



Notification Form
Circular CSSF
02/77 as amended
on 18 February
2021

ADDITIONAL EXPLANATIONS



Commission de Surveillance
du Secteur Financier

Notification Form Circular CSSF 02/77 as amended on 18 February 2021

CONTENTS

I.	Scope of application of the notification form	3
II.	Introduction of a revised version of the notification form	4
III.	Structure of the notification form	4
IV.	Notification process – timeline for notification	4
V.	Completeness of the notification form and pre-notification	5
VI.	Concise information and additional explanations	6
VII.	Attachments to the notification form	6

Notification Form Circular CSSF 02/77 as amended on 18 February 2021

On 3 January 2017, the CSSF introduced by means of the [Press Release 17/01](#) a notification form to be used for the transmission of NAV calculation errors or non-compliances with investment rules in accordance with Circular CSSF 02/77.

The purpose of the Excel-based notification form was to collect all the information necessary for the CSSF in the context of its supervisory work concerning NAV calculation errors or non-compliances with investment rules.

The present document provides additional explanations and clarifications with regard to the form and the related notification process:

I. Scope of application of the notification form

The notification form is applicable to the following undertakings for collective investment (UCI):

- UCITS and UCIs subject to the Law of 17 December 2010;
- Specialized Investment Funds (SIFs) subject to the Law of 13 February 2007.

With regard to the scope of application, we refer to question 9 of the FAQ on CSSF Circular 02/77 clarifying whether Circular CSSF 02/77 applies to NAV calculation errors and active investment breaches that occur in SIFs:

“The CSSF considers that SIFs may either opt for the application of Circular CSSF 02/77 or set other specific internal rules applicable in the context of NAV calculation errors and active investment breaches. (...)”

When opting for specific internal rules, SIFs have to apply appropriate thresholds taking due account of the investment policy of the SIF.

As a result, the CSSF considers that SIFs that do not set specific rules in their internal procedures have to apply the provisions of Circular CSSF 02/77. In addition, all material NAV calculation errors and active investment breaches of a SIF have to be notified to the CSSF by means of the CSSF notification form, whether the SIF applies the provisions of Circular CSSF 02/77 or other specific internal rules.”

II. Introduction of a revised version of the notification form

The introduction of a [revised version of the form](#) on 18 February 2021 follows the experience gained by the CSSF since 2017 and pursues in particular the objective to facilitate the filling of the form by the notifying entities and to further streamline its content.

The changes brought to the form concern notably the introduction of additional drop-down menus (e.g. categorization of investment breaches), the removal of some data fields (e.g. share class specific information) or the addition of some data fields (notably on corrective measures implemented at the level of the fund for avoiding the reoccurrence of similar incidents in the future).

These changes will also allow the CSSF to improve the operational processing of the information contained in the notification form.

The revised notification form should be used with immediate effect; notifications using the old form will be accepted until 22 March 2021. Notifications should be sent electronically to the email address opc.prud.sp@cssf.lu.

III. Structure of the notification form

The structure of the notification form should **not** be **modified**. In particular, no data fields should be added, deleted or renamed/changed.

Forms with a modified structure will not be accepted by the CSSF.

IV. Notification process – timeline for notification

CSSF Circular 02/77 specifies that the CSSF should immediately be advised of the occurrence of a NAV calculation error or a non-compliance with investment rules and that it should be informed in that context also about the related remedial action plan.

As a consequence, the CSSF expects that the organization of a UCI should provide for a timely submission of the completed notification form to the CSSF (i.e. with information on all applicable data fields).

In this context, the CSSF expects a complete notification to be submitted, in principle, within **4 to 8 weeks** of the detection of the incident. Please refer also in this context to section 5 hereafter.

For non-compliances with investment rules that do not involve time-consuming calculations, the CSSF expects that the submission occurs, in principle, within 4 to 6 weeks following their detection. Recognizing that the regularization process for NAV calculation errors involving the compensation of individual investors, respectively for non-compliances with investment rules involving more time-consuming calculations, may take longer, the CSSF expects related notifications to be received, in principle, within 6 to 8 weeks following their detection.

V. Completeness of the notification form and pre-notification

The CSSF expects notifying entities, when transmitting the notification form to the CSSF within the aforementioned timeline, to **fill in principle all the requested information as foreseen by the applicable data fields** (including the information on the payment date of compensations).

Exception made of the notifications that qualify for a pre-notification as further clarified hereafter, the CSSF will **not accept incomplete notifications** (i.e. notifications that do not provide information on all applicable data fields). Such incomplete notifications will be rejected and a non-acceptance message of the notification will be returned to the notifying entity.

The CSSF accepts, as an **exception**, that a partially filled notification form can be submitted to the CSSF in cases where it is not possible to submit a complete notification form within the timeline set out above. In such cases, the notifying entity will, first, submit within 4 to 8 weeks a **pre-notification** containing all information available at that time, before then submitting, in a next and final step, the complete notification form with all required information (including also the information on the payment date of compensations).

The **pre-notification option**, explicitly foreseen in the notification form, can however **only** be used on **an exceptional basis in duly justified cases** where the calculations and compensation processes necessary to remediate and correct NAV calculation errors or non-compliances of investment rules are particularly complex and time-consuming and thus do not allow entities to provide the CSSF, within 6 to 8 weeks, with a complete notification form.

On the basis of the notifications received in the past, the CSSF considers that in 95%-98% of the cases the complete notification can be submitted within 4 to 8 weeks.

VI. Concise information and additional explanations

The aim of the notification form is to provide the CSSF with concise information on the NAV calculation error or non-compliance with the investment rule (including in particular also on the underlying cause of the incident and the remedial action plan decided / implemented) that allows the CSSF to get a thorough understanding of the incident.

If the Excel file, given the limitations in terms of maximum number of characters, does not allow the notifying entity to provide the CSSF with all necessary information, further explanations/clarifications should be given by means of a separate document duly attached to the email used for the submission of the notification form.

VII. Attachments to the notification form

All the appendices relating to the treatment of the NAV calculation error or non-compliance with the investment rules shall be attached to the email sent to the CSSF in the context of the submission of the notification form. The notifying entities shall name the attachment files in a clear and precise way.

In this context, the CSSF considers, in accordance with section 3 "Enclosures" of the worksheet "General information" of the notification form, that the impact calculation file, in an excel format, must be attached to the notification form in all cases.



Commission de Surveillance du Secteur Financier

283, route d'Arlon

L-2991 Luxembourg (+352) 26 25 1-1

direction@cssf.lu

www.cssf.lu