any time, becomes a 'significant CIF'.
5. If a CIF, at any time, becomes aware that it is likely to become a 'significant CIF', it must forthwith make arrangements to establish and have in place sound, effective and comprehensive strategies, processes and systems to achieve compliance with the requirements that apply to a 'significant CIF'.
6. The CIF of point 5 above must comply with the requirements that apply for a 'significant CIF' on the expiry of a period of three months from the date it meets any one of the criteria mentioned in point 3 above.
7. If a CIF that is a 'significant CIF' ceases to meet any of the criteria mentioned in point 3 above, it must continue to comply with the requirements applicable to a 'significant CIF' until the first anniversary of the date on which the CIF ceased to be a 'significant CIF'.
8. CySEC may, on a case by case basis, require a CIF which does not meet any of the criteria mentioned in point 3 above, to comply with the requirements that apply to a 'significant CIF', if the CySEC considers it appropriate.

<sup>1</sup> 'Total assets' means the CIF's total assets (a) set out in the most recent audited financial statements, submitted to CySEC pursuant to article 114 of the Law; or (b) where the CIF carries out the assessment under this rule at any time after the date of its most recent audited financial statements, as the CIF would report to the CYSEC in accordance with the relevant period, as if the reporting period for that financial statements ends on the date the assessment is carried out.

<sup>2</sup> 'Annual fees /commission income/ turnover' are those derived from CIF's activities in the 12 month period immediately preceding the date the CIF carries out the assessment under this requirement on a rolling basis.

<sup>3</sup> 'Clients' money' means the money that a CIF receives or holds in the course of, or in connection with, all of its services/activities that it carries on (a) as set out in the most recent audited financial statements, submitted to CySEC pursuant to section 114 of the Law; or (b) where the CIF carries out the assessment under this rule at any time after the date of its most recent audited financial statements, as the firm would report to the CYSEC in accordance with the relevant period, as if the reporting period for that financial statements ends on the date the assessment is carried out.

<sup>4</sup> 'Clients assets' means the assets held or administered by the CIF in the course of, or in connection with, all of its activities that it carries on (a) set out in the most recent audited financial statements, submitted to CySEC pursuant to section 114 of the Law; or (b) where the CIF carries out the assessment under this rule at any time after the date of its most recent audited financial statements, as the firm would report to the CYSEC in accordance with the relevant period, as if the reporting period for that financial statements ends on the date the assessment is carried out.

9. A CIF may request to the CySEC to waive any one or more of the criteria mentioned in point 3, if it believes that one or more of the governance requirements in point 1 above that apply to a 'significant CIF' may be disproportionate to it.

The request must be in writing. In its application for such waiver, the CySEC expects the CIF to demonstrate, taking into account the size, internal organisation and the nature, scale and complexity of its activities, that it should not be considered as significant.

It is noted that the effect of such waiver is that the CIF would not be a 'significant CIF' only for the purpose of the particular governance requirement in point 1 above that the waiver is expressed to apply to. For the avoidance of doubt, such CIF would still be a 'significant CIF' for the purpose of the other requirements that apply to a 'significant CIF'.

#### **C. Companies that have requested the granting of a CIF authorisation**

10. Companies that their application for the granting of a CIF authorisation is still pending before CySEC and whose financial statements have not yet been approved, the data to apply for the above assessment is to be derived from a bona fide estimate made in the course of the financial year in order to establish whether are 'significant CIFs'.

#### **D. Reporting to CySEC**

11. A CIF must forthwith inform CySEC when it becomes a 'significant CIF' and takes all the necessary measures to comply with the requirements that apply to a 'significant CIF', submitting also a new organisational structure of the CIF.

Yours sincerely

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Chairman of the Cyprus Securities and Exchange Commission