

Administrative sanction of 23 July 2025 for non-compliance with the professional obligations concerning the depositary function

Luxembourg, 9 January 2026

Administrative decision

On 23 July 2025, the CSSF imposed an administrative fine amounting to EUR 102,000 ("one hundred and two thousand euros") on JTC (Luxembourg) S.A. (hereafter the "**Entity**" or the "**Depositary**") authorised among others to act as a professional depositary of assets other than financial instruments in accordance with Article 26-1 of the Law of 5 April 1993 on the financial sector, further to an on-site inspection on the professional obligations concerning the depositary function launched in February 2023.

Legal framework/motivation

This administrative fine was imposed by the CSSF pursuant to Article 51(1), 1st and 7th indents and Article 51(2), 1st sub-paragraph, 3rd indent, of the amended Law of 12 July 2013 on Alternative Investment Fund Managers ("**AIFM Law**") read in conjunction with the provisions of Article 19(3), (8), (9), (10) and (11) of the AIFM Law for non-compliance with the professional obligations concerning the depositary function.

In order to determine the type and amount of the administrative sanction, the CSSF duly took into account (i) all the facts and relevant circumstances of the case, in particular (ii) the nature, duration and the severity of the breaches observed at the time of the on-site inspection in accordance with the provisions of Article 51(1) and (2) of the AIFM Law, (iii) the fact that the Entity had, prior to being informed of the commencement of the on-site inspection, self-identified certain areas requiring improvement, developed a general action plan and initiated corrective measures as well as, (iv) the fact that the Entity has acknowledged the findings and observations and initiated further corrective measures during and after the on-site inspection.

Moreover, the management and governance of the Entity as well as the means (both personnel and systems) of the depositary function have been considerably strengthened prior to and during the on-site inspection, especially with the recruitment of experienced persons.

According to the Entity, the breaches identified have been fully remediated.

The professional obligations of the Depositary in relation to which the breaches were observed are namely quoted in the relevant provisions of

- (i) the AIFM Law,

- (ii) the amended Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision ("CDR 231/2013") and
- (iii) the Circular CSSF 18/697 on organisational arrangements applicable to fund depositaries which are not subject to Part I of the Law of 17 December 2010 relating to undertakings for collective investment, and, where appropriate, to their branches (hereafter the "Circular CSSF 18/697"), the purpose of which is to clarify the depositary regime provided for in the AIFM Law and in the CDR 231/2013.

Legal basis for the publication

The publication is made in accordance with Article 51(2), second sub-paragraph of the AIFM Law, insofar as, after having taken into account the Entity's observations and arguments, the CSSF considered that the publication on a nominative basis would not seriously jeopardise the financial markets or is not likely to cause any disproportionate damage to the parties involved.

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

This administrative fine is the result of an on-site inspection carried out by the CSSF on the Entity between **February 2023 and January 2024** covering the professional obligations regarding the depositary function pertaining to the period up to December 2022. During the on-site inspection, the CSSF identified breaches to the provisions applicable to the depositary function exercised by the Entity which related in particular to the following points:

- the **safekeeping duties for other assets** have not been executed in accordance with Article 19(8), letter (b) of the AIFM Law. Specifically, the evidence of ownership documentation or the supporting ownership documentation were not available at the point of transaction. As a consequence, the Entity did not possess sufficient and reliable information for it to be satisfied of the Alternative Investment Funds' ("AIFs") ownership right over the assets through the entire holding chain down to the target investment. Furthermore, it did not accurately maintain record of those assets. Then, the overall ownership verification process was not set up in a way that makes the Entity capable of maintaining and delivering at any time a comprehensive and up-to-date inventory of assets owned by the AIFs according to the look-through principle. Finally, the Entity had not performed any review of the AIFMs' process in place in relation to AIFs asset registration and any reconciliation of its own record against the records of the AIFMs as required under Article 90(3) of the CDR 231/2013.

- the **safekeeping of financial assets to be held in custody** has not been carried out in accordance with the requirements of Article 19(8) and Article 19(11) of the AIFM Law as the Entity was not in a position to provide, neither the transaction documentation and instructions initiated by the AIFM, nor statements from the custodian banks ensuring assets were held in segregated accounts, nor the evidence of review or reconciliation of the AIFs accounting records which could have facilitated a timely identification of the position owned by the AIF in the absence of notification from the AIFM. Moreover, none of the custodian banks had been contractually appointed as delegate of the Entity and therefore had not been subject to an initial due diligence.
- the **execution of the oversight duties** was not compliant with the requirements of Article 19(9) of the AIFM Law as detailed below:
 1. concerning the general requirements applicable to all oversight duties, the Entity did not properly assess the risks associated with the AIFs' strategy and AIFMs' organisation for the purpose of defining oversight processes and controls as required under Article 92(1) of the CDR 231/2013;
 2. the Entity had no processes in place, neither for the verification of the compliance and the proper implementation of the AIFM valuation policies, nor for the verification of the process for the valuation of shares as required under Article 94 of the CDR 231/2013;
 3. the Entity failed to set up an adequate procedure to detect any situation where a consideration related to operations involving the assets of the AIF is not remitted to the AIF within the usual time limits as required under Article 96 of the CDR 231/2013.
- the **internal governance and control framework of the depositary function** contravened the principle of sound and prudent management mentioned in Article 19(3)(i) and Article 51(1), 7th indent of the AIFM Law. The following elements have been taken into consideration:
 1. accumulation and severity of breaches relating to the depositary function as mentioned above;
 2. lack of adequate organisation of the depositary function with the unavailability of key documentation and evidence of controls prior to December 2022;
 3. gaps identified in written procedures;
 4. conflict of interest linked to a director of the Entity acting also as a director of the AIFM affiliated to the Entity.