



TO : **Cyprus Investment Firms ('CIFs')**
FROM : **Cyprus Securities and Exchange Commission ('CySEC')**
DATE : **January 15, 2024**
CIRCULAR No : **C615**
FILE No : **E.K. 02.03.001, E.K. 01.03.001 and E.K. 01.13.001.002.002**
SUBJECT : **Cross Border Data Collection Exercise, Freedom to Provide Investment Services and Activities (Cross Border Activity)**

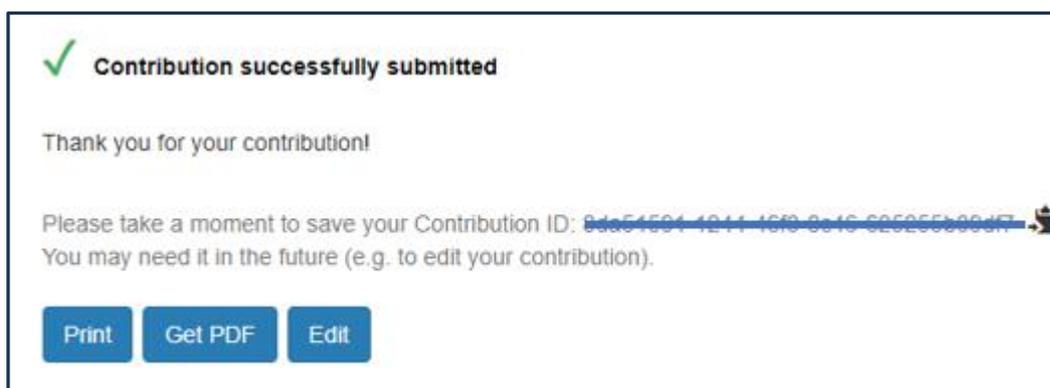
The present Circular is issued pursuant to section 25(1)(c)(ii) & (iii) of the Cyprus Securities and Exchange Commission Law ('the CySEC Law').

CySEC wishes to inform all CIFs that the European Securities and Markets Authorities ('ESMA') has launched the exercise for the collection of data regarding cross border activity of investment firms for the year 2023.

Following Circular [C612](#), the present circular aims to provide detailed information regarding the completion of the online questionnaire via EU's online platform. The information below, is addressed to CIFs that fulfil the conditions set out in point 1.1 of Circular [C612](#) i.e. CIFs that were **authorised by December 31, 2023, and which have at least 50 retail clients, (including clients treated as professionals on request according to Section II of Annex II of MiFID II) (therein 'retail clients'), in at least one host Member State (i.e. excluding Cyprus).**

1. General information

- 1.1. An email with the link and password to access the online questionnaire will be sent out to all CIFs that fulfil the conditions set out in point 1.1 of Circular [C612](#).
- 1.2. Participating CIFs must complete and submit the online questionnaire **by 31st of January 2024, at the latest.**
- 1.3. **Upon successful submission of the form, the message "*Contribution successfully submitted*" and a contribution ID will be populated on the screen. As per the below image, you can request a *print* of your contribution, or have your contribution *sent to your email* in a PDF format, or *edit* your contribution.**



1.4. CIFs are advised to save their contribution ID for reference purposes.

1.5. At all times, and **prior** to the submission deadline (as set out in point 1.2 above) CIFs may temporarily save a draft of their contribution and return to edit it, by selecting the “Save as Draft” button, which is found on the right of the online questionnaire. Please be aware that saving the contribution as draft **does not** constitute submission of form. In this respect, CIFs must ensure that the final version of the form is submitted successfully **by 31st of January 2024, at the latest.**

1.6. Any enquiries regarding the completion of the form shall be directed to riskstatistics.cifs@cysec.gov.cy any day **PRIOR to 26th of January 2024, at the latest.**

1.7. Failure to promptly and duly comply with the above may bear the administrative penalties of section 37(5) of the CySEC Law. It is further noted that CySEC will **not** send any reminders to participating CIFs, which fail to promptly and duly comply.

2. Instructions for the completion of the Form

2.1. CIFs are prompted at the importance of successfully completing the online questionnaire by the set deadline (as set out in section 1.2), and are encouraged to **diligently follow the instructions** below, as these will ultimately dictate whether a successful submission has been made.

2.2. The reporting template is composed of **two Parts**:

- **Part 1:** Information on the firm (investment firm or credit institution) and contact person within the firm for this reporting template.
- **Part 2:** Detailed information on passporting activities that the firm is actually providing in other Member States, to retail clients (and clients treated as professionals on request according to Section II of Annex II of MiFID II).
 - In part 1, after having selected the host Member States where cross-border services are offered to more than 50 retail clients (and clients treated as professionals on request according to Section II of Annex II of MiFID II), the respective tabs will be added on the ‘Pages’ panel, one for each Member State selected.

As per the example below and assuming the participant has selected four Member States (AT - Austria, EL - Greece, IT – Italy, SE - Sweden), four tabs are added automatically on the 'Pages' panel, one for each Member State selected. The tab for each Member State will be named according to its 2-digit Country Code. CIFs must fill in the information for all tabs.

- Throughout the form, referrals to “retail clients” should always be read as including retail clients treated as professionals on request according to Section II of Annex II of MiFID II.
- The CIF may use the **country of residence** of the client, to assess whether investment services and activities are provided in other Member States.
- The information provided should only refer to services and activities provided on a "**freedom to provide services**" basis and should not include services and activities provided on a "**freedom of establishment**" basis.
- Firms should **exclude inactive clients** from their reporting. For the purposes of this exercise, clients are considered to be inactive only if the following three conditions are **cumulatively met**: i) client’s inactivity lasted for at least a year, ii) no investment and/or ancillary service is provided to the client and iii) the firm no longer receives any revenues from such clients. Regarding (iii), if the firm is still receiving any form of remuneration from the client during the inactivity period (for instance the client has a securities account that has not been holding any securities for more than a year, but during this time the firm is still receiving a fee because the account is still open), it is expected that such clients to be accounted for in the firm’s reporting.
- If a complaint refers to multiple topics/products, then it should be **counted in ALL** relevant lines/cells.
- Data should be provided with **reference date 31/12/2023** or in relation to 2023, as relevant.

Yours sincerely,

Dr George Theocharides
Chairman, Cyprus Securities and Exchange Commission