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Unofficial consolidation of Directive DI87-07 of 2019 and Directive DI87-07(A) of 2020

DIRECTIVE DI87-07 OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION FOR THE OPERATION OF
THE INVESTORS COMPENSATION FUND

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(R.A.D. 154/2020)

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Official Gazette of the EU: L 084,
26.03.1997
p. 0022 - 0031

The Cyprus Securities and Exchange Commission, in exercising the powers conferred upon it by Article 64 of the Investment Services and Activities and Regulated Markets Law of 2007, issues the following Directive, for the purpose of harmonization with the act of the European Community titled

Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on Investor Compensation Schemes, in replacement of:

- R.A.D. 175 of 2015
- (a) Directive 144-2007-15 of 2015 of the Cyprus Securities and Exchange Commission for the continuance of the operation and the operation of the IF Investor Compensation Fund;
- R.A.D. 481 of 2012
- (b) Directive 144-2007-09 of 2012 of the Cyprus Securities and Exchange Commission on the general meeting of the members of the ICF for IF clients.

PART I
INTRODUCTORY PROVISIONS

- Short title
R.A.D. 76 of 2019
R.A.D. 154 of 2020
1. This Directive shall be cited as the ICF Directive.
- Interpretation
2. (1) In this directive, unless the context otherwise prescribes:
- «claimant» shall mean the investor-client of a Fund member who submits an application to the Fund for the payment of compensation as defined in Part V;
- «liquidation procedure» shall mean the liquidation procedure as defined in Part V of the Companies Law, and include all collective measures governing the operation of the Fund member and entail the prohibition or limitation of the power to dispose of assets of the Fund member;
- Cap. 113
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46(I) of 1992
96(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997
ANNOUNC.2331
82(I) of 1999
149(I) of 1999
2(I) of 2000
135(I) of 2000
151(I) of 2000
76(I) of 2001
70(I) of 2003
167(I) of 2003
92(I) of 2004
24(I) of 2005
129(I) of 2005
130(I) of 2005
98(I) of 2006
124(I) of 2006
70(I) of 2007
71(I) of 2007
131(I) of 2007
186(I) of 2007
87(I) of 2008
41(I) of 2009
49(I) of 2009
99(I) of 2009
42(I) of 2010
60(I) of 2010
88(I) of 2010
53(I) of 2011
117(I) of 2011
145(I) of 2011

157(I) of 2011
198(I) of 2011
64(I) of 2012
98(I) of 2012
190(I) of 2012
203(I) of 2012
6(I) of 2013
90(I) of 2013
74(I) of 2014
75(I) of 2014
18(I) of 2015
62(I) of 2015
63(I) of 2015
89(I) of 2015
120(I) of 2015
40(I) of 2016
90(I) of 2016
97(I) of 2016.

«Administrative Committee» shall mean the administrative committee established and operating pursuant to the provisions of Articles 60 and 61 of the Law and of Part VI of this Directive;

56(I)/2013
8(I)/2015
97(I)/2015

«Alternative Investment Fund Manager» or «AIFM» shall have the meaning given to this term in Article 2 of the Alternative Investment Fund Managers Law of 2013;

Second Schedule

«professional investor» shall mean the persons specified in the Second Schedule;

«investor» or «client» shall mean the natural or legal person or union of persons or group of assets devoid of legal personality who are clients of a Fund member;

«investment operations» for the purposes of this directive shall mean:

- (a) any of the investment services and/or investment activities of article 2 of the Investment Services and Activities and Regulated Markets Law of 2017 and/or the ancillary service of paragraph (1) of Part II, First Schedule of the same Law;
- (b) the services of article 6(6) of the Alternative Investment Fund Managers Law of 2013 provided by Alternative Investment Fund Managers;
- (c) the services of section 4 of Article 109 of the Open-ended Undertakings for Collective Investment Law of 2012 provided by a management company.

56(I)/2013
8(I)/2015
97(I)/2015

78(I)/2012
88(I)/2015
52(I)/2016

73(I)/2009
5(I)/2012
65(I)/2014
135(I)/2015
109(I)/2016

«Securities and Exchange Commission» or «Commission» shall mean the legal person of public law governed by the Cyprus Securities and Exchange Commission Law;

«management companies» shall have the meaning given to this term in Section 2 of the Open-ended Undertakings for Collective Investment Law of 2012 as in force at the time;

First Schedule

«eligible funds and financial instruments of clients» shall have the meaning given to this term in the First Schedule;

«covered client» shall mean a client of a Fund member who is covered by the Fund for claims against a Fund member arising from the investment operations provided by the Fund member;

«joint investment business» shall mean investment business carried out for the account of two or more persons or over which two or more persons have rights that may be exercised by means of the signature of one or more of those persons;

«Fund member» or «ICF member» or «member» shall mean a person pursuant to Paragraph 3;

«non-professional investor» shall mean an investor who is not a professional;

«non-covered client» shall have the meaning given to this term by the Second Schedule;

«Law» shall mean the Investment Services and Activities and Regulated Markets Law of 2017;

«AIFM Law» shall mean the Alternative Investment Fund Managers Law of 2013;

«UCITS law» shall mean the Open-ended Undertakings for Collective Investment Law of 2012;

«persons who effectively direct the Fund member» means the members of the board of directors, and the senior management, of the Fund member;

«Fund» or «Investor Compensation Fund» or «ICF» shall mean the investor compensation fund of clients-members of the Fund operating under Section 59(1) and (2) of the Law whose competences and operations are regulated by the provisions of the Law and of this Directive.

- (2) Without prejudice to the provisions of paragraph (1), any terms used in this Directive and not otherwise construed shall have the meaning attributed thereto in the Law.
- (3) Any reference in this Directive to a Paragraph shall be a reference to a Paragraph of this Directive and reference to a sub-paragraph shall be a reference to a sub-paragraph of a Paragraph of this Directive.

PART II SUBSCRIPTION, OBJECT AND WITHDRAWAL OF A MEMBER FROM THE FUND

Subscription to the Fund.

3. (1) The following shall subscribe as members to the Fund:
 - (a) CIFs;
 - (b) Member State IFs branches of Paragraph 5;
 - (c) Third Country IFs branches of Paragraph 4 established in the Republic pursuant to Article 78 of the Law;
 - (d) Alternative Investment Fund Managers providing the services of paragraph 6 of Section 6 of the AIFM Law;
 - (e) Management companies providing the services of paragraph 4 of Section 109 of the UCITS Law.
- (2) The persons who have applied to the Securities and Exchange Commission for an authorization as an entity of sub-paragraph (1)

shall, upon being instructed by the Securities and Exchange Commission, promptly submit a duly completed application for subscription to the Fund in order to obtain membership status and, in any case, must have subscribed to the Fund before they begin to provide any investment operations.

Subscription to the Fund of IF branches which are located in another Member State

4. (1) Where IFs have obtained authorization to operate by another Member State and have established a branch in the Republic, the said branch may, should it wish, voluntarily subscribe to the Fund when the amount and/or extent, including the percentage of the coverage offered by the Fund, exceeds the amount and/or extent of the coverage provided in the Member State in which the IF has obtained authorization to operate, in order to complete the coverage already enjoyed by the investors of the branch as a result of its participation in the compensation system of its Member State of origin.
- (2) In the cases of voluntary subscription to the Fund of branches established in the Republic by IFs which have obtained an authorization to operate by other Member States, pursuant to the provisions of sub-paragraph (1), the Fund shall complete the coverage for the covered clients of the said branches.
- (3) The Fund shall determine objective requirements of general application regarding the subscription of branches pursuant to the provisions of sub-paragraph (1). The acceptance of these branches to the Fund shall depend on whether the subscription-related obligations are fulfilled, including the payment of all relevant contributions and other charges.

Third Schedule

- (4) In the application of this paragraph, the guidelines set out in the Third Schedule shall apply. The said guidelines shall also apply to the case where a CIF branch chooses to voluntarily participate in an investor-compensation scheme of another Member State.

Object of the Fund.

5. The object of the Fund shall be to secure the claims of covered clients against the Fund members through the payment of compensation.

Withdrawal/expulsion of a member.

6. (1) Where a Fund member loses for any reason the authorization to operate granted by the Commission, the Commission shall promptly inform the Fund in order to withdraw from membership.
- (2) The Fund shall withdraw the membership of the said member and inform the Commission accordingly in order for the Commission to announce the said information on its website.
- (3) The loss of Fund membership status shall not mean loss of rights of covered clients to receive compensation in relation to investment operations carried out until such loss of membership status, if the conditions for compensation are fulfilled pursuant to this Directive, not shall it obstruct the initiation of the compensation procedure for covered clients.
- (4) Any pending dues of a member to the Fund shall continue to exist until settlement thereof irrespective of the membership withdrawal.

PART III CAPITAL AND RESOURCES OF THE FUND – CONTRIBUTIONS OF MEMBERS

Capital and property of the Fund.

7. (1) The capital of the Fund, accumulated prior to the date this directive enters into force, and which corresponds to the amount credited to the share of each member, continues to be kept in such shares.
- (2) From the date this directive enters into force, capital shall be paid into the Fund, which consists of the resources referred to in Paragraph 8.

- (3) The capital of the present paragraph are available for the payment of compensation to covered customers of any Fund member, in accordance to the provisions of this Directive, irrespective if these funds were paid into the Fund prior or after the date this directive entered into force.
- (4) The capital of the Fund pursuant to subparagraphs (1) and (2) shall be reduced, proportionally, by the compensation of covered customers.
- (5) The amounts creditor to the share of each member, which cumulatively form the capital of subparagraph (1), shall also be proportionally reduced.

Fund resources.

- 8. (1) Fund resources shall comprise:
 - (a) initial ordinary annual and extraordinary supplementary contributions made by its members as prescribed in this Directive;
 - (b) proceeds from investments of the Fund's available funds as specifically defined in Paragraph 53;
 - (c) proceeds of the Fund from donations or *ex gratia*;
 - (d) annual fees paid by its members to cover administrative and/or other expenses arising in the context of the Fund's operation pursuant to the provisions of this Directive.
 - (e) The unclaimed capital of customers pursuant to Paragraph 61
 - (f) The funds transferred to the Fund pursuant to paragraphs 4(5) and 6 of Directive D187-05 of the Cyprus Securities and Exchange Commission for the Suspension and Withdrawal of Authorisation and other relevant matters, which become resources of the Fund, with the passing of three years from the date of their transfer.

It is provided that during this three-year period, the Fund shall act as custodian to these client funds.

- (2) Members shall pay the contributions and the fees of subparagraph (1) into bank accounts which are communicated by the Fund to its members.
- (3) Members who fail to pay the fees and contributions due in accordance with the timetables set out in this directive for any reason whatsoever, shall be liable to interest in respect of the amounts due, which shall be equal to the interest rate for overdue payments, as applicable at the time, in accordance with the Public Interest Rate for Overdue Payments Law of 2006.
- (4) Contributions and fees paid to the Fund pursuant to the present directive shall not form an asset of Fund members and, therefore, no amount may be refunded to the members, at any stage, except:
 - (a) where an error in calculating the contribution has occurred, when the error relates to a contribution paid for the current year, in which case the excess amount is refunded to the member,
 - (b) where, following the submission for an application of membership to the Fund, the application for authorisation is

rejected by the Commission, in which case the initial contribution paid for by the applicant, is refunded to them.

Any costs deriving from the refund, are borne by the applicant.

- Initial contribution of members.
9. (1) To obtain membership status to the Fund, candidate members shall pay an initial contribution as prescribed in this paragraph in addition to an initial contribution for each investment operation for which the candidate member or existing member is seeking authorisation, as follows:
- (a) Two thousand euro (€2.000) per investment service of Part I of the First Appendix of the Law;
 - (b) Thirty five thousand euro (€35.000) for the ancillary service of paragraph (1) of Part II of the First Appendix of the Law;
 - (c) Two thousand euro (€2.000) for the service provided for in article 109(4)(a) of the UCITS Law;
 - (d) Two thousand euro (€2.000) for the ancillary service provided for in article 109(4)(b)(i) of the UCITS Law;
 - (e) Thirty five thousand euro (€35.000) for the ancillary service provided for in article 109(4)(b)(ii) of the UCITS Law;
 - (f) Two thousand euro (€2.000) for the service provided for in article 6(6)(a) of the AIFM Law;
 - (g) Two thousand euro (€2.000) for the ancillary service provided for in article 6(6)(b)(i) of the AIFM Law;
 - (h) Thirty five thousand euro (€35.000) for the ancillary service provided for in article 6(6)(b)(ii) of the AIFM Law;
 - (i) Two thousand euro (€2.000) for the ancillary service provided for in article 6(6)(b)(iii) of the AIFM Law.
- (2) Where in the course of its operation a Fund member is seeking to obtain an authorization for an additional investment operation, it shall pay an additional contribution to the Fund equal to an amount corresponding to that prescribed, upon request by the Commission, and in any case before this member commences to provide the new service.
- Ordinary annual contribution of members.
10. (1) Members shall submit the statement of eligible funds and financial instruments of their covered clients by May 10 of each year, for the immediately preceding year, taking into account the provisions of the First Schedule and shall submit the aforementioned statement, also in the cases where the relevant amounts are nil.
- First Schedule
- (2) The statement of eligible funds and financial instruments submitted by each Fund member shall be accompanied by:
- (a) An auditor's report by the external auditor of each member, as to the correctness of the statement of eligible funds and financial instruments of the covered clients of the said member, with which the external auditor shall set the "substantial size" as determined for the purposes of that audit, and shall express, on the basis of the audit conducted, an "Unmodified Opinion", or a "Modified Opinion – Except for Opinion", or a "Modified Opinion - Adverse Opinion" or a "Modified Opinion - Disclaimer of Opinion". The Commission

shall publish on its website a prescribed form of sample reports, until such time as the Fund sets up its own website.

- (b) The relevant "Statement of misstatements" in relation to eligible funds and financial instruments of a member's clients, which the external auditor notified to that member according to the International Auditing Standards and a briefing, in writing, signed by all members of the member's Board of Directors, which will specify, which of the misstatements identified by the external auditor, have been corrected and which have not been corrected, and the total amount of uncorrected misstatements,
 - (c) The written confirmation requested and received by the external auditors of the member in case of uncorrected misstatements, in accordance with the International Auditing Standards, pertaining to the consequences of uncorrected misstatements in relation to the eligible funds and financial instruments of the member's clients, and the summary of uncorrected misstatements, which have been attached to the respective written confirmation.
- (3) The ordinary annual contribution of each Fund member shall be calculated as follows:
- (a) Five per thousand (5 o/oo) of the eligible funds and financial instruments of a member's covered clients, as set out in the First Schedule, calculated on the funds and financial instruments as at the previous year, if all of the following conditions are met:
 - (i) The statement of eligible funds and financial instruments of the previous year, was submitted by May 10 of the current year, accompanied by all documents and information set out in subparagraph (2).
 - (ii) The external auditors expressed an "Unmodified Opinion" in the report of subparagraph (2)(a) as to the correctness of the statement of eligible funds and financial instruments of the member's covered clients.
 - (iii) On the basis of the data collected by the Fund pursuant to subparagraphs (2)(b) and (2)(c), all misstatements identified by the external auditor have been corrected.
 - (b) Six per thousand (6 o/oo) of the eligible funds and financial instruments of a member's covered clients, as set out in the First Schedule, calculated on the funds and financial instruments as at the previous year, if all of the following conditions are met:
 - (i) The statement of eligible funds and financial instruments of the previous year, was submitted by May 10 of the current year, accompanied by all documents and information set out in subparagraph (2).
 - (ii) The external auditors expressed an "Unmodified Opinion" in the report of subparagraph (2)(a) as to the correctness of the statement of eligible funds and financial instruments of the member's covered clients.
 - (iii) On the basis of the data collected by the Fund pursuant to subparagraphs (2)(b) and (2)(c), not all misstatements identified by the external auditor have been corrected.

- (c) An amount of one hundred and thirty thousand euro (€130.000), or an amount equal to one percent (1%) of eligible funds and financial instruments of the member's covered clients for the last year for which an audited statement of eligible funds and financial instruments was submitted accompanied by an "Unmodified Opinion" of the external auditors, whichever amount is highest, if one of the following conditions are met:
 - (i) The statement of eligible funds and financial instruments of the previous year, was not submitted by May 10 of the current year.
 - (ii) The member has not complied with subparagraph (2).
 - (iii) The external auditors have not expressed an "Unmodified Opinion" in the report of subparagraph (2)(a) as to the correctness of the statement of eligible funds and financial instruments of the member's covered clients.
- (4) The amount corresponding to the annual contribution due, provided for in sub-paragraph (1) shall be communicated in writing to the Fund members no later than June 10 of each year.
- (5) The ordinary annual contribution shall be paid by each member by August 10 of each year.
- (6) A discount of 80% shall be provided in relation to the ordinary annual contribution calculated under subparagraph 3(a), if the member pays in full by June 10 of each year.
- (7) No discount shall be provided for contributions calculated under subparagraphs 3(b) and 3(c).
- (8) The Fund shall reserve the right to have free access to the accounting information of each member as well as to the books and/or records kept pursuant to the legislation in force at the time in the Republic. The Fund may cooperate with the Commission in order to verify the accuracy of the information provided to the Fund by its members.
- (9) (a) In case of an extension of the deadline of subparagraphs (1) and (2) following a decision by the Commission under paragraph 58A, the Fund may request, on a date that will specify within the extended deadline, the submission of an unaudited statement of eligible funds and financial instruments unaccompanied with what is provided in subparagraph (2), for calculating the ordinary annual contribution of each Fund member in one per thousand (1 o/oo) of the eligible funds and financial instruments of the member's covered clients. The amount of the contribution is payable on a date specified by the Fund.
- (b) On the expiration of the extension set by the Commission for subparagraphs (1) and (2) under paragraph 58A, the ordinary annual contribution of each Fund member is calculated in accordance with subparagraphs (3), (6) and (7) and following the deadlines decided by the Commission under paragraph 58A for subparagraphs (4), (5) and (6), and the Fund member is obliged to pay the difference in the amount that may arise from the calculation. The difference in the amount of the contribution is payable on a date specified by the Fund.

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Extraordinary supplementary contribution of members.

- 11. (1) The Commission may call upon Fund members to pay an extraordinary supplementary contribution, provided that it receives

written and justified information from the Fund that the cash held are insufficient.

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- (2) In making its decision, the Commission may:
 - (a) determine, the amount and the manner of calculation of the extraordinary supplementary contribution, either as a single amount for all Fund members or per category of members or per sub-category of members, and set a maximum limit for the percentage payable per Fund member in relation to the last available audited statement of eligible funds and financial instruments of the member's covered clients.
 - (b) determine, the categories or sub-categories of members, in those cases that the calculation of the extraordinary supplementary contribution is performed per category or per sub-category of members;
 - (c) set the deadline and other formalities relating to the payment of the extraordinary supplementary contribution.
- (3) In determining the amount of the extraordinary supplementary contribution and the deadline for its payment pursuant to the provisions of sub-paragraph (1), the Securities and Exchange Commission shall take into account the reasonable interests and viability of Fund members.
- (4) The Fund shall inform its members with respect to the decision issued pursuant to the provisions of sub-paragraph (1).
- (5) Members are obliged to pay the extraordinary contribution.
- (6)
 - (a) Members are required to maintain, at all times, own funds, as additional cash available for a potential extraordinary contribution;
 - (b) The cash available per section (a):
 - (i) must be kept in a separate bank account, especially for this purpose and must not be used for any other purpose, in a bank in the European Union
 - (ii) must be no less than 3 per thousand (3 o/oo) of the member's eligible funds and financial instruments, as at the previous year, as these are set out in the statement of eligible funds and financial instruments of Paragraph 10.

It is provided that the above is a minimum limit of special purpose liquidity, and not a limit of extraordinary contribution. The extraordinary contribution may surpass the above minimum limit, and members will be obliged to pay it.
 - (iii) must be deposited in the account provided for in subsection (i) on the day after the submission of the statement of eligible funds and financial instruments of Paragraph 10 and must be kept until the next submission of the said statement.
 - (c) Members are obliged to submit, between May 15 and May 20 of each year, a confirmation signed by the members of their Board of Directors and their internal auditor, or, in the absence of an internal audit function due to legislative provisions, signed by their compliance officer, in relation to their compliance with this subparagraph. The relevant confirmation form can be found on the Commission's website.

- Annual Fee.
12. (1) Each member must pay an annual fee to cover operational and/or other expenses, which is determined as set out in subparagraphs (2) and (3), on the basis of the statement of eligible funds and financial instruments of the member's clients, which was submitted to the Fund in accordance with subparagraphs 10(1) and (2).
- (2) Members of the Fund which hold eligible funds and financial instruments of clients shall pay an annual fee of seven hundred euro (€700) to cover operational and/or other expenses.
- (3) Members of the Fund which do not hold eligible funds and financial instruments of clients shall pay an annual fee of one hundred euro (€100) to cover operational and/or other expenses.
- (4) The amount of the annual fee shall be notified in writing to the members of the Fund by June 10 of each year and shall be paid to the Fund by each member, by July 10 of each year.
- (5) The Administrative Committee may call upon its members to pay an additional fee to cover operational and/or other expenses when the cash available are insufficient.
- It is provided that the additional fee shall be calculated by taking into consideration whether members hold eligible funds and financial instruments.
- (6) The annual contribution of this paragraph for the year 2018 shall be paid within one month of this directive coming into force, on the basis of the last statement of eligible funds and financial instruments submitted to the Fund for the year 2017.
- Borrowing.
13. (1) Whenever the Administrative Committee deems that its liquid assets do not suffice for the payment of the expenses or the compensation due or likely to occur to covered clients, it may, with the agreement of the Commission, contract loans or other credits with banks in the Republic or abroad.
- (2) The Fund shall communicate the reasons leading to such borrowing to the Ministry of Finance.
- (3) In the case of sub-paragraph (1), the Fund shall call upon its members, within one month from contracting the loan or the credit, to pay an extraordinary supplementary contribution of a total amount equal to the loan or credit received, subject to the criteria of Paragraph 11 regarding the determination of the proportion of the contribution of each member.
- Insurance cover.
14. (1) The Fund may, with the agreement of the Commission, enter into an insurance policy for the insurance cover of its obligations, wholly or partly, against the covered clients. The premia paid in relation thereto may be allocated, wholly or partly, in proportion to Fund members.
- (2) The Fund shall inform the Securities and Exchange Commission of any amendment thereof including its termination.
- (3) The insurance coverage may be provided by one or more insurance companies legally established in the Republic or in a Member State.

PART IV
INVESTOR INFORMATION

- Investor information.
15. (1) Fund members shall inform their clients at least in Greek or in English of:
- (a) the coverage provided by the Fund;

- (b) the covered clients;
 - (c) the maximum amount of the compensation payable to clients for their total claims;
 - (d) the conditions and formalities for the payment of compensation.
- (2) Investor information shall be provided by making available, free of charge, at the headquarters and branches of the Fund member, relevant detailed prospectuses in the Greek and English languages, which shall be drawn in an understandable and clear manner as well as the publication of the said information on the website of each Fund member.

The Fund members shall ensure that adequate and updated information is posted on their website and an adequate number of prospectuses are available at their headquarters and branches as well as at the offices of their representatives or other associates.

- (3) Upon a relevant request by covered clients, the said Fund member shall provide additional or clarifying information on the formalities and conditions for the payment of compensation.

Prohibition of advertising.

16. Fund members shall be prohibited from promoting their subscription to the Fund for advertising purposes through advertising leaflets or other messages in any way, provided that the mere informative reference to such subscription shall be allowed.

Information to clients by IFs not subscribed to the Fund.

17. IFs providing investment operations in the Republic and exempted from the obligation to subscribe to the Fund, shall inform investors in writing accordingly.

PART V COMPENSATION OF COVERED CLIENTS AND FORMALITIES

Initiation of the compensation payment procedure.

18. (1) The Fund shall initiate the compensation payment procedure when:
- (a) the Commission has determined that a member appears, for the time being, for reasons directly related to its financial circumstances, to be unable to meet its obligations arising out of investors' claims and has no early prospect of being able to do so.
 - (b) a Court of the Republic, has made a ruling, for reasons directly related to a member financial circumstances, which has the effect of suspending investors' ability to make claims against it.
- (2) The Commission shall issue its decision for the initiation of the compensation payment procedure by the Fund within a reasonable time, and publish the relevant information on its website.

Covered claims.

19. (1) The Fund covers claims arising due to a member's failure –
- (a) to repay the funds owed to covered clients or belonging to them and held on their behalf in connection with investment operations; or
 - (b) to return to covered clients any financial instruments belonging to them and held, managed or administered on their behalf in connection with investment operations;

in accordance with the legal and contractual conditions applicable.

- (2) The amount of the claim of a covered client shall be calculated based on legal and contractual conditions, in particular those relating to offsetting and counterclaims, that are applicable to the assessment on the date of the initiation of the compensation payment procedure of Paragraph 18(1), of the amount of the funds or value determined with reference to the market value, where possible, of the financial instruments belonging to the covered client and which such funds or instruments, the Fund member fails to repay or return, respectively.
- Procedure of invitation to submit applications. 20. (1) Upon initiation of the compensation payment procedure, the Fund shall publish as soon as possible in at least two national newspapers, an invitation to submit applications for compensation, designating the procedure for the submission of the relevant applications, the deadline for their submission as well as their content as defined specifically in this Part.
- (2) The publication provided for in sub-paragraph (1) shall include at least:
- (a) the name and address of the headquarters and the trade name of the involved Fund member;
 - (b) the deadline for the submission of the compensation applications, which cannot be less than five months or more than nine months from the date of initiation of the compensation payment procedure, or from the date of its publication;
 - (c) the mode of submission of applications; and
 - (d) the address and/or website through which covered clients may obtain the relevant claim form provided by the Fund, as provided for in Paragraph 22.
- (3) The publication of subparagraph (2) shall be communicated immediately to the Commission, which shall post the publication on its website.
- (4) In exceptional and justified cases, the Fund, with an announcement thereof, may extend the deadline for the submission of compensation applications up to three months, provided it obtains the approval of the Commission. The said announcement shall be published by the Fund in at least two national newspapers, and the Commission shall publish it on its website.
- Late submission of applications. 21. (1) In case a covered client was not in a position to submit such application within the deadline, the deadline of Paragraph 20 shall not apply thereto, if conditions occurred that prevented the observance of the deadline for the submission of a compensation application or for the collection and submission of the information required.
- (3) A covered client submitting a compensation application after the deadline, shall submit, in addition to the information forming the content of the application, a declaration explaining the reason, if any, for which he was not in a position to claim compensation in time, attaching all supporting evidence to that end.
- Claim application form. 22. (1) The Fund shall issue a claim form setting out the information and supporting evidence required in order to evaluate the claims of covered investors.

- (2) Without prejudice to the provisions of sub-paragraph (1), the Fund may request additional information where deemed necessary.
- Procedure relating to the recording and evaluation of claims. 23. (1) The Fund may record and assess the submitted claims, either internally or by designating at least one expert in capital market issues and at least one lawyer with knowledge on capital market issues, who after initially reviewing the conditions of Paragraph 24, shall evaluate the said applications and recommend to the Administrative Committee their acceptance or rejection, in whole or in part.
- (2) In case of disagreement between the persons referred to in sub-paragraph (1), each one of them shall submit a separate recommendation.
- (3) The remuneration of the persons referred to in subparagraph (1), shall be agreed between the Fund and the said persons, shall burden the Fund member involved and, if necessary or essential, shall be paid by the Fund using funds accumulated from the payment of fees to cover operation expenses as prescribed in Paragraph 8(1)(d).
- (4) The persons of sub-paragraph (1):
- (a) request from the Fund member to express a justified opinion on the grounds of the claims alleged by the claimants, within a specific time limit, in order to evaluate the applications,.
- (b) in case the Fund member does not submit its justified opinion on time. the persons referred to in subparagraph (1), proceed with the evaluation of the applications.
- (c) determine the amount of the compensation for each claimant.
- (5) The persons of subparagraph (1) shall have full access to the records of the member for which the Fund has been activated, kept electronically or otherwise, in order to carry out their work.
- Compensation payment conditions. 24. (1) The payment of compensation by the Fund shall entail the following:
- (a) the initiation of the compensation payment procedure;
- (b) the existence of a valid claim by a covered client against the Fund member, which derives from an investment operation;
- (c) the submission of an application form as prescribed in this directive;
- (d) That the claims do not arise from transactions for which there has been a criminal conviction for money laundering as defined in the Prevention and Suppression of Money Laundering Activities Law of 2007;
- (e) There are no pending criminal proceedings against the said covered client for money laundering as defined in the Prevention and Suppression of Money Laundering Activities Law of 2007,;
- (f) The right of a covered client has not been extinguished under the Limitation of Offenses Act
- 188(I)/2007
58(I)/2010
80(I)/2012
192(I)/2012 101(I)/2013 184(I)/2014
18(I)/2016
- Determination of the amount of the compensation payable. 25. (1) The calculation of the compensation payable shall arise from the sum of the total established claims of the covered client against the Fund member, arising from all covered services provided by the member and regardless of the number of accounts of which it is the

beneficiary, the currency and place where such services are provided within the European Union.

- (2) The Fund shall provide coverage for the claims referred to in Paragraph 19, which applies for the total claims of the covered client against a Fund member and shall be defined as the lower of 90% of the cumulative covered claims of the covered client and €20.000.
- (3) In the case of joint investment business:
 - (a) in the calculation of the coverage provided for in subparagraph (2), the share attributable to each covered investor shall be taken into account;
 - (b) the claims shall be allocated equally amongst covered investors, unless there exist special provisions, and without prejudice to section (c), each investor is provided with separate coverage pursuant to the provisions of subparagraph (2);
 - (c) claims relating to joint investment business to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, which has no legal personality, shall, for the purpose of calculating the coverage provided for in subparagraph (2), be aggregated and treated as if arising from an investment made by a single investor.\
- (4) Where a covered client is not the ultimate beneficiary of the funds or financial instruments held by the member:
 - (a) compensation shall be paid to the ultimate beneficiary if his identity is or may be established prior to the date of the determination or ruling referred to in paragraph 18(1).
 - (b) if the ultimate beneficiaries are more than one, in the calculation of the coverage provided for, the share attributable to each one of them according to the arrangements regulating the management of the funds or financial instruments shall be taken into account.

This section shall not apply to undertakings for collective investments.

- (5) Compensation shall be paid in Euro, and, where the funds and/or financial instruments are expressed in a currency other than the Euro, the exchange reference rate of the said currency against the Euro fixed by the European Central Bank at the end of the day on which the compensation payment procedure was activated, shall be used..

Decision of the Administrative Committee on the applications.

26. (1) The Administrative Committee shall examine the applications before it and decide whether the conditions of Paragraph 24 are fulfilled or not.
- (2) The Administrative Committee shall reject the application if the claimant has used false or misleading means in order to secure the payment of the compensation.
- (3) When examining the applications, the Administrative Committee shall take into account the recommendations of the persons of Paragraph 23.

Unjustifiably paid compensation.

27. The Fund may at any time require the covered client to return the compensation paid to it if it subsequently establishes that there has been a reason for the rejection of the application in accordance with this directive.

- Announcement of Fund's decision. 28. (1) Upon completion of the procedure before the Administrative Committee, the Fund shall:
- (a) issue a decision listing the clients of the Fund member, determining the amount of money each one of them is entitled to receive, and communicate it to the Commission and the Fund member within five working days from its issue;
- The said decision shall also list those clients to whom no compensation shall be paid, and the reasons for this;
- (b) communicate to each affected client its decision the soonest possible from its issue.
- (2) The claimant to whom the Fund communicates its decision, may, in case of disagreement, submit an objection in writing to the Commission, within one month from the date on which the decision was notified, justifying its objection sufficiently. The objection shall be submitted at info@cysec.gov.cy and entitled "Objection to the decision of the ICF".
- (3) The Commission in the context of examining an objection may:
- (a) request from the Fund, and/or the Fund member and/or the claimant to submit information and particulars;
 - (b) conduct any investigation.
- (4) The Commission, must conclude the examination of the objection within forty-five (45) days and in case that identifies an error in the evaluation carried out by the Fund, it shall request in writing from the Fund to immediately rectify the mistake and pay the claimant the correct amount, and inform the affected client accordingly.
- Deadline and procedure relating to the payment of compensation. 29. (1) The Fund shall pay each covered client/claimant the compensation that he is entitled to, within three months from the date that the decision was communicated to the covered client.
- (2) The payment of the compensation by the Fund shall be deposited to a bank account of the covered client, as designated by the said client in writing via the form of Paragraph 22.
- (3) In extraordinary and justified circumstances, the Fund may request from the Commission an extension of the deadline provided for in subparagraph (1).
- The said extension may not exceed three months.
- Effect of payment of compensation. 30. The payment of any compensation by the Fund shall entail *ipso jure* subrogation of the Fund to the rights of the compensated covered client/claimant against the Fund member during the liquidation procedure of the said member for an amount equal to the compensation payable thereto.

PART VI FUND ADMINISTRATION

- Election of President, Vice-President and Treasurer of the Administrative Committee. 31. The Administrative Committee shall elect its President, Vice-President and Treasurer no later than ten days from the publication in the Official Gazette of the Republic of the decision of the Minister of Finance on the appointments.
- Convening of Administrative Committee meetings. 32. (1) The Administrative Committee shall meet upon invitation of the President or the Vice-President, in case of impediment of the President, on a day, place and time fixed by him whenever this is deemed fit.

- (2) The invitation for a meeting shall be in writing and addressed to all its members of the Administrative Committee, at least one working day prior to the date designated for the meeting. The invitation shall also include the items on the agenda.
- (3) Irrespective of the provisions of sub-paragraph (2) in extraordinary and justified cases, a meeting of the Administrative Committee shall be convened extraordinarily following an oral or written invitation communicated to the members the soonest possible and in any case prior to the time fixed for the meeting.
- (4) (a) In the case of a written invitation to a meeting, the invitation shall be communicated to the members of the Administrative Committee in writing by facsimile or email.
 (b) In the case of an oral invitation to a meeting, the members of the Administrative Committee shall sign at a later stage an attestation regarding their invitation to a meeting.
- (5) The President of the Administrative Committee shall convene a meeting whenever the President deems it fit, however the President is obliged to convene a meeting if this is requested in writing by at least two members or the Vice-President and one member, who shall also set the agenda of issues to be discussed.
- (6) The Administrative Committee shall decide upon any matter pertaining to the conduct of its meetings and shall be entitled to allow the presence of other persons at its meetings where deemed necessary for the carrying out of its work without such persons having a right to vote.
- (7) The Auditor-General of the Republic or his representative may be present at the meetings of the Administrative Committee without having a right to vote.

Replacement of members of the Administrative Committee due to unjustified absence.

33. (1) Where a member of the Administrative Committee is unjustifiably absent from its meetings for more than three months, the institution which has appointed them, as the case may be, shall replace them, within a reasonable time after being informed of the fact::

It is provided that the participation in the meetings through an alternate shall not be considered as unjustified absence.

- (2) The President or the Vice-President of the Administrative Committee, as the case may be, shall promptly inform the institution which has appointed the member and the Ministry of Finance in case of absence of such member of the Administrative Committee or his alternate from the meetings of the Administrative Committee for a period over three months.

Quorum and decision-making by the Administrative Committee.

34. (1) The Administrative Committee shall form a quorum when at least three of its members are present either in person or through their alternates.
- (2) The decisions of the Administrative Committee shall be made by majority of its members present, and in case of an equality of votes, the vote of the person chairing the meeting shall prevail.
 - (3) The duties of the secretary of the Board shall be performed by a person designated by the person chairing at each meeting, which may be one of the members of the Administrative Committee or any other person which has the responsibility to keep the minutes. The minutes shall be signed by the members who are present at the meeting.

Disqualification of members of the Administrative Committee.

35. (1) Any willful act or failure of a member of the Administrative Committee, regular or alternate, which may place the reliability required for the

exercise of its work under doubt, shall form a cause for disqualification of the said member from his duties by a decision of the Minister of Finance.

- Liability. 36. The members of the Administrative Committee and the staff of the Fund and any person acting as a consultant or associate on the instructions of the Fund shall not be held personally liable for any acts or omissions in the exercise of their responsibilities.
- Duty of confidentiality 37. (1) The members of the Administrative Committee may use any information that has come into their knowledge solely for the exercise of the duties of the Administrative Committee and shall be bound by the duty of confidentiality for confidential matters of the Fund, which have come into their knowledge in their capacity as members of the Administrative Committee.
- It is provided that, this subparagraph does not prevent the Administrative Committee from providing information to the Commission in relation to matters within its competence.
- (2) The duty of subparagraph (1) applies to any legal or natural person to whom the Administrative Committee assigns the exercise of its powers or responsibilities or which is employed by the Fund or generally provides services to it.
- Conclusion of contracts/cooperations 38. (1) The Fund may conclude contracts with associates or employees to carry out its work and/or operate through the procurement of services by the Commission or others.
- (2) For the purposes of subparagraph (1), the fees of Paragraph 12 are used.
- Interpretation provision. 39. Wherever in this Directive there is reference to members of the Administrative Committee, this shall also include their legal alternates.

PART VII
GENERAL MEETING

- Convening of an Annual General Meeting. 40. (1) By a decision of the Administrative Committee, an annual ordinary General Meeting of the Fund members shall be convened within four months from the end of the Fund's financial year while an extraordinary General Meeting shall be convened whenever a relevant decision of the Administrative Committee is made.
- (2) The invitation for the convocation of the annual ordinary General Meeting, which shall set out the items on the agenda and the place and time of the meeting, shall be sent by the Administrative Committee to the Fund members by email or facsimile at least twenty-one days from the day of the ordinary annual General Meeting. The day on which the invitation is sent and the day on which the annual ordinary General Meeting is set to be held shall not be taken into account.
- Items for an annual ordinary General Meeting. 41. (1) An item may be set before the annual ordinary General Meeting either following a recommendation of the Administrative Committee or following a submission of a proposal by a Fund member. The proposal by a Fund member shall be supported in writing by at least two other members of the Fund, through the relevant form for the submission for issues to be discussed, which is available on the Commissions website, until such time as the Fund sets up its own website, and, which shall be sent to the Administrative Committee by facsimile or email at least fourteen days prior to the annual ordinary General Meeting.

- (2) Where a proposal by a Fund member is received as per subparagraph (1), the Administrative Committee shall send a relevant written notification by facsimile or email to all Fund members, informing them of any items which have been added on the agenda of the annual ordinary General Meeting at least six days prior to the annual ordinary General Meeting.
- Convening of an extraordinary General Meeting. 42. The extraordinary General Meeting shall be convened by the Administrative Committee whenever it deems appropriate, by sending a written invitation by facsimile or email to all Fund members at least fourteen days prior to the day of the extraordinary General Meeting. The day on which the invitation is sent and the day on which the extraordinary General Meeting is set to be held shall not be taken into account.
- Convening of an extraordinary General Meeting upon request of Fund members. 43. (1) An Extraordinary General Meeting may also be convened upon written application signed by at least 10% of the Fund members, through the form of Paragraph 41(1), which shall be sent to the Administrative Committee by post, facsimile or email, setting out at the same time the issues to be discussed.
- (2) The Administrative Committee shall send a written invitation by facsimile or email to all Fund members for the convocation of the extraordinary General Meeting within five days from receiving the requisition of subparagraph (1) and at least fourteen days prior to the day of the extraordinary General Meeting. The day on which the invitation is sent and the day on which the extraordinary General Meeting is set to be held shall not be taken into account.
- (3) In case the Administrative Committee fails to convene an extraordinary General Meeting, the applicants for the convening of the extraordinary General Meeting may themselves convene an extraordinary General Meeting after twenty-eight days from the date of submission of the requisition of subparagraph (1), by sending a written invitation by post, facsimile or email to all Fund members at least fourteen days prior to the day of the extraordinary General Meeting. The day on which the invitation is sent and the day on which the extraordinary General Meeting is set to be held shall not be taken into account.
- Where an extraordinary General Meeting is convened pursuant to the provisions of this subparagraph, the Administrative Committee shall see that secretarial services are provided to Fund members.
- Quorum. 44. (1) The General Meeting shall form a quorum and be validly convened on the items of the agenda when at least half of all Fund members are present or represented thereat.
- (2) A Fund member shall be allowed to represent up to two other Fund members at the Meeting.
- (3) Each Fund member shall participate in the General Meeting through his authorized representative.
- (4) If the quorum of subparagraph (1) is not present, the General Meeting shall be convened within ten days from the date of the adjourned meeting, invited by the Administrative Committee at least four days prior to the day of the meeting and a quorum shall be present at this repeated meeting and the meeting shall be validly convened on the items of the initial agenda regardless of the number of the Fund members present.
- Alternate and authorized representative. 45. (1) Subject to the provisions of subparagraph 44(2), a Fund member shall appoint in writing an alternate at the General Meeting through the relevant form for the appointment of an alternate, which is available on the Commissions website, until such time as the Fund sets up its own website, which shall be signed by the Fund member

who is represented via an alternate. The relevant form shall be sent to the Administrative Committee by post, facsimile or email no later than 48 hours prior to the date set for the General Meeting.

- (2) Subject to the provisions of subparagraph 44(3), the authorized representative of the Fund member shall be appointed in writing by virtue of the relevant form for the appointment of an authorized representative, which is available on the Commissions website, until such time as the Fund sets up its own website. The relevant form shall be sent to the Administrative Committee by , facsimile or email no later than forty-eight hours prior to the date set for the General Meeting.

It is provided that where a Fund member has appointed an authorized representative pursuant to the provisions of this paragraph but the latter is prevented from attending the General Meeting, a Fund member shall once again appoint an authorized representative and a new form for the appointment of an authorized representative shall be given to the Administrative Committee at the General Meeting.

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| Attendance Sheet. | 46. | <ol style="list-style-type: none">(1) At every General Meeting there shall be a record of attendances which shall record the following:<ol style="list-style-type: none">(a) the name of the Fund member;(b) where applicable, the name of the Fund member's alternate;(c) the name of the Fund member's authorized representative.(2) The record of attendances shall be signed by the authorized representative of the Fund member or, where applicable, by the authorized representative of the Fund member's alternate. |
| Acting president at the General Meeting. | 47. | <ol style="list-style-type: none">(1) The President of the Administrative Committee, and in case of his absence or other impediment, the Vice-President of the Administrative Committee, shall preside at the General Meeting. If both of them are absent, one of the remaining members of the Administrative Committee shall preside thereat. In case of absence of all members of the Administrative Committee (and their alternates), one of the authorized representatives of the Fund members present thereat who shall be appointed by the General Meeting shall preside at the General Meeting.(2) In the case of a General Meeting at which there shall be elections for the election of the two members of the Administrative Committee, the senior member out of the three members of the Administrative Committee appointed by the Minister shall preside thereat. |
| Minutes. | 48. | <ol style="list-style-type: none">(1) The minutes of the General Meeting shall be kept by a person designated by the Administrative Committee and where all members of the Administrative Committee (and their alternates) are absent, the minutes shall be kept by a person appointed by the General Meeting. The minutes shall be kept confidential unless otherwise decided by the Administrative Committee, by a competent court or by a competent disciplinary body or in cases where these are requested by the Commission, in the context of the exercise of its duties.(2) The minutes of the General Meeting, are signed by the acting president at the General Meeting. |
| Decision making. | 49. | <ol style="list-style-type: none">(1) The General Meeting shall comprise the Fund members each one having the right of one vote. |

- (2) The General Meeting shall make its decisions by absolute majority of its represented members present.
- Voting. 50. (1) At any General Meeting, with the exception of the cases where voting by ballot is requested by the acting president at the General Meeting or by at least three authorized representatives of the Fund members present, a statement of the acting president that any decision has been approved or rejected by a show of hands and that such decision shall be recorded in the minutes of the General Meeting, shall form irrefutable evidence of the fact.
- (2) A voting by ballot duly requested pursuant to the provisions of sub-paragraph (1), shall be effected in the manner indicated by the acting president at the General Meeting. The outcome of the vote is considered a decision of the General Meeting for which a voting has been requested and shall be recorded in the minutes.
- Decision in writing. 51. A decision in writing signed by all Fund members shall be equally as valid and effective as if the same had been passed at a General Meeting duly convened and held. This decision may consist of several documents of the same type, each signed by all Fund members.
- Elections for members of the Administrative Committee. 52. (1) At least two months prior to the expiry of the term of the two members of the Administrative Committee nominated by the bodies of the interested parties, the remaining three members of the Administrative Committee appointed by the Minister shall send a notice to all Fund members that elections shall take place for the election of the said two members by the General Meeting of the Fund members.
- (2) Only the persons who effectively direct the business of the Fund members shall have a right to stand as candidates for the election of a representative proposed by the interested parties, as a member of the Administrative Committee.
- (3) The candidacies of sub-paragraph (2) shall be submitted by facsimile or email, to the Administrative Committee through the relevant form for the submission of candidacy, which is available on the Commissions website, until such time as the Fund sets up its own website within twenty-eight days from the date the notice of sub-paragraph (1) was sent. The Fund member shall propose the candidate.

PART VIII
INVESTMENT POLICY OF THE FUND

- Investment policy of the Fund. 53. (1) A percentage of at least seventy per cent (70%) of the total assets of the Fund shall be placed:
- (a) in bonds, bills or other government securities or other equivalent securities issued by a Member State, which are liquid; and/or
- (b) in interest-bearing accounts in banks operating in the Republic or in other Member State.
- (c) In an account of the Fund with the Central Bank of Cyprus
- (2) The percentage referred to in sub-paragraph (1) may be reduced upon the permission of the Commission so that the difference is used for the reinsurance of the Fund's obligations.
- (3) A percentage of at least ten per cent (10%) of the total assets of the Fund shall be placed in interest-bearing sight accounts in banks operating in the Republic.

PART IX
ANNUAL ACCOUNTS AND AUDIT OF THE FUND

- Financial year of the Fund. 54. The financial year of the Fund shall commence on 1st January and end on 31st December of the same year.
- Ordinary audit of the financial management and of the annual accounts of the Fund. 55. The Administrative Committee shall appoint one qualified auditor to audit the financial management and the annual accounts of the Fund prepared by the Administrative Committee for every financial year.
- Annual accounts. 56. (1) The Administrative Committee shall keep annual accounts of the Fund per financial year, the accuracy and completeness of which shall be audited pursuant to Paragraph 55.
- (2) No later than one month prior to the end of each current financial year, the budget of the following financial year shall be prepared with the care of the Administrative Committee.
- (3) No later than three months after the commencement of each financial year, a review of the previous financial year shall be prepared with the care of the Administrative Committee, which together with the balance sheet, the revenue and expenditure account and the report of the qualified auditor appointed pursuant to Paragraph 56, shall be submitted to the General Meeting of the Fund members.
- (4) The balance sheet, the revenue and expenditure account and the report of the qualified auditor shall be communicated to the Securities and Exchange Commission and the Minister of Finance within twenty days from their discussion at the General Meeting.
- Extraordinary audit of the Fund. 57. The Minister of Finance, the Commission or the General Meeting may order the conduct of an extraordinary audit of the Fund either by qualified auditors appointed by them, or, in the case of the Minister of Finance, by the Auditor-General of the Republic.

PART X
GENERAL PROVISIONS

- Imposition of sanctions by the Securities and Exchange Commission. 58. (1) In case of infringement by any person of the provisions of this directive, the Commission. Either on its own initiative or after being informed by the Fund, shall take measures or shall impose an administrative fine pursuant to the Law.
- (2) In case a Fund member does not settle the contributions provided for in this Directive in time or does not fulfill other obligations towards the Fund, the Fund shall inform the Commission accordingly.
- Extension of deadlines R.A.D. 154 of 2020 58A. The Commission, where the prevailing circumstances in the Republic affect the ability to comply with any of the deadlines provided for in the Directive, may decide to extent it to a time which shall determine at its sole discretion.
- Expulsion of a member. 59. (1) If, despite the measures taken pursuant to Paragraph 58, the member continues not to fulfill its obligations, the Fund may, with the written consent of the Commission, communicate its intention to exclude the member from its participation in the Fund by observing a twelve-month notice deadline at least.
- The coverage envisaged in Paragraph 19 shall continue to be secured for the investment operations carried out during this period.

- (2) Insofar as the Fund member does not fulfil its obligations within the deadline granted pursuant to subparagraph (1), the Fund shall, with the written consent of the Securities and Exchange Commission, permanently expel the said member from the Fund.
- (3) The Fund shall inform the Commission of the expulsion of a Fund member and the Commission shall publish the said information on its website.
- (4) The expulsion of a member from the Fund shall not discharge the member from its obligations to pay the contributions due with interest.
- (5) Subject to the provisions of Part V, after the expulsion of a member from the Fund, the Fund shall continue to be liable pursuant to the provisions of the Law and of this directive for the compensation of covered clients for the investment operations carried out prior to the expulsion of the member from the Fund.
- Non-fulfillment of obligations by an IF branch whose seat is in another Member State. 60. (1) In case an IF branch of Paragraph 4, does not pay its contributions provided for in this directive in time or does not fulfil other obligations towards the Fund, the Fund shall inform as soon as possible the competent authorities which granted its authorization and the said authorities shall take any measures that may be enforced pursuant to their own national legislation to ensure the fulfillment of the said obligations.
- (2) If, notwithstanding the measures of subparagraph (1), the branch does not fulfil its obligations towards the Fund, after the lapse of at least a twelve-month notice deadline, the Fund may, with the written consent of the competent authority which granted its authorization, expel the said branch from the Fund.
- The investment operations carried out prior to the date of expulsion shall continue to be covered after that date by the Fund.
- (3) Investors shall be informed by the IF of the removal of the supplementary coverage and of the date on which such removal of coverage shall apply.
- Unclaimed clients funds. 61. (1) A Fund member may choose to pay to the Fund, funds held by the said member, and which constitutes own funds of the Member's clients, without this constituting a breach of provisions relating to protection of clients' funds, where:
- (a) The Fund member held the amount for at least six years from the day on which the last transaction took place in that account, including deposits and withdrawals, but excluding any payments or charges of interest or fees and associated transactions,
- (b) The Fund member is in a position to prove that it took all reasonable measures to locate the said client and return the said funds to him, in accordance to subparagraph (2), without a response from the client, and after one month has elapsed since the date of communication of subparagraph 2(d).
- (c) The Fund member undertakes to return to their client an amount equal to the funds of the client that the member has submitted to the Fund, in the event that the client (or any legal heirs thereof) makes a claim for the said funds at any time in the future.
- (2) The taking of reasonable measures of subparagraph (1) includes the following, on behalf of the Fund member:

- (a) Determining the client's correct contact information via the use of any available means, including telephone calls to the client to confirm the said information, research in the member's internal records and research in public records.
 - (b) Sending a letter to the last known physical address of that client, or sending an email to the last known electronic address of the client, informing said client that the Fund member intends to cease managing said client's funds as own funds and to pay to the said amount to the Fund, unless the client instructs the Fund otherwise, within one month.
 - (c) If the client does not reply after the one month of section (b), the Fund member must try to communicate the information set out in section (b) at least one more time, using another mean than the one used the first time, including contact via letter, e-mail and phone.
 - (d) If the client does not reply after the one month from the last attempt of contact in accordance to section (c), the Fund member must send a letter to the said client to their last known address, or send them an e-mail to their last known e-mail address, to inform the client that:
 - (i) Pursuant to the fact that the client has not claimed the said funds and the Fund member has received no contrary instructions, the said funds will be paid to the Fund, within one month, and
 - (ii) That the Fund member shall compensate the client with a sum equal to the funds paid to the Fund, if the client communicates with the Fund member to claim such sum in the future.
 - (e) Where a Fund member, while attempting to communicate per the contents of this paragraph, has received written notice that a customer is not situated at a particular physical address, the Fund member may no longer use the said address for the purposes of section (d) of this paragraph.
- (3) For the purposes of the undertaking of subparagraph 1(c):
- (a) there must be a relevant resolution of the board of directors of the Fund member, and
 - (b) the undertaking must be effected in such a way that allows any person with a legal interest on the said funds at the time of payment to the Fund, and
 - (c) It must be valid for the entire time the member is in operation.
- (4) Where a Fund member proceeds with the payment of client funds to the Fund, the following must be maintained throughout the entire time of its operation:
- (a) a record of the entire amount paid to the Fund and the identification details of the client to whom the said funds belonged (including relevant identification documents), and
 - (b) Details and evidence in relation to the communication history with the client, as set out in this paragraph.

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| Transitional provisions | 62. | <ul style="list-style-type: none"> (1) Subject to the provisions of paragraph 7, the provisions of paragraphs 8 and 9 of Directive 144-2007-15 shall continue to apply in relation to sums paid to the Fund prior to the entry into force of this Directive. (2) In cases where the procedure for payment of compensation to covered clients was initiated prior to the adoption of this directive, it shall continue in accordance to the provisions of the repealed Directive 144-2007-15. (3) The obligation in paragraph 11 (6) (b) shall enter into force in 2019 by submitting the statement of eligible funds and financial instruments for the year 2018 and the certificate referred to in paragraph 11 (6) (c) shall be submitted for the first time 2020. |
| Entry into force. | 63. | This Directive shall enter into force on the day of its publication in the Official Gazette of the Republic. |

FIRST SCHEDULE

Eligible funds and financial instruments of clients

1.
 - (a) The term “eligible funds and financial instruments” shall include all funds and financial instruments of the covered clients, which the Fund member holds directly and/or indirectly at any given time.
 - (b) The term “indirect holding” shall include the cases whereby the said eligible funds and financial instruments are not in the name of a Fund member but the said Member has access to the funds and financial instruments and the ability to use the said instruments at any given time without the prior consent or approval of the specific client prior to every use.
 - (c) In determining the eligible funds and financial instruments for purposes of calculating the ordinary annual contribution paid by each Fund member, the greatest amount resulting from the calculation of the daily eligible funds and financial instruments of the Member on the last day of each month in the preceding calendar year, shall be taken into account.
2. If the sum of the funds and financial instruments per client shall exceed the amount of twenty thousand Euros (€20.000), the amount in excess shall not be taken into account in the calculation of eligible funds.
3. The valuation of the financial instruments shall be carried out on the basis of their market value on the day of their calculation.

SECOND SCHEDULE

Non-covered clients

1. Subject to the provisions of Paragraph 25, the Fund shall not compensate the following investor categories:
 - (1) The following categories of institutional and professional investors:
 - (a) IFs;
 - (b) legal entities associated with the Fund member and generally belonging to the same group of companies;
 - (c) banks;

- (d) cooperative credit institutions;
 - (e) insurance companies;
 - (f) collective investment undertakings in transferable securities and their management companies;
 - (g) social insurance institutions and funds;
 - (h) investors characterized by the member as professionals upon their request, pursuant to the provisions of paragraph B of the Second Schedule of the Law.
- (2) Supranational institutions, government and central administrative authorities.
 - (3) Provincial, regional, local and municipal authorities.
 - (4) Enterprises that have close ties with the Fund member as the term «close ties» is construed in Article 2(1) of the Law.
 - (5) Managerial and administrative staff of the Fund member.
 - (6) Shareholders of the Fund member whose participation directly or indirectly in the capital of the Fund member amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the Fund member as well as persons responsible for the carrying out of the financial audit of the Fund member as provided by the Law, such as its qualified auditors.
 - (7) Investors having in enterprises connected with the Fund member and, in general, with the group of companies to which the Fund member belongs, positions or duties corresponding to those listed in sub-paragraphs (5) and (6).
 - (8) Up to second-degree relatives and spouses of the persons listed in sub-paragraphs (5), (6) and (7), as well as third parties acting for the account of such persons.
 - (9) Investors-clients of a Fund member responsible for facts pertaining to the Fund member that have caused its financial difficulties or have contributed to the worsening of its financial situation or have profited from these facts.
 - (10) Other firms in the same group.
 - (11) Investors in the form of a company, which due to its size, is not allowed to draw a summary balance sheet in accordance with the Companies Law or a corresponding law of a Member State.
2. In the cases of sub-paragraphs (5), (6), (7), (8), and 10 the Fund shall suspend the payment of compensation informing the interested parties accordingly until it reaches a final decision as to whether such cases apply.

THIRD SCHEDULE GUIDING PRINCIPLES

1. Where a branch applies to join a host Member State's ICF for supplementary cover, the host Member State's ICF will bilaterally establish with the home Member State's scheme appropriate rules and procedures for the payment of compensation to investors at that branch. The following principles will apply both to the drawing up of those procedures and in the framing of the membership conditions applicable to that branch:

- (1) the host Member State's ICF will retain full rights to impose its objective and generally applied rules on participating investment firms; it will be able to require the provision of relevant information and be entitled to verify such information with the home Member State's competent authorities;
- (2) the host Member State's ICF will meet claims for supplementary compensation after it has been informed by the home Member State's competent authorities of the determination or ruling referred to in Article 2 (2) of Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes. The host Member State's scheme will retain full rights to verify an investor's entitlement according to its own standards and procedures before paying supplementary compensation;
- (3) the host Member State's and the home Member State's ICFs will cooperate fully with each other to ensure that investors receive compensation promptly and in the correct amounts. In particular, they will agree on how the existence of a counterclaim which may give rise to set-off under either scheme will affect the compensation paid to the investor by each scheme;
- (4) the host Member State's ICF will be entitled to charge branches for supplementary cover on an appropriate basis which takes into account the cover funded by the home Member State's ICF. To facilitate charging, the host Member State's ICF will be entitled to assume that its liability will in all circumstances be limited to the excess of the cover it has offered over the cover offered by the home Member State regardless of whether the home Member State actually pays any compensation in respect of claims by investors within the host Member State's territory.