

**COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 3 March 2011

To all supervised entities of the financial sector, except credit institutions, as well as to their *réviseurs d'entreprises agréés* (approved statutory auditors)

**CIRCULAR CSSF 11/503**

**Re: Reminder on the obligations applicable to the transmission and publication of financial information and relating deadlines**

Ladies and Gentlemen,

**1) Obligations of the supervised entities of the financial sector**

Considering the **deficiencies** observed regarding compliance with the publication obligations and its deadlines by a certain number of entities subject to the prudential supervision ("supervised entities") other than banks, the CSSF would like to **remind** all the entities concerned of the obligations that have to be complied with, concerning both the transmission and the publication of financial information, as well as the relevant deadlines.

For this purpose, Annex 1 includes all the legal provisions on this subject, distinguishing between the obligations resulting from the **various sectoral laws** and those resulting from the **commercial law** (cf. law of 19 December 2002 on the filing and publication of the annual accounts, as well as on the accounting and annual accounts of companies and the law of 10 August 1915 concerning commercial companies).

Annex 2 provides a glossary of acronyms used in Annex 1.

It should be borne in mind that these provisions are applicable without prejudice to any obligations deriving from laws on securities markets which apply where an entity has issued transferable securities admitted to trading on a regulated market and which may provide for shorter deadlines.

Where the transmission and publication deadlines of financial information are not met, the CSSF shall take **appropriate constraint measures** pursuant to the legal provisions in force.

Moreover, we would like to draw the attention of the supervised entities to the fact that they are also required to **spontaneously transmit to the CSSF** any reports, long-form reports and written comments issued by the *réviseur d'entreprises agréé* (approved statutory auditor) in the context of the audit of the annual accounts, pursuant to the law and as specified in the CSSF circulars.

Finally, in order to meet the deadlines set for the transmission and publication of financial information, the CSSF requests supervised entities to make the necessary information available to the *réviseur d'entreprises agréé* (approved statutory auditor) in charge of the audit of the accounting documents to allow the latter to perform the necessary due diligence. If, for any reason, the supervised entity has difficulties to make this information available to the *réviseur d'entreprises agréé* (approved statutory auditor), the supervised entity shall **promptly inform the CSSF**.

## **2) Obligations of the *réviseurs d'entreprises agréés* (approved statutory auditors)**

The *réviseur d'entreprises agréé* (approved statutory auditor) must ensure that the audit of the accounting documents of the supervised entity is organised in such a way that he/she is in a position to transmit these documents within the deadlines. Where the *réviseur d'entreprises agréé* (approved statutory auditor) has difficulties in receiving the necessary information to perform the statutory audit of the supervised entity, the *réviseur d'entreprises agréé* (approved statutory auditor) shall **promptly inform the CSSF**.

We would also like to draw the attention of the *réviseurs d'entreprises agréés* (approved statutory auditors) to the fact that, pursuant to the legal provisions in force, they are required to **promptly inform the CSSF** in case they are not in a position to issue an unqualified audit certificate.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Claude SIMON  
Director

Andrée BILLON  
Director

Simone DELCOURT  
Director

Jean GUILL  
Director General

**ANNEX 1<sup>1</sup>: INVENTORY TABLE OF THE OBLIGATIONS AND DEADLINES APPLICABLE TO THE PUBLICATION OF FINANCIAL INFORMATION FOR ALL ENTITIES SUPERVISED BY THE CSSF, EXCEPT CREDIT INSTITUTIONS**

Type of supervised entity	Obligations resulting from sectoral laws	Obligations resulting from the RCS Law (Chapter IV. Filing and publication of the annual accounts) and from the CC Law (Section XVI. - Consolidated accounts)
1. - Investment firms - Certain PFS other than investment firms - PFS carrying out a connected or complementary activity of the financial sector	No specific provisions	- Article 79(1), first subparagraph <sup>2</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b> , where applicable, of the management report and of the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the <i>Registre de Commerce et des sociétés</i> (RCS)). - Article 341(1) of the CC Law: <b>publication</b> of the regularly approved <b>consolidated accounts</b> , of the consolidated management report and of the report drawn up by the <i>réviseur d'entreprises agréé</i> (approved statutory auditor) in charge of auditing the consolidated accounts in accordance with Article 9 of the CC Law.

<sup>1</sup> Annex 2 provides a glossary of the acronyms used in the following table and of their definitions.

<sup>2</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.



<p>3. Management companies,  <b>a.</b> Chapter 13 of the UCI 2002 Law or Chapter 15 of the UCI 2010 Law<sup>9</sup>  <b>b.</b> Chapter 16 of the UCI 2010 Law<sup>10</sup></p>	<p><b>a.</b> and <b>b.</b> No specific provisions</p>	<p><b>b.</b> N/A</p> <p><b>a.</b> and <b>b.</b> - Article 79(1), first subparagraph<sup>11</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b>, where applicable of the management report and of the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).  - Article 341(1) of the CC Law: <b>publication</b> of the regularly approved <b>consolidated accounts</b>, of the consolidated management report and of the report drawn up by the <i>réviseur d'entreprises agréé</i> (approved statutory auditor) in charge of auditing the consolidated accounts in accordance with Article 9 of the CC Law.</p>
<p>4. SIF  <b>a.</b> in the form of SICAV (Chapter 3 of the SIF Law) or in the form of a company other than a SICAV (Chapter 4 of the SIF Law) and which complies with the</p>	<p><b>a.</b> and <b>b.</b> - Article 52(1) of the SIF Law: obligation to <b>draw up</b> an <b>annual report</b> for every financial year;  - Article 52(2) of the SIF Law: obligation</p>	<p><b>a.</b> - Article 79(1), first subparagraph<sup>12</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b>, where applicable of the management report and of</p>

<sup>9</sup> The management companies Chapter 13 may: a) either apply the provisions of the UCI 2002 Law **until 30 June 2011**; b) or apply the provisions of the UCI 2010 Law **as from 1 January 2011**. As from **1 July 2011**, they will *ipso jure* be subject to the provisions of Chapter 15 of the UCI 2010 Law.

<sup>10</sup> As from 1 January 2011, the management companies subject to Chapter 14 of the UCiI 2002 Law will *ipso jure* be subject to the provisions of Chapter 16 of the UCI 2010 Law.

<sup>11</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.

<sup>12</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.

<p>provisions of Article 77, second subparagraph, sub 1° to 3° of the RCS Law</p> <p><b>b.</b> in the form of an FCP managed by a management company (Chapter 2 of the SIF Law) or in the form of a company other than a SICAV (Chapter 4 of the SIF Law) which <u>does not comply</u> with the criteria set out in Article 77, second subparagraph, sub 1° to 3° of the RCS Law</p>	<p>to <b><u>make available</u></b> to investors within <b>six months</b> as from the end of the period to which the <b>annual report</b> refers to;</p> <p>- Article 52(5) of the SIF Law: <b>exemption</b> from the obligation to <b><u>draw up consolidated reports</u></b>.</p>	<p>the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).</p> <p><b>b.</b> N/A</p>
<p>5. Pension Funds</p> <p><b>a.</b> in the form of SEPCAV</p> <p><b>b.</b> in the form of ASSEP</p>	<p><b>a.</b> and <b>b.</b> Article 87(1) of the PF Law: each pension fund must <b><u>draw up annual accounts</u></b> and <b>annual reports</b><sup>13</sup> by taking into account <b>each pension scheme</b>, and, where applicable, for <b>each pension scheme</b> → to draw up within <b>six months</b> as from the end of the financial year.</p>	<p><b>a.</b> and <b>b.</b> → N/A</p>
<p>6. Approved securitisation undertakings</p> <p><b>a.</b> in the form of a securitisation company</p>	<p><b>a.</b> Article 47 of the SU Law: securitisation companies must comply with the <b>provisions</b> set out in the <b>RCS Law</b>, i.e. the provisions set out in Chapter IV. ;</p>	<p><b>a.</b> - Article 79(1), first subparagraph<sup>14</sup> of the RCS Law: <b><u>filing and publication</u></b> of the regularly approved <b>annual accounts</b>, where applicable, of the management report and of the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b></p>

<sup>13</sup> Article 87(2) of the PF Law: "The annual reports shall contain the **annual accounts**, a report on the activities during the previous year and any significant information which enables the members and beneficiaries to make an informed judgement on the progress of the business and the pension fund's results."

<sup>14</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.

<p><b>b.</b> in the form of a securitisation fund (managed by a management company)</p>	<p><b>b.</b> Article 50 of the SU Law: securitisation funds are subject to the <b>accounting regime</b> of <b>FCPs</b> as provided for in the <b>UCI Law</b> → obligation to <b>publish</b> an <b>annual report</b> per financial year and a <b>half-yearly report</b> covering the first six months of the financial year; → deadlines for <b>publication</b> → <b>four months</b> for the <b>annual report</b> and <b>two months</b> for the <b>half-yearly report</b>.</p>	<p>after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).</p> <p>- Article 341(1) of the CC Law: <b>publication</b> of the regularly approved <b>consolidated accounts</b>, of the consolidated management report and of the report drawn up by the <i>réviseur d'entreprises agréé</i> (approved statutory auditor) in charge of auditing the consolidated accounts in accordance with Article 9 of the CC Law.</p> <p><b>b.</b> N/A</p>
<p>7. Fiduciary-representatives participating in a securitisation undertaking</p>	<p>No specific provisions</p>	<p>- Article 79(1), first subparagraph<sup>15</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b>, where applicable, of the management report and of the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).</p>

<sup>15</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.



		- Article 341(1) of the CC Law: <b>publication</b> of the regularly approved <b>consolidated accounts</b> , of the consolidated management report and of the report drawn up by the <i>réviseur d'entreprises agréé</i> (approved statutory auditor) in charge of auditing the consolidated accounts in accordance with Article 9 of the CC Law.
8. SICAR <i>a.</i> in the form of one of the companies as provided for in Article 77, subparagraph 2 sub 1° to 3° of the RCS Law  <i>b.</i> in the form of a company which <u>does not underly</u> the criteria set out in Article 77, subparagraph 2, sub 1° to 3° of the RCS Law	<i>a.</i> and <i>b.</i> - Article 23(1) of the SICAR Law: obligation to <b>draw up an annual report for every financial year</b> ; - Article 23(2) of the SICAR Law: obligation to <b>make available</b> to investors within <b>six months</b> as from the end of the period to which the audited <b>annual report</b> refers to; - Article 24(3) of the SICAR Law: exemption from the obligation to <b>draw up consolidated accounts</b> .	<i>a.</i> - Article 79(1), first subparagraph <sup>16</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b> , where applicable of the management report and of the report drawn up by the person(s) in charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).  <i>b.</i> N/A
9. Payment institutions	Article 19(1) of the PI Law: obligation to <b>draw up</b> their <b>annual accounts</b> and, where applicable, their <b>consolidated accounts</b> in accordance with the RCS Law and IAS Regulation.	- Article 79(1), first subparagraph <sup>17</sup> of the RCS Law: <b>filing and publication</b> of the regularly approved <b>annual accounts</b> , where applicable of the management report and of the report drawn up by the person(s) in

<sup>16</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.

<sup>17</sup> Without prejudice to the exemptions provided for in Article 79(1), subparagraphs 2 and 3 and Article 79(1)a - (4) of the RCS Law.

		<p>charge of the audit within the month of the approval and at the latest <b>seven months</b> after the end of the financial year, in accordance with Article 9 of the CC Law (the publication in the <i>Mémorial C</i> will be made by means of an indication of the filing with the RCS).</p> <p>- Article 341(1) of the CC Law: <b>publication</b> of the regularly approved <b>consolidated accounts</b>, of the consolidated management report and of the report drawn up by the <i>réviseur d'entreprises agréé</i> (approved statutory auditor) in charge of auditing the consolidated accounts in accordance with Article 9 of the CC Law.</p>
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## ANNEXE 2: LIST OF ACRONYMS AND OF THEIR DEFINITIONS

List of acronyms	Definitions
FCP	<i>Fonds commun de placement</i> (common fund)
ACI Law	Law of 17 June 1992 relating to the accounts of credit institutions
CSSF Law	Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”)
PI Law	Law of 10 November 2009 on payment services, on the activity of electronic money institutions and settlement finality in payment and securities settlement systems
SIF Law	Law of 13 February 2007 relating to specialised investment funds
PF Law	Law of 13 July 2005 on institutions for occupational retirement provision in the form of pension savings companies with variable capital (SEPCAV) and pension savings associations (ASSEP)
IFRS Law	Law of 10 December 2010 relating to the introduction of international accounting standards
LFS Law	Law of 5 April 1993 on the financial sector
UCI 2010 Law	Law of 17 December 2010 relating to undertakings for collective investment
UCI 2002 Law	Law of 20 December 2002 relating to undertakings for collective investment
SU Law	Law of 22 March 2004 on securitisation
RCS Law	Law of 19 December 2002 on the filing and publication of the annual accounts, as well as on the accounting and annual accounts of companies
CC Law	Law of 10 August 1915 concerning commercial companies
SICAR Law	Law of 15 June 2004 relating to the investment company in risk capital (SICAR)
UCI	Undertaking for collective investment
IAS Regulation	Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards