

CySEC reforms Investor Compensation Fund to enhance investor protection

NICOSIA – 13 March 2019: The Cyprus Securities and Exchange Commission (“CySEC”) today issues its final Policy Statement (“PS-02-2019”) to upgrade the legal framework governing the operation of the Cyprus Investor Compensation Fund (“ICF”).

On 12 April 2017, CySEC issued a consultation paper (“[CP 2017-02](#)”) seeking feedback from all interested market participants on the proposed amendments to the legal framework governing how the ICF operates. This is to ensure the ICF secures the claims of covered clients of regulated entities who are fully registered members of the ICF in the event of an adverse scenario without disturbing market stability. The obligation to participate in the ICF applies to all investment services and to ancillary custody services irrespective of whether clients’ funds and financial instruments are held.

Indeed, participation in the ICF is a compulsory requirement for holding a Cyprus Investment Firm (“CIF”) authorisation; an Alternative Investment Fund Manager (“AIFM”) which provides the services of paragraph 6 of Section 6 of the Alternative Investment Fund Managers Law of 2013; and management companies, providing the services of paragraph 4 of Section 109 of the Open-Ended Undertakings for Collective Investments Law of 2012.

Further to a thorough evaluation of the feedback received and in line with the outcome of the CySEC’s consultation with the Association of Certified Public Accountants of Cyprus (“ICPAC”), CySEC has introduced a [new ICF Directive](#) to account for the upgrades to the regulatory framework.

These upgrades *inter alia* include:

- Calculating members’ annual ICF contributions using a risk-based approach, taking into account the reliability of statements of eligible funds and financial instruments; the amount of clients’ eligible funds and financial instruments of a respective member and the timing of the payment of the annual contribution;
- Removing any provisions in relation to limiting or refunding the contributions of the members that will be paid to the ICF pursuant to the New ICF Directive;
- Requiring ICF members to keep an independently audited and client-segregated minimum cash buffer of 3% of their clients’ eligible funds and financial instruments;
- Not limiting potential extraordinary contributions by an ICF member in the event of an adverse scenario which requires the ICF to fund compensation due to investors, should the necessary requirements be met;
- Applying the discretion provided for in Directive 97/9/EC on the levels of investor compensation such that the maximum limit of compensation coverage equals €20,000 or 90% of the covered investor’s claim, whichever is lower;
- Ensuring the payment of initial contributions must be made by candidate members or existing members prior to obtaining an authorisation to operate and/or prior to extending their authorisation to operate – but only after the core criteria for granting authorization by CySEC has been examined and upon receiving relevant approval instructions by CySEC;

- Introducing an annual registration fee for ICF members to cover the nominal cost of the ICF's operation so that the ICF is in a position to cover contingent expenses that may surface, such as the cost incurred for the collecting, recording and assessing the claims of covered investors, in the event that the compensation procedure for a large member (e.g. a member with thousands of investors) is activated.

The new ICF Directive is currently available only in Greek. The English translation is expected to be published by the end of next week. However PS-02-2019 which is published in English, provides a comprehensive overview on the feedback received and on CySEC's approach.

The final Policy Statement outlining the full outcomes of CySEC's consultation are available to view [\[here\]](#) and the interested parties are advised to read it in conjunction with the new ICF Directive, which is available [\[here\]](#).

Demetra Kalogerou, Chair of CySEC, said: *“The upgraded regulatory framework governing the Investor Compensation Fund provides for a balanced, proportionate and risk-based approach to determining the level of contributions required by member firms. The robustness of the ICF is fundamental to maintaining investor confidence, and ultimately investor protection. Our thorough consultation and resulting changes will help ensure it is a well-funded and resilient mechanism to support the compensation of eligible investors in the event of last-resort market failure.”*

ENDS.