

Administrative sanction of 22 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(3) of the amended Law of 12 July 2013 on alternative investment fund managers

Luxembourg, 27 September 2024

Administrative sanction imposed on the investment fund manager Cement GP

Administrative decision

On 22 May 2024 the CSSF imposed an administrative fine amounting to EUR 18,470 on the alternative investment fund manager Cement GP ("AIFM").

Legal framework/motivation

The administrative 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") in combination with the provisions of Article 3, 5th indent of the AIFM Law for non-compliance with professional obligation regarding the mandatory 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 gains derived from the infringement.

Legal basis for the publication

This publication is made pursuant to the provisions of Article 51(2) 2nd 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 cases 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 5 years 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 for information submitted by the CSSF to the AIFM, the CSSF noted an absence of AIFM registration request submitted by the AIFM and the absence of follow-up regarding an introduction of AIFM registration made by a service provider of the AIFM on behalf of the latter, for the period going from 31 December 2017 to 23 October 2023.

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.