*V2-1.2024*

**QUESTIONNAIRE REGARDING PRUDENTIAL SUPERVISION FOR THE APPLICATION OF GRANTING A CIF AUTHORISATION**

**Useful information for the completion of this questionnaire**

1. The new prudential framework for Investment Firms (‘IFR/IFD’) which came into force on 26h June 2021 applies to ALL investment firms authorised and supervised under the European Directive 2014/65/EU (MIFID II) and comprises of:
* 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 (the “[IFR](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=5dc1f5cb-36bc-415c-9249-2fcb6bf9d381)”), and
* The [Law 165(I)/2021](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=7f44e19e-f8a1-4550-a7f9-7f1435297a3d) on the prudential supervision of investment firms (the ‘’Law’’) which transposes the 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 (the “[IFD](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=08f5eafd-6a90-496b-8eb5-2e53ca58df4a)”).

The Law was published on the 5th of November 2021 in the Official Gazette of the Republic of Cyprus.

1. Thus, all applicants that apply to be authorized as a CIF (‘the Applicant’) should complete this additional questionnaire as part of their application, in order for CySEC to be able to assess the applicant’s ability to meet the prudential requirements set out in the abovementioned legislation.
2. More information in regards to the implementation of IFR/IFD by CySEC and also the submission of prudential forms under IFR/IFD can be found here:
* [Practical guide for the implementation of IFR/IFD](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=20d9a1f9-72be-47af-8624-91a1d5070135)
* [Practical guide for the submission of the prudential forms under IFR/IFD](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=2e852ee6-052b-4d8e-af21-34266bf31f18http://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=151e0c3e-0fc1-4dda-ad5a-15dd8a957e71)

SECTION 1:

PRUDENTIAL CATEGORISATION

* 1. **What Class does the Applicant expect to be categorised upon its authorisation as a Cyprus Investment Firm (‘CIF’)?**

 [ ]  Class 1 minus

 [ ]  Class 2

 [ ]  Class 3

For more information in regards to the CIFs’ categorisation please refer to Section D of the [Practical Guide for the Implementation of IFR/IFD](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=20d9a1f9-72be-47af-8624-91a1d5070135).

* 1. **Following question 1.1 above, select which of the below criteria are expected to apply to the Applicant during the first 12 months of operation following its date of authorisation as a CIF:**

[ ]  Assets under Management (‘AUM’), measured in accordance with article 17 of IFR, are greater than €1,2 billion

[ ]  Clients’ Orders Handled (‘COH’), measured in accordance with article 20 of IFR, are greater than €100million per day for cash trades; or greater than €1 billion per date for derivatives

[ ]  The applicant will be permitted to hold clients’ securities and thus Assets Safeguarded and Administered (‘ASA’), measured in accordance with article 19 of IFR are greater than zero

[ ]  The applicant will be permitted to hold clients’ money and thus Clients’ Money Held (‘CMH’), measured in accordance with article 18 of IFR, is greater than zero

[ ]  The applicant will be permitted to deal on own account and thus Daily Trading Flow, measured in accordance with articles 22 and 23 of IFR, is greater than zero

[ ]  Net position risk (‘NPR’) or Clearing Margin Guarantee (‘CMG’) measured in accordance with articles 22 and 24 will be greater than zero

[ ]  Trading Counterparty Default (‘TCD’) measured in accordance with article 26 of IFR, will be greater than zero

[ ]  The on and off-balance sheet total of the applicant, measured in accordance with article 12 of IFR, will be greater than €100 million

 [ ]  The total annual gross revenue of the applicant will be greater than €30 million, measured in accordance with article 12 of IFR.

SECTION 2:

PRUDENTIAL CAPITAL INFORMATION

* 1. **State the expected initial capital that the Applicant will be required to hold based on the investment services/activities that the Applicant applies to provide/perform (per section 9 of** [**Law 165(I)/2021**](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=7f44e19e-f8a1-4550-a7f9-7f1435297a3d)**).**

[ ]  € 750.000

[ ]  € 150.000

[ ]  € 75.000

* 1. **State whether the Applicant is also seeking permission to act as a depositary of an AIF.**

[ ]  YES

[ ]  NO

Note that as per paragraph 9(2) of the [Directive 131-2014-05](https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=c73ed78e-b1ea-445c-b102-161d20001858)a CIF that also acts as a depositary of an AIF should have own funds of at least €750,000.

* 1. **State whether the Applicant belongs to a third country group as per** [**Article 3(64) of the Directive 2013/36**](https://www.eba.europa.eu/regulation-and-policy/single-rulebook/interactive-single-rulebook/15842)**, whereas a third country group means a group of which the parent undertaking is established in a third country.**

[ ]  YES

[ ]  NO

* 1. **If the Applicant is applying to carry 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, then state whether it expects to meet the thresholds of section 5(1) of Law 165(I)/2021, calculated as an average of its first 12 months in business following the date of its authorisation.**

[ ]  YES

[ ]  NO

[ ]  Not applicable

* 1. **If the Applicant is applying to carry 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, then state whether it expects to meet any of the conditions of Article 1(2) of IFR, based on the average of its monthly data for the first 12 months in business following the date of its authorisation.**

[ ]  YES

[ ]  NO

[ ]  Not applicable

* 1. **State below the composition of the Applicant’s actual own funds as at the end of the previous month.**

[ ] Common Equity Tier 1 (‘CET1’) Capital

 [ ]  Additional Tier 1 (‘AT1’) Capital

[ ]  Tier 2 capital

Total own funds

State the date for which the above amounts represent:

* 1. **The Applicant should submit along with this questionnaire, the prudential Form 165-01 (if it expects to be Class 2 upon its authorisation) or Form 165-02 (if it expects to be Class 3 upon its authorisation), using as reference date the last day of the previous month (same as point 2.7 above).**

For the purposes of completing the above Form, the Applicant should take intoaccount the methodology that it should adopt once it gets the authorization it applies for. Also:

* The own funds calculation of the Applicant, shall be based on the actual figures of the own funds held by the Applicant, as at the reference date mentioned above (ie share capital, share premium etc).
* The Permanent Minimum Capital should correspond to the level of initial capital that the Applicant with be required to hold upon its authorization.
* The K-Factors requirement (where applicable for Class 2 firms) should be calculated using the projected figures of the Applicant for the first 12 months in business following the date of its authorization. We note that these figures should correspond to the business plan submitted to CySEC with Annex E of Form 87-00-01.
* The Fixed Overheads requirement should be calculated using the projected figures of the Applicant for the first 12 months in business following the date of its authorization. We note that these figures should correspond to the business plan submitted to CySEC with Form 87-00-01. We note that these figures should correspond to the business plan submitted to CySEC with Annex E of Form 87-00-01.
	1. **The Applicant should submit the following supporting documentation for the prudential form submitted (of point 2.9 above) (tick for each documentation provided, where applicable):**

[ ]  Profit or loss statement, Balance sheet statement, Trial Balance statement for the reference date (i.e. for the last day of the previous month).

[ ]  Updated share capital certificate from the Registrar of Companies in Cyprus

[ ]  Updated shareholders’ certificate from the Registrar of Companies in Cyprus

[ ]  Forms HE12/HE14 submitted to the Registrar of Companies in Cyprus in regards to the Applicant’s issuance of share capital and share premium.

[ ]  Copy of official bank statement clearly showing the funds received from the Applicant’s shareholders in regards to the issuance of share capital/share premium, the date received, the amount of funds received and the related description of transfer.

[ ]  Board of Directors’ resolutions in regards to the increase of share capital/premium.

[ ]  Duly signed Shareholder’s declaration, stating that the funds transferred to the Applicant shall be treated as a non-refundable contribution, part of the Applicant’s reserves, and shall not be used to increase the Applicant’s share capital (where applicable).

[ ]  Subordinated loan agreement (Tier 2 instruments)

[ ]  ……………………………………………………………………………………………………………………………..

(other supporting documentation regarding availability of Own funds)

[ ]  ……………………………………………………………………………………………………………………………..

[ ]  ……………………………………………………………………………………………………………………………..

SECTION 3:

PRUDENTIAL CONSOLIDATION

* 1. **Does the Applicant expect to fall under prudential consolidation by CySEC, per article 7 of IFR, upon its authorisation?**

[ ]  **YES**

[ ]  **NO**

* 1. **If the answer to point 3.1. above is YES, then complete the table below in regards to the entities that will fall under prudential consolidation by CySEC, including the Applicant:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of entity within the Applicant’s group which will be included in the prudential consolidation by CySEC** | **Select the one that applies to the entity reported** | **Main activity** | **Country of incorporation and head office location, if different** | **Total assets at solo basis****€** |
|  | [ ]  **direct parent entity of the Applicant**[ ]  **indirect parent entity of the Applicant**[ ]  **Subsidiary of the Applicant**[ ]  **Sister company of the Applicant** | [ ] **Investment firm**[ ] **Financial institution**[ ] **Ancillary services undertaking** [ ] **Tied agent** |  |  |
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* 1. **If the answer to point 3.1. above is YES then the Applicant should submit along with this questionnaire, the consolidated prudential Form 165-01 (if it expects to be Class 2 upon its authorisation) or Form 165-02 (if it expects to be Class 3 upon its authorisation), using as reference date the last day of the previous month.**

For the purposes of completing the above Form, the Applicant should take intoaccount the methodology that it should adopt once it gets the authorization it applies for. Also:

* The consolidated own funds calculation of the investment firm group, shall be based on the actual figures of the own funds held by the group, as at the reference date (ie share capital, share premium etc).
* For the calculation of the consolidated Permanent Minimum Capital the Applicant should refer to Note 1 of tab IF2 of Form 165-01/Form 165-02.
* The K-Factors requirement (applicable for Class 2 firms) should be calculated using the consolidated projected figures of the Applicant for the first 12 months in business following the date of its authorization.
* The Fixed Overheads requirement should be calculated using the consolidated projected figures of the Applicant for the first 12 months in business following the date of its authorization.