
TO : **Cyprus Investment Firms ('CIFs')**
FROM : **Cyprus Securities and Exchange Commission ('CySEC')**
DATE : **November 30, 2022**
CIRCULAR No : **C537**
FILE No : **E.K. 02.03.001, E.K. 01.03.001 and E.K. 01.13.001.002.002**
SUBJECT : **New Form CBRT-CIF, Freedom to Provide Investment Services and Activities (Cross Border Activity)**

The present Circular is issued pursuant to section 25(1)(c)(ii) & (iii) of the Cyprus Securities and Exchange Commission Law ('the CySEC Law').

The European Securities and Markets Authorities ('ESMA') has issued a reporting template (Excel Form), regarding the collection of data from investment firms with cross border activity (freedom to provide investment services and activities), to their retail clients (and clients treated as professionals on request according to Section II of Annex II of MiFID II), analysed per each Member State.

In view of the above, CySEC wishes to inform CIFs on the release of the **new Form, CBRT-CIF** ('the Form'), as explained above, which is found in the [Appendix](#), for the collection of data regarding the CIFs' cross border provision of services to their retail clients (and clients treated as professionals on request), analysed per each Member State.

1. Reporting Requirements

- 1.1 **All CIFs authorised by December 31, 2022 and which have at least 50 retail clients, (including clients treated as professionals on request according to Section II of Annex II of MiFID II) (therein 'clients'), in at least one host Member State are required to complete the Form.**
- 1.2 Regarding the current release of Form (CIFs may regard this as Version 1), CySEC requires to collect information on the CIFs' cross border activity for the period **01/01/2022 – 31/12/2022**.
- 1.3 Thereafter, the Form will be collected on an annual basis, while CIFs must always ensure that they have the latest version of the Form.
- 1.4 The Form must be successfully submitted electronically via the CySEC's Transaction Reporting System ('TRS') **by 15:00 hrs, Friday, 27th of January 2023, at the latest**.

1.5 The steps that CIFs will have to follow, for the successful submission of the Form to the Transaction Reporting System ('TRS'), can be found [here](#), with the distinction however, that **the Form must NEITHER be digitally signed, NOR locked, NOR altered by any means.**

2. Feedback Files

2.1. For the purposes of successfully submitting the Form, CySEC wishes to inform CIFs that a number of data validation tests (detailed description of these follows in section 3, "*Instructions on Completion of the Form*" below), will be carried out and run by the TRS system, during submission time and hence, CIFs must expect and ensure to receive a **feedback file upon submission.**

2.2. In the case, that all validation tests are passed, the feedback file will contain a **NO ERROR** indication.

2.3. In case that some of the validation tests fail to pass, the feedback file will contain error information on those failed tests, and in response, the CIFs must review the Form and ensure that all errors are addressed and corrected, before re-submitting the Form.

2.4. **The Form is regarded as having successfully been submitted to CySEC, ONLY when a NO ERROR indication feedback file is received.**

2.5. CySEC wishes to emphasise the importance of meeting the deadline (as set out in section 1.4), for successful submission of the Form, and draws particular attention to diligently following the instructions, as described in section 3 below, and the deadline set, allows sufficient time for any potential errors that must be acted upon.

2.6. **Failure to promptly and duly comply with the above, will bear the administrative fine of section 37(5) of the CySEC Law. It is further noted that CySEC will not send any reminders to those who fail to promptly and duly comply.**

3. Instructions for the completion of the Form

3.1. CIFs are prompted at the importance of successfully completing the Form by the set deadline (as set out in section 1.4), and are encouraged to **diligently follow the instructions** below, as these will ultimately dictate whether a successful submission has been made.

3.2. The Form is composed of **two Parts**:

- **Part 1:** Information on the CIF and contact person within the firm for this reporting template.
- **Part 2:** Detailed information on passporting activities that the CIF is actually providing in other Member States, to retail clients (and clients treated as professionals on request according to Section II of Annex II of MiFID II).

➤ It is important to note that there are thirty (30) separate work sheets in Part 2, each one for each separate Member State, respectively.

- The CIFs however need to fill in information ONLY for those Member States where they reach the materiality threshold of 50 retail clients (including clients treated as professionals on request according to Section II of Annex II of MiFID II) and **remove the non-used sheets**.
- The information provided should only refer to services and activities provided to **retail clients (including clients treated as professionals on request according to Section II of Annex II of MiFID II)**.
- The CIF may use the **country of residence** of the client, to assess whether investment services and activities are provided in other Member States.
- The information provided should only refer to services and activities provided on a **"freedom to provide services" basis** and should not include services and activities provided on a **"freedom of establishment"** basis.
- Data should be provided with **reference date 31/12/2022**.

3.3. Definition of Retail clients:

For the purposes of this circular and for filling out the Form, CySEC wishes to draw your attention to the fact, that the term **"Retail Clients"** refers to **"retail clients including clients treated as professionals on request (according to Section II of Annex II of MiFID II)"**.

3.4. Detailed instructions for completing each Part, follow below:

3.4.1. Part 1 : 'Contact Information'

- **Cell B4** - <Firm Name> - **Mandatory field** requiring CIFs to type the name of the CIF as registered in CySEC portal.
- **Cell B5** - <Firm Type> - **Mandatory field** requiring CIFs to indicate the type of the firm by choosing, IF, from the drop down list options: CI – Credit Institution or IF – Investment Firm.
- **Cell B6** - <LEI Code> - Any CIFs with an issued LEI code are required to report it.
- **Cell B9** - <Name of the contact person at the firm> - **Mandatory field** requiring CIFs to provide the name of the person that is responsible for the completion of the Form.
- **Cell B10** - <Address of the contact person at the firm> - **Mandatory field** requiring CIFs to provide the address of the person that is responsible for the completion of the Form.
- **Cell B11** - <Telephone number of the contact person at the firm> - **Mandatory field** requiring CIFs to provide the telephone number of the person that is responsible for the completion of the Form.
- **Cell B12** - <Email of the contact person at the firm> - **Mandatory field** requiring CIFs to provide the email address of the person that is responsible for the completion of the Form.

3.4.2. Part 2 – ‘Details on Passporting Activities Provided to Retail Clients’

For each qualifying tab, as per the guidelines in point 3.2, Part 2, CIFs are encouraged to ensure the following:

- 3.4.2.1. Where a numerical answer is required, the answer to be provided is comprised of integers only and not character strings. **Numerical answers shall be rounded to the nearest unit.**
- 3.4.2.2. For Point “A1. Total Number of Retail Clients in Host MS”:
- **Cell B5** - <Total Number of Retail Clients in Host MS> - **Mandatory field** requiring CIFs to provide the total number of clients in the host Member State to whom the CIF offers at least one service/activity and/or ancillary service.
- 3.4.2.3. For Point “A2. Nr of Retail Clients by Service and Activity”:
- **Cells B7, B14, B21, B28** - <Nr of Retail Clients by Service and Activity> - CIFs are required to provide the number of retail clients (as per Section A of Annex I of Directive 2014/65/EU and including clients treated as professionals on request according to Section II of Annex II of MiFID II) by service/activity and/or bundle of services/activities. It is duly expected, that some clients may need to be accounted multiple times, one for each service/activity and/or bundle of services/activities in which they obtain a service for. Non-applicable fields may be left empty.
 - **Cells D7-D13, D14-D20, D21-D27, D28-D34** - <Relating to which products> - CIFs are required to select the value ‘X’ from the drop down lists provided, to indicate which products the respective service/activity and/or bundle of services/activities is applies to. Otherwise, CIFs must select ‘N/A’ or leave empty.
- 3.4.2.4. For Point “A3. Nr of Retail Clients by Ancillary Service”:
- **Cells B36-B42** - <Nr of Retail Clients by Ancillary Service> - CIFs are required to provide the number of retail clients (as per Section B of Annex I of Directive 2014/65/EU and including clients treated as professionals on request according to Section II of Annex II of MiFID II) by ancillary service. It is duly expected, that some clients may need to be accounted multiple times, one for each ancillary service in which they obtain a service for. Non-applicable fields may be left empty.
- 3.4.2.5. For Point “B1. Total number of complaints received from cross-border retail clients over the preceding calendar year”:
- **Cell C45** - <B1. Total number of complaints received from cross-border retail clients over the preceding calendar year> - **Mandatory field** requiring CIFs to provide the number of complaints received from cross-border retail clients over the calendar year 2022.

- **Cells C46-C53** - *<Number of complaints relating to which products>* - CIFs are required to provide the number of complaints by product. Complaints that relate to more than one product must be counted accordingly, at all respective fields. Non-applicable fields may be left empty.
 - **Cells C54-C61** - *<Number of Complaints concerning the following topics>* - CIFs are required to provide the number of complaints by topic of complaint. Complaints that relate to more than one topic of complaint must be counted accordingly, at all respective fields. Non-applicable fields may be left empty.
 - **Cell C62** - *<B2. May customers file a complaint with you in the language of the host Member State?>* - **Mandatory field** requiring CIFs to select either a 'Yes' or a 'No' from the drop down list provided.
 - **Cell C63** - *<B2a. If no, in which language(s) should the complaint be filed?>* - CIFs that have answered 'No' to the previous question, must select one of the options, out of the drop down list provided.
- 3.4.2.6. For Point *"C1. Best estimate of the total net turnover (net of VAT, in EUR) from cross-border retail clients in host Member State"*:
- **Cell B66** - *<C1. Best estimate of the total net turnover (net of VAT, in EUR) from cross-border retail clients in host Member State>* - **Mandatory field** requiring CIFs to report the best estimate of the CIF's Net Turnover (net of VAT, in Euro) from the provision of cross-border services/activities and/or ancillary services to retail/professional on request clients in the host Member State.
- 3.4.2.7. For Point *"C2. Are all or part of the services / activities provided or performed to retail clients in the host Member State outsourced to a third-country entity?"*:
- **Cell B67** - *<C2. Are all or part of the services / activities provided or performed to retail clients in the host Member State outsourced to a third-country entity?>* - **Mandatory field** requiring CIFs to select either a 'Yes' or a 'No' from the drop down list provided.
 - **Cell B68** - *<C2a. If yes, does it include critical and important operational functions (as defined under art. 30 of Delegated Regulation (EU) 2017/565)?>* - CIFs that have answered 'Yes' to the previous question, must select a 'Yes' or a 'No', out of the drop down list provided.
- 3.4.2.8. For Point *"C3. Do you have a specific marketing strategy for the provision of cross-border investment services and activities to retail clients?"*:
- **Cell B69** - *<C3. Do you have a specific marketing strategy for the provision of cross-border investment services and activities to retail clients?>* - **Mandatory field** requiring CIFs to select either a 'Yes' or a 'No' from the drop down list provided.
 - **Cells C70 - C78** - *<C3a. If yes, which of the following marketing means you use? (please select more than one option if multiple marketing means apply)>* - CIFs

that have answered 'Yes' to the previous question, may select a 'Yes' or a 'No' out of the drop down list provided, regarding the marketing means they use. In case of a 'No', those fields may be left empty.

- **Cell C78** - <9. Others (please specify)> - If the CIF uses a different marketing strategy other than those provided, fill the corresponding field with a 'Yes'. Otherwise fill the field with 'No'.

3.4.2.9. In fields where a drop down list is provided, CIFs are required to ensure that one and only answer from this drop down list is selected.

4. Method of creating and submitting the Form to the CySEC

CySEC wishes to draw CIFs' attention to the fact, for the current submission procedure, the Form must NOT be digitally signed, NOR locked NOR altered by any means.

After populating the required Excel fields in the Form, CIFs should name their Excel file in accordance to the following naming convention:

<Username_yyyymmdd_CBRT-CIF>

The information below explains the naming convention:

- (1) **Username** – is the username of the TRS credentials, which should already be in the possession of CIFs that have previously submitted any electronic file to the TRS system. This codification should be entered in capital letters. CIFs, that have not previously requested the TRS credentials, can do so by referring [here](#), where further information is provided about the TRS.
- (2) **yyymmdd** – this denotes the end of the reporting period of the Form. In this case, the Form should have a 20221231 format. Future forms will have different reporting periods.
- (3) **CBRT-CIF** – this is the coding of the Form that it remains unchanged and should be inserted exactly as it appears.
- (4) **The Excel® must be of 2007 version and onwards.** Excel will add the extension .xlsx as soon as it is saved. This extension should not be inserted manually, under any circumstances.

5. Support

5.1. Queries on how to complete the fields of the Form

If you have any queries on the completion of the Form, please submit them only in writing, **any day PRIOR to Friday, 20th of January, 2023**, by sending an email to the address riskstatistics.cifs@cysec.gov.cy.

All email communication should include in the subject, the CIFs' full name and the TRS coding.

5.2. Technical Queries on submitting the Form

For technical matters on submitting the Form, and any further clarifications, CIFs are requested to use the electronic address information.technology@cysec.gov.cy.

All email communication should include in the subject, the CIFs' full name and the TRS coding.

Yours sincerely,

Dr George Theocharides
Chairman, Cyprus Securities and Exchange Commission