

Administrative sanction of 21 February 2024 for non-compliance with the professional obligation related to the transmission of year-end documents

Luxembourg, 09 December 2024

Administrative sanction imposed on the investment fund manager Petricca & Co Capital S.A.

Administrative decision

On 21 February 2024, the CSSF imposed an administrative fine amounting to EUR 14,000 on the investment fund manager Petricca & Co Capital S.A. (the «IFM ») subject to Chapter 16 of the amended Law of 17 December 2010 relating to undertakings for collective investment (the “Law of 2010”) as well as to Chapter 2 of the amended Law of 12 July 2013 on alternative investment fund managers (the “Law of 2013”).

Legal framework/motivation

The administrative fine was imposed by the CSSF pursuant to Article 148(1), 1st indent and points (a) and (c) read in conjunction with the provisions of Article 148(4), point (e), of the Law of 2010 and Article 51(1), indents 1 to 4, read in conjunction with the provisions of Article 51(2), 3rd indent, of the Law of 2013 for non-compliance with the professional obligations related to the transmission of year-end documents.

To determine the type and amount of the administrative sanction, the CSSF has duly taken into consideration (i) all the legal and factual elements presented and discussed during the right to be heard period (ii) as well as, in accordance with the provisions of Article 149a of the Law of 2010, and Article 51(2) of the Law of 2013, respectively (i) the nature, the gravity and the duration of the breach and (ii) the conduct and previous breaches committed by the IFM.

The professional obligations in relation to which the breaches were observed are set out in the Law of 2010 and in the Law of 2013..

Legal bases for the publication

This publication is made in accordance with the provisions of Article 149(1) of the Law of 2010 and Article 51(2) of the Law of 2013, respectively, the CSSF having considered that this publication on a nominative basis was neither disproportionate nor likely to compromise the stability of the financial markets or an ongoing investigation.

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

Circular CSSF 18/698 regarding the authorisation and organisation of investment fund managers incorporated under Luxembourg law requires Luxembourg-based investment fund managers authorised by the CSSF to submit certain reports, notably the annual report according to the practical rules defined in Circular CSSF 19/708 regarding the electronic transmission of documents to the CSSF. Circular CSSF 21/789 (as amended by Circular CSSF 23/839) details the procedures for preparing and transmitting, among other things, the management letter and the separate report.

In the case at hand, said reports relating to the closing of the annual accounts on 31 December 2022 had to be submitted to the CSSF no later than 31 July 2023.

Since the reports had not been submitted to the CSSF by 31 July 2023, the CSSF sent a reminder to the IFM requiring the latter to submit the lacking reports. Despite this reminder, the CSSF had to note the non-submission of the said reports on 21 February 2024, which constitutes a violation of the obligation laid down in Article 147(2), points (a), (b) and (h), of the Law of 2010 and Article 50(2), points (a), (b) and (h), of the Law of 2013.

Despite the discussions between the CSSF and the IFM, and due to the failure to submit the missing reports by 21 February 2024, the CSSF informed the IFM of its decision to impose this administrative fine.