

Administrative sanction of 8 May 2024 for non-compliance with the obligation of registration applicable to alternative investment fund managers as referred to in the provisions of Article 3(2) and (3) of the amended Law of 12 July 2013 on alternative investment fund managers

Luxembourg, 27 June 2024

Administrative sanction imposed on the investment fund manager Kasper Management

Administrative decision

On 8 May 2024, the CSSF imposed an administrative fine amounting to EUR 20,330 on the alternative investment fund manager Kasper Management ("AIFM").

Legal framework/motivation

The fine was imposed by the CSSF pursuant to the provisions of Article 51(1), 1st indent and Article 51(2), 3rd indent of the amended Law of 12 July 2013 on alternative investment fund managers ("AIFM Law") read together with the provisions of Article 3, 5th indent of the AIFM Law for non-compliance with the obligation of registration as an AIFM in accordance with the provisions of Article 3(3) of the AIFM Law.

In order to determine the type and amount of the administrative fine, the CSSF has taken into consideration the relevant circumstances as stated in the Article 51(2) last indent of the AIFM Law and in particular the conduct of the AIFM and the related gains derived from the violation.

The professional obligations in relation to which the violations were noted are notably set out in the AIFM Law.

Legal basis for the publication

This publication is made pursuant to the provisions of Article 51(2) 1st sub-paragraph of the AIFM Law, the CSSF having considered that this publication does not seriously jeopardise the financial markets nor cause disproportionate harm to the AIFM.

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

After the CSSF noted the existence of an alternative investment fund (“AIF”) managed by the AIFM, it was found that the AIFM had acted as manager for one AIF for a period of at least 17 months without being registered pursuant to the provisions of Article 3(3) of the AIFM Law, providing for the mandatory registration of managers as referred to in the provisions of Article 3(2) of the AIFM Law.

After several requests from the AIFM to the CSSF and related clarifications provided by the CSSF to the AIFM, the CSSF observed that the AIFM failed to introduce an AIFM registration request and further failed to provide answers to the CSSF despite multiple reminders sent by letters and emails.

In order to effectively monitor the systemic risk and considering (i) the obligation of an AIF to be managed by an AIFM pursuant to Article 4 (1) of the AIFM Law and (ii) the non-registration of the AIFM to the CSSF, the CSSF concluded to a non-compliance of the AIFM towards Article 3(3) of the AIFM Law.