

Administrative sanction of 18 November 2024 for non-compliance with professional obligations related liquidity requirements of investment firms

Luxembourg, 08 January 2025

Administrative decision

On 18 November 2024 the CSSF imposed an administrative fine amounting to EUR 29,000 on the investment firm Andreas Capital S.A. ("AC"), authorised to provide investment services and activities related to the reception and transmission of orders in relation to one or more financial instruments, execution of orders on behalf of clients, portfolio management and investment advice as well as to act as registrar agent, Family Office, corporate domiciliation agent, professional providing company incorporation and management services, client communication agent and administrative agent of the financial sector in accordance with the provisions of Articles 24-1, 24-2, 24-4, 24-5, 25, 28-6, 28-9, 28-10, 29-1 and 29-2 of the Law of 5 April 1993 on the financial sector as amended ("LFS").

Legal framework/motivation

The administrative fine was imposed by the CSSF pursuant to Article 63-2b(1) point 5 of the LFS for repeated and persistent failure to hold liquid assets in breach of Article 43 of Regulation (EU) 2019/2033, Article 63(1), sixth indent, Article 63-2a(3) of the LFS for failure to act in response to an injunction of the CSSF, and Article 63(1), first indent of the LFS for failure to comply with the applicable regulation by not immediately notifying the CSSF of the non-compliance with the liquidity requirements in accordance with Article 44(1) of the Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms ("IFR") and with its Recital (28), taking into account the criteria defined in Article 63-4(1) of the LFS, in particular, the gravity and the duration of the breaches and the financial situation of the legal person responsible for the breach.

The CSSF duly took into consideration the remedial actions undertaken by AC which made it possible to resolve the breaches identified. Hence, the breaches in question no longer exist at the time of the present publication.

The professional obligations in relation to which the breaches were observed are set out in particular in:

- the Law of 5 April 1993 on the financial sector, as amended;
- Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms;

as applicable at the time of the facts.

Legal bases for the publication

This publication is made pursuant to the provisions of Article 63-3a (1) of the LFS, the CSSF having considered that the present publication does not jeopardise the stability of the financial markets or cause disproportionate harm to the parties involved.

Context and major cases of non-compliance with the professional obligations identified

This administrative fine follows the non-compliance of AC with the liquidity requirements set forth in Article 43 of the IFR for the months of December 2022 and for the months of March, May June, July, August and September 2023. The company had also failed to appropriately remedy the situation following an injunction by the CSSF dated 2 June 2023 to provide and implement a remediation plan within the required deadlines. Finally, none of the aforementioned breaches had been immediately communicated to the CSSF as set forth in Article 44(1) and in Recital (28) of the IFR.

The CSSF reminds that all investment firms should have internal procedures in place to monitor and manage their liquid assets and the respect of the relevant minimal legal requirements. These procedures are intended to help ensure that investment firms can function in an orderly manner over time, without the need to set aside liquidity specifically for times of stress. To that end, all investment firms should hold a minimum of one third of their fixed overheads requirement in liquid assets at all times as required by Article 43 of the IFR.