

Administrative sanction of 23 July 2025 for non-compliance with professional obligations related to the MiFID II framework

Luxembourg, 4 February 2026

Administrative decision

On 23 July 2025, the CSSF imposed an administrative fine amounting to EUR 223.000 (two hundred twenty-three thousand) on the investment firm Genève Invest (Europe) S.A. (the "Entity"), authorised to provide investment services 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 Family Office according to the provisions of Articles 24-1, 24-2, 24-4, 24-5 and 28-6 of the amended Law of 5 April 1993 on the financial sector (the "LFS").

Legal framework/motivation

The administrative fine was imposed by the CSSF pursuant to Article 63-2a(1) and (4) of the LFS for non-compliance with prudential rules and professional obligations related to the "MiFID II" framework, as defined in Directive 2014/65/EU of the European Parliament and of the Council concerning markets in financial instruments, its delegated acts, and their transposition, where applicable, into national law, read in conjunction with the criteria defined in Article 63-4 of the LFS, in particular the number and degree of severity of the breaches, and the financial strength of the legal person responsible for the breach.

In order to determine the type and amount of the administrative sanction, the CSSF duly took into account all the legal and factual elements set out and contradictory discussed, the number and degree of severity of the breaches existing at the time of the on-site inspection, the financial strength of the Entity, and the limited scope of the on-site inspection in accordance with the provisions of Article 63-4 of the LFS, as well as the fact that the Entity has acknowledged the findings and observations, has provided a general action plan and initiated corrective measures during and after the on-site inspection to address the identified breaches.

The Entity duly informed the CSSF of the corrective measures which have since then been implemented.

The professional obligations in relation to which the breaches were observed are namely set out in the relevant provisions of:

- (i) the LFS,
- (ii) the Commission Delegated Regulation 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and the definition of certain terms for the purposes of that Directive (the "Delegated regulation 2017/565"), and
- (iii) the Grand-ducal Regulation of 30 May 2018 relating to the safeguarding of financial instruments and funds belonging to clients, product governance obligations, and rules governing the provision or receipt of fees, commissions, or any monetary or non-monetary benefits (the "Grand-ducal regulation"), in their version applicable at the time of the on-site inspection.

Legal bases for the publication

This publication is made pursuant to the provisions of Article 63-3a(1) of the LFS, on a nominative basis, the CSSF having considered that none of the legal exceptions provided for in Article 63-3a(1) of the LFS is applicable.

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 at the Entity between 8 December 2022 and 9 February 2024 covering the prudential rules and professional obligations relating to the MiFID II framework, focusing in particular on the product governance, the assessment of suitability of investment services and financial instruments, the management of conflicts of interest, the reception and payment of inducements, the best execution, the client disclosures, and the internal control framework requirements.

During the inspection, the CSSF identified important breaches of the Entity's professional obligations in relation to the MiFID II framework, which related in particular to the following points:

- The Entity had not implemented a product governance framework enabling it to comply with its obligations as a distributor of financial instruments, primarily the determination of a target market for the financial instruments distributed to its clients, and the systematic verification that the clients were within the defined positive target market for the financial instruments acquired on their behalf. This constituted a breach of Articles 37-1(1), 1st subparagraph, (2) 4th and 6th subparagraphs, 37-3(1a), 2nd subparagraph of the LFS, and Article 9(1) of the

Grand-ducal regulation. These provisions collectively establish the organisational and conduct of business requirements to be applied when distributing financial instruments to clients, particularly aiming to obtain detailed product information from the manufacturers of financial instruments to ensure distribution to the identified target market of clients.

- The CSSF identified significant shortcomings in the key steps of the suitability assessment process of investment services and financial instruments.

Firstly, the definition and description of the investment strategies communicated to and agreed with the Entity's clients did not sufficiently correspond to the investment strategies actually applied by the Entity in its discretionary portfolio management activities. This constituted a breach of its information obligation under Article 37-3(3), 1st and 3rd subparagraphs of the LFS, and Article 47(3) of Delegated regulation 2017/565. These provisions specify the information requirements towards clients regarding the investment services provided, the investment strategies agreed, and the financial instruments to be invested on behalf of clients.

The Entity's collection of information about clients, intended to assess their knowledge and experience in financial matters, their financial situation, objectives, and risk appetite, as well as the controls over the completeness, consistency, along with the regular updating of such information, and the approach used to determine clients' risk profiles based on this information, presented significant shortcomings. These shortcomings prevented the Entity from ensuring that it provided its clients with a suitable discretionary portfolio management service, balancing investment risks and expected returns. These elements constituted a breach of Articles 37-1(3) and 37-3(4), 1st subparagraph of the LFS, Article 54(2), (6), 1st subparagraph, (7) and (8), and Article 55(1) and (3) of Delegated Regulation 2017/565. These provisions request investment firms to collect relevant, accurate, and consistent client information to propose suitable investment services and financial instruments, including ensuring that this information does not become out of date when the business relationship with clients is on-going.

In addition, the Entity had not established a sufficient framework to ensure, (i) at the time of entering into the discretionary portfolio management service agreement, (ii) at the time of investment decisions made on behalf of its clients, and (iii) continuously throughout the business relationship with its clients, that the service provided to clients was suitable according to their risk profile (established based on information collected about their knowledge and experience in financial

matters, their financial situation, objectives, and risk appetite). All of these shortcomings constituted a breach of Articles 37-1(1), 1st subparagraph, (3) and (4), and 37-3(4), 1st and 3rd subparagraphs of the LFS, and Article 54(2), (9), (10), 1st subparagraph, and (11) of Delegated Regulation 2017/565. These shortcomings were aggravated by an insufficient classification of the financial instruments offered within the discretionary portfolio management service (in terms of risks and other characteristics), which also constituted a breach of Article 54(9) of Delegated Regulation 2017/565.

Finally, the Entity largely failed in its obligation to periodically inform all its clients on how their portfolios were managed in accordance with their risk profiles. This shortcoming constituted a breach of Article 37-3(2) and (8), 4th subparagraph, and Article 54(13), 1st subparagraph of Delegated Regulation 2017/565, which require the periodic communication of a suitability report, at least annually, to clients under discretionary management mandates.

- The CSSF identified several conflicts of interest situations potentially detrimental to the Entity's clients, which were not identified nor recorded by the Entity. As a result, the Entity did not analyse these situations and consequently did not define or implement appropriate measures to prevent such conflicts of interest from harming the clients' interests. In this regard, the CSSF concluded that the Entity failed to comply with Articles 37-1(2), 1st subparagraph, and 37-2(1) of the LFS, which require the implementation of appropriate and reasonable measures to detect and prevent or manage situations which could harm clients' interests while taking into account the minimum criteria listed in Article 33, letters (a), (b), (c) and (d) of Delegated regulation 2017/565. The CSSF also found that the Entity did not comply with Articles 34(2) and (3), and 35, 1st subparagraph of Delegated regulation 2017/565, which require the establishment of an effective conflicts of interest policy and the recording of all identified conflicts of interest situations in a dedicated register.

Furthermore, the Entity's arrangements for identifying and monitoring personal transactions in order to prevent and mitigate conflicts of interest and avoid the use of insider information, were largely insufficient. These failures constituted a breach of Article 37-1(1), 2nd subparagraph of the LFS, and Articles 28 and 29(1) and (5) of Delegated regulation 2017/565.

- The CSSF found that, in terms of inducements, the Entity transferred a significant part of the commissions received in connection with the discretionary portfolio management service to a related company, without being able to demonstrate that these retrocessions aimed to improve the quality of the service rendered to the relevant clients, and did not harm the Entity's obligation to act honestly, fairly, and professionally in the best interests of the clients. Such conduct constituted a breach of Article 37-3(3d), 1st subparagraph of the LFS, and Article 10(2), (3), and (4) of the Grand-ducal regulation, which define the conditions under which monetary or non-monetary inducements can be received or paid.
- The CSSF identified deficiencies in the framework established by the Entity to ensure that transactions carried out on behalf of discretionary portfolio management clients were executed on the most favourable terms for those clients. These shortcomings included, in particular, the absence of assessment of execution policies and the verification of the execution systems put in place by the entities to which the Entity transmitted orders for execution. These shortcomings constituted a breach of Article 37-5(1) and (4) of the LFS, and Articles 64(4) and 65(1), (4), and (7) of Delegated regulation 2017/565, which require the implementation of sufficient measures to obtain the best possible result when executing orders on behalf of clients as part of a discretionary portfolio management service.
- The CSSF found that the general information provided by the Entity to its clients and potential clients about its investment activities and services was partially misleading and inadequate, notably concerning information on past performance and the risks associated with financial instruments included in the Entity's investment strategies. The CSSF also noted that the loss reports sent to its clients indicating a 10% decline in portfolio value, where applicable, contained inappropriate and misleading information. In addition, the Entity neither produced nor sent periodic reports on discretionary portfolio management activities carried out on behalf of its clients. The CSSF also noted that the Entity provided certain information on the performance and standard composition of managed portfolios based on inappropriate numerical data. Collectively, these shortcomings created an environment in which the transparency and accuracy of information provided by the Entity to its clients regarding its discretionary portfolio management activities were largely insufficient. This constituted a breach of Article 37-3(2), (3), 1st subparagraph, (3a) and (8), 1st subparagraph of the LFS and Articles 44(2), letters (b) to (e), (3), (4), letters (a) to (d), 46(5), and 60(1), (2), and (3) of Delegated regulation 2017/565.

- Each of the internal control functions of the Entity had independently failed to establish an adequate control framework including procedures, risk identification and control activities, to ensure compliance with MiFID II professional obligations. These shortcomings constituted a breach of Article 37-1(4) of the LFS, which notably requires the implementation of an adequate internal control framework, and more specifically Articles 22, 23, and 24 of Delegated regulation 2017/565 relating to the obligations of the compliance, risk management, and internal audit functions to define and implement appropriate and proportionate controls in light of the nature, scale, and complexity of the investment services provided, with the aim of ensuring compliance with applicable MiFID II obligations.
- Transversally, within the scope of its discretionary portfolio management activities, the Entity engaged in the fractioning of positions in financial instruments among its clients and in client-to-client transfer and netting transactions, without strictly complying with the aforementioned MiFID II regulatory requirements relating to product governance, suitability (of investment decisions), conflicts of interest management, best execution principles, and information to clients. The CSSF therefore concluded that these practices, carried out without respecting the aforementioned MiFID II requirements, failed to ensure a sufficient level of protection for the clients concerned.